

*European Roma Rights Center*

# THE NON-CONSTITUENTS

*Rights Deprivation of Roma in  
Post-Genocide Bosnia and Herzegovina*

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*“I came back from Germany three years ago with my wife, who is handicapped, and my son. Our family had a house in Dubrave and 8,000 m<sup>2</sup> of land next to the main road from Gradiška to Banja Luka. When we returned we found a Serb refugee family from Croatia living in the house. As we had nowhere else to go, some relatives let us stay in their garage. I immediately submitted a request for the return of my property. I often went to the local office of the Ministry of Refugees and Displaced Persons to see how far they had come with my application. They always sent me back and they told me to come back after one month. It went on like that for two years. Then they told me that they could not evict the Serb family because they had no other place to stay. They told me that the Serb’s property in Croatia had been destroyed and that he could not go back. This summer the officers at the Ministry told me that the best thing I could do was to sell my house and land to the temporary occupant.”*

Mr Muharem Halilović, December 17, 2002, Gradiška, a village approximately 50 kilometres north of Banja Luka.

## **1. EXECUTIVE SUMMARY**

There are few countries in which human rights are as richly guaranteed by law as they are in Bosnia and Herzegovina. The Constitution of Bosnia and Herzegovina states, “Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognised human rights and fundamental freedoms.”<sup>1</sup> The Constitution further gives

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<sup>1</sup> Article II(1) of the Constitution of Bosnia and Herzegovina. All citations from the Constitution in this report are from an official translation available at: <http://www.ccbh.ba/constitution/?lang=en>. Unless otherwise specified, all translations of laws in this report are unofficial by the *ERRC*.

priority to European human rights law over all other law,<sup>2</sup> includes non-discrimination provisions and enshrines in the constitutional order a range of other international human rights agreements,<sup>3</sup> including some not ratified by any other European state.<sup>4</sup> These facts notwithstanding, certain provisions of both the Constitution of Bosnia and Herzegovina and the Constitutions of the two Entities *prima facie* discriminate against Roma and other “non-constituent peoples”, violating both themselves and international human rights law. The constitutional law of Bosnia and Herzegovina prevents Roma from enjoying a number of fundamental political rights. Bosnia and Herzegovina is the only country in Europe in which Roma are barred by law from holding crucial high political offices, including the Presidency. As members of a second class “non-constituent” people, Romani children in Bosnia and Herzegovina today can only aspire in vain to one day becoming president of their country.

*European Roma Rights Center (ERRC)* monitoring of the situation of Roma in Bosnia and Herzegovina has established that Roma in Bosnia and Herzegovina are regularly exposed to abuses of their civil, political, economic and social rights as a result of their official second-class status in Bosnia and Herzegovina, and also because entrenched anti-Romani sentiment in Bosnia and Herzegovina gives rise to endemic racial discrimination and other human rights violations against Roma. In addition to being legally barred from holding high political office, many Roma in Bosnia and Herzegovina are denied basic franchise and cannot vote because they lack one or more personal documents and/or may even be stateless. Lack of personal documents also results in the denial of a number of services crucial for the realisation of a range of fundamental rights, including schooling, public housing, health care and social support

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<sup>2</sup> Article II(2) of the Constitution of Bosnia and Herzegovina states, “The rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law.”

<sup>3</sup> Article II(4) of the Constitution of Bosnia and Herzegovina states, “The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex 1 to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

<sup>4</sup> Bosnia and Herzegovina was, for example, as this report went to press, the only state in Europe to have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.



services. Many Roma have not been able to repossess their pre-war properties, and, as such, live in very precarious situations, often in informal settlements with substandard conditions in various parts of the country. In addition, instances of violence against Roma by state agents, as well as by non-state actors (i.e., their non-Romani neighbours) have been reported. Incidents of violence against Roma in Bosnia and Herzegovina appeared to be on the rise as this report went to press.

The break-up of the former Yugoslavia and the wars that ensued had a devastating effect on Romani individuals and communities in Bosnia and Herzegovina. Roma were brutally treated by all parties to the conflict, and it is feared that as many as 30,000 Roma were subjected to ethnic cleansing. Many Roma were also detained and severely ill-treated in concentration camps, particularly Serb-run concentration camps. Roma and Romani communities were reportedly particularly targeted in Prijedor and the surrounding villages of Kozarac, Hambarine, Tukovi and Rizvanovići. Horrific atrocities were also committed against Roma from Vlasenica, Rogatica and in Zvornik and surrounding villages. At least seventy Roma were killed in the infamous massacre at Srebrenica in 1995. Romani men were also forcibly conscripted and made to perform slave labour in the armies of all sides to the conflict. Many Romani women were raped and/or forced to perform sex labour. The 1992-1995 war saw the wholesale destruction of a number of Romani communities. To date, justice has yet to be provided to Romani victims of actions during the 1992-1995 war.

In addition, although the majority of Bosnian Roma lived before the war in eastern Bosnia – in areas of the country today located in the entity known as Republika Srpska – today most Roma live in the area of Bosnia and Herzegovina known as the Federation, primarily in north-eastern Bosnia, the Tuzla Canton, or central Bosnia (Sarajevo, Zenica). Many thousands of Roma from Bosnia and Herzegovina have not returned to the country. The genocidal civil war fought in Bosnia and Herzegovina fundamentally altered the demography of Romani settlement in Bosnia and Herzegovina. Perhaps more importantly for individuals concerned, vast numbers of Roma have been to date unable to claim pre-war property and have remained without adequate compensation for property confiscated or destroyed during the war.

This report is based on extensive field documentation undertaken by the *ERRC*, independently as well as in partnership with the Bijeljina-based non-governmental organisation *Helsinki Committee for Human Rights in Republika Srpska (HCHRRS)*, as well as with other non-governmental organisations (NGOs). Monitoring of the

human rights situation of Roma in Bosnia and Herzegovina by the *ERRC* and the *HCHR*, has revealed a number of serious human rights concerns, including the following:

## **1. Exclusion of Roma from the Highest Levels of Political Participation**

The Constitution of Bosnia and Herzegovina bars Roma from the offices of the Presidency and the House of Peoples. Only members of the three constituent peoples – Bosniaks, Croats and Serbs – are eligible to participate in the Presidency and the House of Peoples. Therefore, solely on the basis of their ethnicity, Roma are prohibited from even participating as candidates in elections for such offices. Roma are further barred from voting in the election of the representatives to the House of Peoples of the Federation of Bosnia and Herzegovina (an Entity-level institution with a very similar name to the national-level “House of Peoples”),<sup>5</sup> as only Bosniak and Croat delegates of the House of Peoples of the Federation are empowered to vote for representatives to the House of Peoples. Exclusion from political offices at the highest levels serves to reinforce the vulnerability of the Romani community in Bosnia and Herzegovina.

## **2. Difficulties in Accessing Personal Documents and Citizenship**

Many Roma in Bosnia and Herzegovina lack personal documents and, in extreme cases, citizenship. Instances of statelessness have been reported among Roma in Bosnia and Herzegovina. Roma have encountered difficulties in accessing documents including but not limited to birth certificates, personal identification cards, documents related to the provision of health insurance and social aid, and passports. Barriers arising from a lack of documents can be daunting, and the lack of one document can lead to the inability of a person to access further documents. The lack of access to personal documents and citizenship threatens the ability of Roma in Bosnia and Herzegovina to gain access to services crucial to the realisation

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<sup>5</sup> The Republic of Bosnia and Herzegovina consists of two entities: the Federation of Bosnia and Herzegovina, which is predominantly Bosniak-Croat (hereinafter referred to as “the Federation”), and Republika Srpska (“The Serb Republic”), where the majority of inhabitants are ethnic Serbs. Throughout this report, the terms “Bosnia”, “Bosnia and Herzegovina” and “BiH” shall be used to mean “The Republic of Bosnia and Herzegovina”. In some places, the term “Bosnia-Herzegovina” is used, where it would be anachronistic to use other terminology.

of a number of fundamental rights and freedoms, such as the right to vote, the right to adequate housing, the right to social assistance, the right to education and the right to the highest attainable standards of health.

### **3. Violence against Roma**

In the context of persistent ethnic tensions and mistrust in post-war Bosnia and Herzegovina, Roma have found themselves at the mercy of law enforcement agencies in which they have almost no representation. Police officers in Bosnia and Herzegovina have been the perpetrators of violent attacks on Roma; have specifically targeted Roma through ethnic profiling practices; have conducted abusive raids on Romani settlements; have accused Roma of crimes on the basis of little or no evidence; and have failed to adequately investigate crimes committed against Roma. Racially motivated attacks against Roma in Bosnia and Herzegovina have also been documented during and since the end of the 1992-1995 war. Roma have in a number of incidents fallen victim to violent attack by non-Roma, resulting in very serious injuries in some cases. Verbal abuse and threats of violence against Roma are common in Bosnia and Herzegovina.

### **4. Violations of Housing and Property Rights**

Many Roma have experienced difficulties in exercising their property rights and accessing the right to adequate housing in post-war Bosnia and Herzegovina. Indeed, many Roma are still internally displaced within the country for a myriad of reasons. In some cases, Roma have been unable to return to their pre-war homes due to fear and/or impediments to return. The repossession of personal property by Roma has been left to the discretion of local (generally non-Romani) authorities slow to remove temporary occupants from their property. In many of the cases of repossession of personal property by Roma of which the *ERRC* is aware, temporary occupants have vandalised or looted property before leaving. Many of the informal settlements in which Roma lived prior to the war have been destroyed and no adequate alternative accommodation has been made available to former inhabitants. Roma who have been able to return to informal settlements often find themselves at the mercy of local authorities eager to allocate their land for industrial or other economic development projects, while at the same time making no plans for the provision of alternative accommodation for Roma displaced through forced

evictions. Roma living in informal settlements or who lived in social housing before the war are frequently excluded from the benefits of new property laws and are in many cases ineligible for the aid money that has poured into the country under reconstruction schemes. In such settlements, an adequate standard of living is not available. In extreme cases, very substandard conditions in such settlements have led to the death of vulnerable inhabitants. Further, Roma are frequently unable to rent private accommodation due to racial discrimination or poverty or both.

## **5. Obstacles to Accessing Other Fundamental Rights**

Roma in Bosnia and Herzegovina encounter obstacles to the exercise of their fundamental rights to employment, social aid, the highest attainable standard of health, and education. Roma are frequently blocked on arbitrary grounds from having access to the public services crucial for the realisation of a range of social and economic rights. In a number of cases documented by the *ERRC* and partner organisations, Romani individuals died apparently at least in part as a result of the failure of Bosnian authorities to provide basic services such as rudimentary health care. A very large number of Roma today face serious existential threats because of the extremely poor conditions in which they are forced to live.

On the basis of the findings of this report, the *ERRC* recommends that the government of Bosnia and Herzegovina (as well as the two Entity governments and, where relevant, municipal and cantonal authorities), adopt the following measures and policies in accordance with their respective competencies:

1. Without delay, amend the Constitution of Bosnia and Herzegovina to enable full and meaningful participation by Roma, and all other non-constituent groups, at all levels of government in Bosnia and Herzegovina.
2. Facilitate access to citizenship of Bosnia and Herzegovina for those Roma residing in Bosnia and Herzegovina who are stateless and provide the necessary legal documents (such as birth certificates and personal identification cards) to all Roma not in possession of such documents.
3. Bring to justice all persons responsible for war crimes committed against Roma during the 1992-1995 war.

4. Ensure that no Romani refugees in Bosnia are returned to their country-of-origin to face persecution. Make available procedures for the full integration of Roma who are third-country nationals in Bosnia and Herzegovina, who have been in Bosnia and Herzegovina for periods of longer than five years, and who wish to become Bosnian citizens.
5. Adopt comprehensive anti-discrimination legislation in compliance with the standards set in the European Council directives 2000/43 and 2000/76 and establish a strong specialised body to ensure its effective implementation.
6. Carry out thorough and timely investigations into all alleged instances of police abuse of Roma, including violence, unlawful searches and seizure of property, malicious investigation of violence against Roma, harassment, and failure to investigate racially motivated crimes and/or protect potential victims of violent attacks. Take all measures necessary to ensure that Romani victims of police brutality have access to effective remedies and obtain adequate compensation.
7. Promptly bring those responsible for racially motivated crimes and other instances of violent human rights abuse against Roma to justice, and ensure that, when racial animosity motivates or otherwise influences a crime, it receives due judicial recognition.
8. Ensure Roma the right to repossession of pre-war property, including property acquired through *de facto* adverse possession. Take adequate and timely steps to ensure the removal of temporary occupants from Romani property and take appropriate legal action against temporary occupants who vandalise or loot Romani property prior to leaving.
9. Use all appropriate means to protect and promote the right to housing and guarantee protection against forced evictions. Guarantee security of tenure to Romani occupants of houses and land, ensuring, *inter alia*, a general protection from forced evictions. Guarantee due process in line with international standards related to forced evictions. Guarantee non-discrimination against Roma in processes related to forced evictions and the provision of alternate accommodation. Guarantee adequate pecuniary and non-pecuniary civil compensation as well as comprehensive criminal and administrative redress in cases of illegal forced evictions. Ensure that where forced evictions are unavoidable, no individuals are rendered homeless or vulnerable to other human rights abuses by making available adequate

alternate housing, resettlement or access to productive land where those affected by evictions are unable to provide for themselves.

10. Order local authorities to provide, without delay, adequate potable water, electricity, waste removal, public transport, road provisions and other public infrastructure to those Romani settlements which presently lack one or more of the above;
11. In the interest of empowering Roma to take control of their own housing fate, provide an executive amnesty for “illegal” Romani settlements, granting title to land and property to persons factually resident on a particular plot, and establishing a “year zero” for the purposes of zoning and future regulation.
12. Allocate adequate resources to social housing projects and ensure that Roma have equal access to social housing.
13. Establish a national fund for Roma and others under the poverty line to have access to grants and/or low-interest loans for the purpose of improving their own housing.
14. In cases of reported abuses in the school system, such as exclusionary practices, physical and verbal assault, humiliating treatment, and failure by teachers and school administrators to protect Romani children from peer abuse, punish the parties responsible and implement measures aimed at preventing further abuse.
15. Undertake all measures necessary to ensure equal access to integrated education to Romani children and particularly Romani girls. Support Romani students in obtaining scholarships, books and travel expenses to attend school.
16. Develop and implement catch-up adult education programmes aimed at remedying legacies of substandard education and non-schooling of Roma.
17. Establish positive action measures to increase the numbers of Roma attending university and ensure that such persons are provided with the support necessary to complete their studies.
18. Develop curriculum resources for teaching Romani language, culture and history in schools, and make them available to all schools, so that all children in Bosnia and Herzegovina can learn of the contributions Roma have made to their society.

19. Adopt policy measures ensuring that Roma, and particularly Romani women, are able effectively to realise rights to employment, health care, and access to social welfare payments and to public goods and services.
20. Provide eligible Roma with equal access to state loans and other benefits for war veterans and members of families of Romani combatants killed in the 1992-1995 war.
21. Ensure that adequate legal assistance is available to victims of discrimination and human rights abuse by providing free legal services to indigents and members of weak groups, including Roma.
22. Proactively recruit Roma for professional positions in administration, the police force, and the judiciary, in order to counter patterns of under-representation and to take steps to remedy the exclusion of Roma from decision-making.
23. Undertake effective measures to ensure that local authorities register all persons factually residing in a given municipality, without regard to ethnicity. Conduct a new population census and undertake adequate measures to ensure full Romani participation in it.
24. Conduct systematic monitoring of access of Roma and other minorities to justice, education, housing, employment, health care and social services, and establish a mechanism for collecting and publishing disaggregated data in these fields, in a form readily comprehensible to members of the wider public.
25. Conduct public information campaigns on human rights and remedies available to victims of human rights abuse, including such public information campaigns addressed to the Romani communities.
26. Conduct comprehensive human rights and anti-racism training for national and local administrators, members of the police force, and the judiciary.
27. At the highest levels, speak out against racial discrimination against Roma and others, and make clear that racism will not be tolerated.





## 2. INTRODUCTION

In a census conducted in 1991 in Bosnia and Herzegovina, 8,864 persons registered themselves as members of the Romani community, out of a total population of 4,377,033.<sup>6</sup> This data should, however, be treated with caution, as the census was conducted at a time of extreme ethnic and national tension and many Roma were reluctant to declare their ethnicity.<sup>7</sup> According to a 1996 report on the situation of Roma in Bosnia and Herzegovina by the Council of Europe, there were an estimated 50,000 to 60,000 Roma in Bosnia and Herzegovina before the 1992-1995 war.<sup>8</sup> Other sources report that the numbers of Roma in pre-war Bosnia could have been as high as 80,000.<sup>9</sup> As for the current situation, the London-based *Minority Rights Group* considers the numbers of Roma to be around 40-50,000,<sup>10</sup> and according to the Organisation for Security and Co-operation in Europe (OSCE) Mission to Bosnia and Herzegovina, there are “10,000 to 40,000 Roma in BiH, although there could be

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<sup>6</sup> Statistics from the Bosnia and Herzegovina Federal Office of Statistics, available on the Internet at: <http://www.fzs.ba/Eng/population.htm>. Previous official censuses registered the following numbers of Roma in Bosnia and Herzegovina: in 1948 – 442, in 1953 – 2,297, in 1961 – 588, in 1971 – 1,456, and in 1981 – 7,251 (Macura, Miloš. *Razvitak Roma u Jugoslaviji, problemi i tendencije: Zbornik radova sa naučnog skupa održanog 12. i 13. januara 1989. godine*. Belgrade: Serbian Academy of Sciences and Arts, 1992, p. 116).

<sup>7</sup> Some Muslim Roma interviewed by the *ERRC* testified that in some cases where they were asked for their ethnicity, administrative officials would instruct them to declare themselves as (Muslim) Bosniaks (For example *European Roma Rights Center* interview with Mr Hasan Musić, August 3, 2003, Zenica).

<sup>8</sup> Council of Europe. *Fact-Finding Mission to Bosnia and Herzegovina on the Situation of Roma*. Strasbourg, 1996, p. 2.

<sup>9</sup> Kukić, Prof. Dr Slavo. *Position of Roma in Bosnia and Herzegovina (Opinion Poll's Results)*. Sarajevo: Centre for the Protection of Minorities' Rights, 1999, p. 13.

<sup>10</sup> As quoted in: Perić, Tatjana. “‘We don’t have the rights of other people’: Roma in Bosnia and Herzegovina”. In Liegeois, Jean Pierre, and Nicolae Gheorghe. *Romi: europska manjina*. London: Minority Rights Group, 2001, p. 1. The most recent estimate of current population of Bosnia and Herzegovina – as of June 30, 2001 – was 3,798,336. (Agency of Statistics of Bosnia and Herzegovina. *Statistical Bulletin 2*. Sarajevo, February 2003, available at: <http://www.bhas.ba>)

as many as 60,000.”<sup>11</sup> Local Romani activists put the number of Roma in Bosnia and Herzegovina even higher, estimating it to be 80,000 to 120,000 persons.<sup>12</sup> The distribution of the Romani population is uneven, where the highest concentration is in the Tuzla Canton in the Federation, home to some 15,000 Roma.<sup>13</sup> Before the Bosnian war, many of the Tuzla Canton’s Roma lived in the territory that now belongs to the Republika Srpska entity, but were forcibly displaced during the war as they fled persecution as Muslims in this predominantly Serb region. In comparison, the numbers of Roma in all of Republika Srpska today do not reach 10,000 persons, whereas it is considered that before the war the majority of Bosnian Roma lived on this territory.<sup>14</sup> The Tuzla Canton is followed by Zenica-Doboj and Sarajevo cantons in terms of numbers of Roma living in them.<sup>15</sup> During the course of research toward this report, many Romani activists in Bosnia and Herzegovina told the *ERRC* that they wish to see authorities undertake a new census in the near term, in order to establish an accurate figure of Roma in Bosnia and Herzegovina. There is also belief that the authorities are postponing the census because they may be “afraid of how many ‘others’ there would be.”<sup>16</sup>

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<sup>11</sup> OSCE Mission to Bosnia and Herzegovina. “Background Information on Roma in Bosnia & Herzegovina: The Perception of Roma.” Sarajevo, 2002, available at: [http://www.oscebih.org/human\\_rights/romainfo.asp](http://www.oscebih.org/human_rights/romainfo.asp).

<sup>12</sup> *European Roma Rights Center* interviews with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, and Mr Dervo Sejdić, former Coordinator of the *Council of Roma* and activist from the Sarajevo-based non-governmental organisation *Roma Prosperity*, July 31, 2003, Sarajevo.

<sup>13</sup> According to Mr Muradif Biberović, President of the *Roma Association in Živinice*, as quoted by *Radio Free Europe’s* Program in Bosnian/Croatian/Serbian and Albanian Language, on April 8, 2003, available at: <http://www.danas.org/general/print.asp?id=241502>. According to OSCE Mission to Bosnia and Herzegovina, most of the Roma in Tuzla Canton live in the municipalities Živinice and Lukavac. (See OSCE Mission to Bosnia and Herzegovina. “Tuzlanski kanton (Kanton 3)”. available at: <http://www.oscebih.org/mission/field/bos/tuzla.asp>)

<sup>14</sup> For example, *ERRC/HCHRRS* field research in 2002 and 2003 established that there are around 500 Roma currently living in Prijedor (pre-war Roma population: between 3-5,000), 1,700 in Bosanska Gradiška (2,500-3,000 before the war), 560 in Brčko (2,500 before the war), 100 in Banja Luka (3 -3,500 before the war) and 2,000 in Bijeljina (6,500 before the war). All of the listed towns are major settlements in Republika Srpska.

<sup>15</sup> *European Roma Rights Center* interview with Mr Dervo Sejdić, July 31, 2003, Sarajevo.

<sup>16</sup> *European Roma Rights Center* interview with Mr Ahmet Mujić, President of the Tuzla Canton Roma association *Roma Dream*, August 4, 2003, Tuzla. In the legal terminology of the administration of Bosnia and Herzegovina, “others” are non-constituent peoples.

At the time of writing this report, Romani organisations in Bosnia and Herzegovina were considering implementing an internal census as a solution.<sup>17</sup>

The ethnic tensions that surfaced in 1980 and which, in 1992, culminated in three years of bitter ethnic civil war, have contributed significantly to the social exclusion of Roma in Bosnia and Herzegovina. The relatively small Romani minority was not formally allied with any of the parties to the war and at no point during the civil war did Romani groups attempt to constitute themselves as a fourth combatant group in Bosnia's ethnic war. There were Romani combatants in the formal and informal militaries of all three sides in the war, for the most part pressed into military service primarily due to the weakness of Roma in Bosnia, as well as the near-impossibility of remaining neutral during the war. When the terms of the peace settlement were negotiated, the situation of Roma was not taken into account. Indeed, the resulting peace treaty designed at Dayton and the post war Constitution institutionalised a state of Bosnia and Herzegovina which recognises three groups – Bosniaks, Croats and Serbs – as hegemonic, to the exclusion of other ethnic groups.

Misconceptions and stereotypes about Roma and their culture are pervasive in Bosnia and Herzegovina. From childhood, non-Roma hear stories about “Roma who steal children.” Other widely present prejudices include, for example, that Roma “maim their own children so that they can beg,” and that Roma “are not fit to live in a civilised world.”<sup>18</sup> As the international charity *Save the Children UK* reports, “The prevailing view of Roma in almost all mainstream communities consists primarily of stereotypes, rather than a real knowledge, expressed in beliefs that most or all Roma beg, deal in contraband and are generally undisciplined.”<sup>19</sup> Because of the prevailing stereotypes,

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<sup>17</sup> *European Roma Rights Center* interview with Mr Elvis Mujić, Coordinator of the *Council of Roma* and President of the Tuzla-based non-governmental organisation *Young Roma Activists*, August 4, 2003, Tuzla. The internal Roma census would be conducted in all of the country, during six months, and it would be implemented by individual Romani organisations functioning under the umbrella of the *Council of Roma*. Generally, Romani activists in Bosnia and Herzegovina interviewed by the *ERRC* were of the opinion that in any sort of census among the Romani population, it is of highest importance to have Romani pollsters.

<sup>18</sup> *European Roma Rights Center* interview with Mr Dervo Sejdić, July 31, 2003, Sarajevo.

<sup>19</sup> *Save the Children UK. Denied a Future? The Right to Education of Roma Children in Bosnia and Herzegovina*. London, 2001, p. 29. The *Open Society Foundation of Bosnia and Herzegovina* has noted that “[...] if the Constitution does not recognize them as Roma, their neighbours and

and in order to prove their real worth, Roma must work or study much harder than their non-Romani counterparts simply to be recognised as their equals.<sup>20</sup> Though there is no official data on interethnic marriages, marriages of Roma and non-Roma are reportedly very few, and non-Roma who marry Roma are often faced with disapproval up to ostracism by their non-Romani relatives.<sup>21</sup> On the other hand, denial of existing racism appears to be prevalent in the Bosnian society. Racism is often viewed as “an issue that exists in other countries” and that needs not be raised in Bosnia and Herzegovina.

Local media have perpetuated or promoted stereotypes about Roma. The majority of Romani activists in Bosnia and Herzegovina considered the treatment of Roma in Bosnia and Herzegovina by the media as biased. “When there is a Romani celebration, the journalists all come, but when there are problems and cases of discrimination, they are nowhere to be found,” an activist from Sarajevo told the *ERRC*.<sup>22</sup> Specifying the ethnicity of Romani persons in articles showing Roma in a negative light is common in Bosnian press, and so are portrayals of Bosnian Roma as uneducated, uncivilised and/or with a proclivity to crime, even in major newspapers.<sup>23</sup>

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fellow-citizens certainly do – and the fact is that such recognition is still more damaging rather than beneficial for the Roma” (Open Society Foundation of Bosnia and Herzegovina. “2001 Report – The Roma Program: To Be (or Not To Be) Roma in Bosnia and Herzegovina.” Sarajevo, available at: <http://www.soros.org.ba/en/programi/romski/izvjestaji.shtml>).

<sup>20</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

<sup>21</sup> *European Roma Rights* interview with Ms Majda Zahirović, August 3, 2003, Zenica. Ms Zahirović is a Bosniak woman who married a Romani man; ever since, her mother never visited Ms Zahirović’s new family.

<sup>22</sup> *European Roma Rights Center* interview with Mr Dervo Sejdić, July 31, 2003, Sarajevo.

<sup>23</sup> Some examples of titles from Bosnia and Herzegovina daily newspapers follow: “Roma robbed kiosks and shops” (“Romi pljačkali kioske i prodavnice,” *Nezavisne novine*, Banja Luka, November 16, 2002), “Five Romani women committed robbery” (“Pet Romkinja izvršilo razbojništvo,” *Oslobodjenje*, Sarajevo, April 3, 2001), “Roma camping next to Grammar School again” (“Romi opet kampuju pored Gimnazije,” *Večernje novine*, Sarajevo, September 14, 2000). In another example, an article entitled “They want to get married and run away to Italy” (“Šćeli su da se uzmu i bježu u Italiju,” *Oslobodjenje*, August 8, 2001), the journalist made fun of his Romani interviewee’s lack of knowledge of Bosnian. In February 2002, the Bijeljina-based *BN Radio* broadcast a racist commercial featuring two men with Romani names, and speaking in what most non-Roma perceive as “Romani accent”, planning to “pay a visit” to a furniture shop armed with huge hammers (indicating that they intended to break into the shop).

Nevertheless, as emphasised by some Romani activists, Roma are for the most part not mentioned in the press at all.<sup>24</sup> Only a few media outlets were reported as featuring regular Roma-related news in a realistic light.

An atmosphere of general neglect of Roma is pronounced among non-governmental organisations (NGOs) as well. NGOs rarely target Roma in the course of their work. Observers have noted that in some cases, NGO activists appear to share stereotypical views of Roma.<sup>25</sup> Currently, most of training and capacity building activities conducted by NGOs do not include Romani participants.<sup>26</sup> Some Romani activists stated to the *ERRC* that non-Romani organisations do not consult Romani organisations with regards to projects targeting Roma.<sup>27</sup> The *ERRC* is also not aware of Romani persons employed for any positions of significance in mainstream (i.e., non-Romani) non-governmental organisations. Reportedly, international organisations have paid more attention to Romani issues in Bosnia and Herzegovina than NGOs, yet some activists stated that in this respect, too few of their ideas and proposals were indeed implemented.<sup>28</sup> Even those international organisations which have explicitly addressed Romani issues have, however, done so primarily as a footnote to other activities, and not as the most visible and pronounced exclusion issue currently facing post-war Bosnia and Herzegovina.

In post-war Bosnia and Herzegovina, huge sums of money have poured into the country for the purposes of reconstruction aid, yet almost none of this has been to the benefit of Roma. There does not yet seem to be sufficient political will in Bosnia to tackle the grinding levels of discrimination and fundamental exclusion Roma face. In an interview with the *ERRC*, Mr Slobodan Nagradić, the Assistant Minister for Human

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<sup>24</sup> *European Roma Rights Center* interviews with Mr Ahmet Mujić, and Mr Elvis Mujić, August 4, 2003, Tuzla.

<sup>25</sup> *European Roma Rights Center* interview with Ms Jennifer Erickson, August 3, 2003, Zenica.

<sup>26</sup> One notable exception is the Sarajevo-based organisation *Budi moj prijatelj*, which runs programmes exclusively aimed at strengthening the capacity of Romani NGOs.

<sup>27</sup> *European Roma Rights Center* interview with Mr Elvis Mujić, Coordinator of the *Council of Roma* and President of the Tuzla-based non-governmental organisation *Young Roma Activists*, August 4, 2003, Tuzla.

<sup>28</sup> *European Roma Rights Center* interview with Ms Sanela Bešić, July 31, 2003, Sarajevo.

Rights and Refugees, expressed the view that the situation of Roma in Bosnia and Herzegovina was “not the result of any deliberate policy to oppress Roma, either from the government’s side, or from the wider public. Rather, it must be seen as a very unfortunate side effect of the tensions in this country.”<sup>29</sup> On December 10, 2003, according to the Bosnian daily *Oslobodjenje*, a number of Roma demonstrated peacefully on the streets of Sarajevo, decrying the poor human rights situation of Roma in Bosnia and Herzegovina, and noting the government’s record of neglect of Roma rights issues.

This report attempts to provide a comprehensive overview of the human rights situation of Roma in Bosnia and Herzegovina, a situation which at present gives rise to a range of very serious concerns. The *ERRC* is aware that the Romani minority is not the only group experiencing problems in Bosnia and Herzegovina. This report does not offer a comparative analysis of the situation of Roma to other groups. It focuses solely on the many and various human rights issues facing Roma in Bosnia and Herzegovina, as well as on the inadequacy of efforts by public officials to date to address these issues. Nevertheless, on the basis of extensive research undertaken by the *ERRC* and partner organisations, it is the contention of the *ERRC* that Roma in Bosnia and Herzegovina currently face a human rights emergency in need of serious, thorough-going and immediate redress, through the design and implementation of human-rights based policies specifically targeting Roma. The report is organised as follows:

- ◆ The next chapters (3 and 4) provide an overview of the history of Roma in Bosnia and Herzegovina, followed by a description of the impact on Roma of the 1992-1995 ethnic civil war;
- ◆ Chapters 5, 6 and 7 address issues related to the status of Roma in Bosnia and Herzegovina, as well as rights denial flowing from status issues. Examined in detail are:
  - Denial of political rights as a result of the constitutional order of Bosnia and Herzegovina, as well as because of the problem of statelessness among Roma in Bosnia and Herzegovina;

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<sup>29</sup> *European Roma Rights Center* interview with Mr Slobodan Nagradić, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina, February 3, 2003, Sarajevo. Mr Nagradić is the focal point for Roma issues in the current Government of Bosnia and Herzegovina.

- Denial of social and economic rights due to a failure on the part of Bosnian authorities to provide Roma with documents crucial for the realisation of a range of public and other services in Bosnia and Herzegovina;
- Issues related to the treatment of Romani refugees in Bosnia and Herzegovina;
- ◆ Chapters 8 and 9 present *ERRC* research into the problem of violence – including racially motivated violence – against Roma in Bosnia and Herzegovina, as well as the comprehensive failure of Bosnian authorities to provide adequate redress to Romani victims of violent crime;
- ◆ Chapter 10 addresses housing and property rights of Roma in Bosnia and Herzegovina, including the complex of issues related to return to pre-war property and/or, where this is impossible, compensation for destroyed pre-war property;
- ◆ Chapter 11 examines issues related to the realisation by Roma in Bosnia and Herzegovina of fundamental social and economic rights, including the right to work, the right of access to social security, the right to the highest attainable standards of physical and mental health, the right to equal education and the right of access, free from all forms of discrimination, to public places;
- ◆ Chapter 12 presents a summary of efforts by the government of Bosnia and Herzegovina to date to strengthen the rights of Roma and other weak groups through policy and law.





### 3. THE HISTORY OF ROMA IN BOSNIA AND HERZEGOVINA

The history of Roma<sup>30</sup> in Bosnia and Herzegovina is not well documented, mainly due to the fact that – like most if not all Romani groups in Europe – Roma in Bosnia and Herzegovina have left behind few written records related to their communal existence. There is evidence that, following departure from India, Romani groups crossed into the European part of the Byzantine Empire by the eleventh century. Areas located in what is today southern Greece were noted as centres of Romani settlement in the fourteenth and fifteenth centuries and it is thought that Roma lived throughout the Balkans by that time. Some authors claim that Roma came to Bosnia in the Middle Ages, as there are records of Roma with Slavic names in early Ottoman times, and assuming that by that time these Roma had already assimilated with their pre-Ottoman Slavic neighbours.<sup>31</sup>

By 1463, Ottoman forces had conquered the territory of present-day Bosnia and Herzegovina. Nothing is known about the situation of Roma during the early years of Ottoman rule, but it is assumed that many Roma converted to Islam at a relatively early stage. In 1530, Süleyman the Magnificent of the Eyalet of Rumelia, which at that time included Bosnia and Herzegovina, brought one of the oldest legislative decisions regulating the status of Roma, primarily in the sense of their tax-paying and serving in the Ottoman military forces.<sup>32</sup> This decision also made an express distinction between Muslim and non-Muslim Roma.<sup>33</sup> From what is known about the Ottoman

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<sup>30</sup> Some authors on the history of Roma in southeastern Europe contest the use of the term “Roma” applied to periods pre-twentieth century as anachronistic. For consistency and because of growing consensus among Romani groups that “Roma” is the non-pejorative term for the group as a whole, this report will refer to “Roma” also for the pre-modern period, aware however that this usage is contested.

<sup>31</sup> See, for example, Acković, Dragoljub. *Istorija informisanja Roma u Jugoslaviji 1935- '94*. Novi Sad: Društvo Vojvodine za jezik i književnost Roma – Novi Sad and Romski kulturni klub - Beograd, 1994, p. 33.

<sup>32</sup> Acković, pp. 33-34.

<sup>33</sup> The Ottoman “Millet system” drew fundamental distinction between regulations pertaining to Muslims and non-Muslims, and in many areas of life regulated communities rather than individuals. Non-Muslim Roma were obliged to pay higher tax rates than Muslim Roma. In addition,

administration more generally, it has been assumed that Roma were relatively well treated. Numerous Ottoman court records bear evidence of Roma being treated (and tried) in a “relatively honest and just manner.”<sup>34</sup> In 1604 for instance, a decree from Istanbul referring to both Christian and Muslim Roma ordered officers of the Empire not to “let (anyone) harass the race in question.”<sup>35</sup> Compared to how Roma were treated by authorities in other parts of Europe at the time, a decree of this kind appears exceptionally humane.<sup>36</sup>

Although the Romani population appears to have been relatively well treated in the early years of the Ottoman administration, they were probably never regarded as equal to the rest of the population.<sup>37</sup> They almost always lived outside the city bound-

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cohabitation between Muslim and non-Muslim Roma was prohibited at various periods by decree, although in practice such decrees proved in practice for the most part unenforceable (see Mujić, Muhamed A. “Položaj cigana u jugoslovenskim zemljama pod osmanskim vlašću – L’état social des tziganes dans les pays yougoslaves sous la domination ottomane”. *Revue de philologie orientale et d’histoire des peuples yougoslaves sous la domination turque*, III-IV/1952-53, 1953, pp. 146-147). On Roma in the Ottoman Empire generally, see Marushiakova, Elena and Popov, Vesselin. *The Gypsies in the Ottoman Empire*. Hatfield: University of Hertfordshire Press, 2001.

<sup>34</sup> Acković, p. 34.

<sup>35</sup> Hasluck, Margaret. “Firman of A.H. 1013-14 (A.D. 1604-5) Regarding Gypsies in the Western Balkans”. *Journal of the Gypsy Lore Society*, 3<sup>rd</sup> series, vol. 27, 1948, p. 2.

<sup>36</sup> In England for instance, a court in York had less than ten years earlier convicted one hundred and six Romani men of living their chosen lifestyle and sentenced them to death – nine of whom were executed – under an Act of Parliament adopted to ensure the “punishment of vagabonds calling themselves Egyptians” (Fraser, Sir Angus, *The Gypsies*, Oxford, UK: Blackwell Publishing, 1992, pp. 132-134). There is broad consensus among comparative historians that, prior to its long decline and the episodes of repression accompanying it, the Ottoman Empire was a more tolerant realm than Christian pre-Enlightenment Europe. The relatively higher numbers of Roma in areas of Europe today which formerly comprised Ottoman possessions would seem to bear out this contention. Indeed, within the Ottoman Empire, Roma would seem to have fared worst in areas of the Empire considered relative backwaters, such as in areas today located in Romania, where Roma were enslaved by local landowners and clergy. Comparative study of tolerance in Ottoman and Christian rule has been particularly extensively examined with respect to Jews. On this subject, see especially, Cohen, Mark R. *Under Crescent and Cross: The Jews in the Middle Ages*. Princeton: Princeton University Press, 1994.

<sup>37</sup> One record from areas located in today’s Bulgaria, from 1610, shows that Muslim Roma were subjected to a kind of poll tax (*cizye*) of 180 aspers. Although this was less than the 250 aspers which non-Muslim Roma had to pay, it has been suggested by some that this was discriminatory

aries. By the end of the Ottoman rule, attitudes in relation to Roma seem to have harshened considerably. For instance, a campaign was launched in which Roma were accused of living off of immoral earnings.<sup>38</sup>

Estimates of the number of Roma who lived in Bosnia and Herzegovina during Ottoman rule vary tremendously.<sup>39</sup> One of the reasons for this may be the fact that it had become increasingly difficult to single out who was Romani and who was not. At the end of Ottoman rule in Bosnia and Herzegovina, in 1878, the Romani population belonged to different groups distinguished by their different patterns of life; an ever-increasing number of Roma ceased to be itinerant during the Ottoman era.<sup>40</sup>

From 1878 until the end of World War I, the Austro-Hungarian Monarchy occupied and ruled Bosnia and Herzegovina, as a result of decisions taken at the Congress of Berlin in 1878. During the period of Austro-Hungarian rule and later, after Bosnia

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since non-Roma Muslims were not meant to pay the *cizye* at all. Sugar, Peter F. *Southeastern Europe under Ottoman Rule, 1354-1804*. University of Washington Press, 1977, p. 77.

<sup>38</sup> Malcolm, p. 116.

<sup>39</sup> One estimate from 1808 sets the figure at approximately 30,000 (Chaumette-des-Fossés, Amédée. *Voyage en Bosnie*. Paris, 1812, p. 30). Another estimate made only a few years later indicated that the number could have been as low as 8,000 (Pertusier, Charles. *La Bosnie considérée dans ses rapports avec l'Empire Ottoman*. Paris, 1822, p. 78). Official Ottoman statistics from 1865 show that there were 9,630 Roma in Bosnia and Herzegovina (Thooemmel, Gustav. *Geschichtliche, politische und topografisch-statistische Beschreibung des Vilajet Bosnien, das ist das eigentliche Bosnien, nebst türkisch Croatien, der Herzegovina und Rascien*. Wien: A.A. Wenedikt, 1867, p. 76). Other data from the late 1860s put the number of Roma in Bosnia and Herzegovina at 11,500 (Maurer, F. *Eine Reise durch Bosnien, die Saveländer und Ungarn*. Berlin, 1870, p. 373). A census conducted in 1870 revealed the number of Roma in Bosnia and Herzegovina to be a mere 5,139 (Mujić, p. 149). This figure, however, should be seen in the light of the probable reluctance of Roma to declare their true ethnicity and the difficulties of including itinerant or nomadic people in a census.

<sup>40</sup> As in most countries where Roma live, in Bosnia and Herzegovina, Roma and other groups regarded as “Gypsies” are comprised of many very diverse groups and sub-groups. More extensively documented Roma and Roma-related groups include Bosanski Čergari, Kaloperi and “White Gypsies”. There was also a “Karavlach” group of Roma who spoke Romanian, many of whom, indeed, claimed to be Romanian (Malcolm, p. 116-7; Crowe, David, “Muslim Roma in the Balkans”, *Nationalities Paper*, Vol. 28, No. 1, 2000, p. 96; *ERRC* communications with Elena Marushiakova, Vesselin Popov and Yaron Matras, October 2003).

and Herzegovina became part of the Kingdom of Serbs, Croats, and Slovenes, formed on December 1, 1918 (renamed “The Kingdom of Yugoslavia” in 1929), Roma suffered from the increased tensions between the various ethnic groups.<sup>41</sup> The time between World War I and World War II saw an influx of large numbers of Roma from Serbia into Bosnia and Herzegovina. These were for the most part Orthodox Christians, spoke a dialect of Romani that was heavily influenced by the Romanian language, and were part of what is today the very large Romani diaspora frequently referred to by anthropologists and linguists as the “Vlach” Romani groups.<sup>42</sup> During this period, all citizens were forced to declare themselves to be either Serb or Croat.

During World War II, much of Bosnia and Herzegovina fell under the control of independent Croatia, in which Roma, Jews and Serbs were persecuted on ethnic grounds and others also were subjected to intense cruel treatment for political activity, such as membership in the Communist Party. It has been estimated that around 28,000 Roma were killed by authorities and vigilantes enjoying tacit or explicit state approval during the Croatian “Ustaša” state.<sup>43</sup> After World War II, the Socialist Federal Republic of

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<sup>41</sup> Malcolm, p. 97. The collapse of the Austro-Hungarian Monarchy is widely attributed *inter alia* to the rising influence of ethnic tensions and nationalist politics internally. Indeed, the failure of the Austro-Hungarian Monarchy to resolve these issues has provided the inspiration for much of the later development in the growing study of nationalism, as well as many of the basic early works on minority rights and regulating competing ethnic demands, such as Otto Bauer’s very influential *Die Nationalitätenfrage und die Sozialdemokratie* (Vienna 1907).

<sup>42</sup> “Vlach Roma” is the term commonly applied to Roma speaking “Vlach” dialects, i.e., Romani dialects which strongly link the Romani groups concerned to Romanian-speaking areas. “Vlach” in this context signifies that the individual at issue probably lived in pre-modern Romania, and at some point during the last 200 years, his or her forebears left. This information is known because of oral histories and the number of words borrowed from Romanian that appear in the “Vlach” dialects around the world. In some countries including Bosnia and Herzegovina, local “Vlach Roma” groups are not the only Roma with a Romanian past. “Vlach” Roma in Bosnia and Herzegovina are for the most part from the group known as Kalderash Roma.

<sup>43</sup> Muslims, however, appear to have suffered less than the Orthodox Roma and Karavlahs: on August 30, 1941, under pressure from Muslim religious authorities in Bosnia, the Ministry of Internal Affairs of the then Independent State of Croatia issued a decision protecting the “White Gypsy” Muslims from being sent to concentration camps and murdered. Also in the coming years, the Islamic authorities in Bosnia systematically protected Muslim Roma. Bulajić, Milan. “Ustaški zločini genocida protiv Cigana u II svjetskom ratu.” In Macura, Miloš (ed.). *Razvitak Roma u Jugoslaviji, problemi i tendencije: Zbornik radova sa naučnog skupa održanog 12. i 13. januara 1989. godine*. Belgrade: Serbian Academy of Sciences and Arts, 1992, pp. 43-47.

Yugoslavia (SFRY) was formed under the leadership of Josip Broz Tito. Bosnia and Herzegovina was restored to its pre-1918 borders and became one of six constituent republics (the others being Serbia, Croatia, Montenegro, Macedonia and Slovenia). During the Tito era, for the first time since World War I, Bosnian Muslims received official recognition of their separate identity, in that they were no longer forced to declare themselves as Serbs or Croats.<sup>44</sup> While the constitutions of various Yugoslav republics of the time treated Roma mostly as an “ethnic group”, in Bosnia and Herzegovina, Roma at first were not mentioned at all.<sup>45</sup> However, a January 24, 1974 decision by the Commission for Constitutional Issues of the Assembly of the Socialist Republic of Bosnia and Herzegovina ruled that “Roma [in Bosnia and Herzegovina] should be treated as a national minority” (*narodnost*).<sup>46</sup> Nevertheless, neither the Yugoslav federal Constitution, nor the constitutions of the republics or provinces, offered a clear legal distinction between “national minorities” and “ethnic groups”.<sup>47</sup> Generally, it was considered that collective rights were recognised with respect to “national minorities”, while members of ethnic groups did not enjoy any rights above and beyond those guaranteed to all individuals in Bosnia and Herzegovina.<sup>48</sup>

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<sup>44</sup> Malcolm, p. 199.

<sup>45</sup> Because World War II had simultaneously been a vicious ethnic civil war in Yugoslavia as well as because of the legacy of the centuries of Millet system arrangements under the Ottoman Empire, post-war Yugoslav arrangements involved a complicated group taxonomy far ahead of its time as a “minority rights” scheme, designed to balance the competing ethnic claims which had manifested themselves during post-World War I Yugoslavia as a primary threat to the social peace and integrity of the state. In former Yugoslavia there were “peoples”, “national minorities” and “ethnic groups”, apparently in order of importance and rights recognised. The constitutions of most republics in the federation clearly stated which groups belonged in which category. However, in the constitution of the then-Bosnia-Herzegovina this was not clear. The constitution as originally adopted explicitly listed only “peoples”, so members of minorities of Bosnia could not be sure whether they belonged to “national minorities” or “ethnic groups”.

<sup>46</sup> Acković, Dragoljub. “Konstytucionalni problemi Roma.” In Macura, Miloš (ed.). *Razvitak Roma u Jugoslaviji, problemi i tendencije: Zbornik radova sa naučnog skupa održanog 12. i 13. januara 1989. godine*. Belgrade: Serbian Academy of Sciences and Arts, 1992, pp. 43-47.

<sup>47</sup> Lukić, Radomir. “Ustavni položaj Roma u Jugoslaviji.” In Macura, pp. 11-15.

<sup>48</sup> Tomaševski, Katarina. “Pravni položaj Roma u svijetu i u nas.” Zagreb: Analitička informacija, 1985. Additionally, the Constitution of the Socialist Federative Republic of Yugoslavia awarded the national minorities “sovereign rights”, without providing any further clarification – in the Constitution or any other legal document – on what these rights included. Lukić, Radomir D.

In Tito's Communist Yugoslavia, overt manifestations of nationalism were prohibited, as such expressions were considered to be threats to the official ideology and the unity of the federal state.<sup>49</sup> Public worship and religiously based customs were discouraged under Tito's rule, but there was a fairly broad freedom for manifestations of ethnic culture, as long as these did not appear to pose a political threat.<sup>50</sup> One effect of these arrangements was that the nationalist forces that would later bring the country to civil war were suppressed. Another effect was a blossoming of Romani literary, musical, and cultural expression in some regions of former Yugoslavia, especially from the 1970s onwards.<sup>51</sup> Indeed, since by comparison with the threats of separatist Croatian and Albanian or hegemonic Serbian nationalism (and the presumed link between folkloric expression and nationalism), Romani cultural expression was viewed as benign and regime-loyal, and it therefore appears to have been promoted. Taken together, these and other factors meant that Roma in Bosnia and Herzegovina came during the 1970s and 1980s to enjoy a degree of security and welfare which they had probably never experienced previously.

The relative prosperity in Bosnia and Herzegovina in the late 1970s and early 1980s made it attractive for many Roma from Kosovo, the financially poorest part of the SFRY, to move to Bosnia and Herzegovina.<sup>52</sup> The Kosovo Roma who arrived in

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"Etnička zajednica Roma". In Šipka, Milan (ed.). *Jezik i kultura Roma*. Sarajevo: Institut za proučavanje nacionalnih odnosa, 1989, p. 31.

<sup>49</sup> Malcolm, p. 194-195; Djilas, Milovan. *Tito – The Story From Inside*. New York: Harcourt, Brace, Jovanovich, 1980, pp. 79-80.

<sup>50</sup> Malcolm, pp. 200-201.

<sup>51</sup> Latham, Judith. "Roma of the Former Yugoslavia". *Nationalities Papers*, vol. 27, No. 2, 1999, p. 206. For example, a regular radio program in the Romani language began broadcast in Sarajevo on June 8, 1986. Šipka, Milan. "Potreba, značaj i perspektive proučavanja jezika i kulture Roma." In Šipka, Milan (ed.). *Jezik i kultura Roma*. Sarajevo: Institut za proučavanje nacionalnih odnosa, 1989, p. XXXIII.

<sup>52</sup> Roma from the former Yugoslavia also took increasing advantage of the open borders to the West existing prior to 1989 to travel to and settle in countries of Western Europe, notably Austria, Italy, Germany and Switzerland. As the only Roma from the former Communist block able to travel, Roma from the former Yugoslavia took a leading role in the International Romani Union (IRU) – the first major international Romani Initiative – founded in 1971. A number of former-Yugoslav Roma have held the IRU presidency and the leading IRU posts.

Bosnia during the late period of the former Yugoslavia were for the most part Muslims, and their mother tongue, in many cases, was Albanian.<sup>53</sup> The façade of “brotherhood and unity” of the Yugoslav Communist system did not, however, erase the existential problems of Roma at the time, or racial discrimination against Roma.<sup>54</sup>

The post-World War Yugoslav system began to unravel after the death of Josip Broz Tito in 1980. In the following decade, a committee composed of the Presidents of the six Republics and two Autonomous Regions, with members taking turns as Federal President, ruled the SFRY. Economic growth stagnated as the foreign loans that had financed much of the prosperity of the early 1970s dried up and the mismanagement of the economy continued.<sup>55</sup> The republics began to compete for the ever-shrinking federal resources. The ethnic tensions that the old regime had sought to overcome with socialist internationalism began to resurface. By the end of the 1980s, communism as an ideology and state system was being challenged throughout the entire region, and indeed throughout the entire Communist block. Nationalism returned or was brought back to fill the ideological void.<sup>56</sup> In the first multi-party elections, held in 1990, the Communists League of Yugoslavia (the Communist party) was defeated in all republics but Serbia and Montenegro. In the four other republics, parties calling for greater autonomy from Belgrade or outright independence won

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<sup>53</sup> As the conflict in Kosovo became more acute throughout the 1980s and 1990s, many of those Albanian-speaking Muslim persons from or in Kosovo who earlier might have identified themselves as “Roma” or “Gypsies” began increasingly to identify themselves as “Ashkaelia” or “Egyptians”. Today, Kosovo officially has “RAE minorities” – that is “Roma, Ashkaelia and Egyptian minorities”, as previously submerged divisions have been firmly cemented – at least for the time being – in a Kosovo riven by ethnic civil war.

<sup>54</sup> Addressing an international roundtable on Roma issues, Mr Miroslav Jančić, a member of the Presidency of the Alliance of Socialist Working People of Bosnia and Herzegovina said that, “[A]ll existential, or cultural problems of Roma have not been solved and cannot be solved overnight. Also, we have to note that among us, here and there, there is still a flicker of prejudice against Roma, and their belittlement; not always and not everywhere can we find enough understanding, and also financial ability for any more radical assistance is often a factor that limits good will. For this reason it is much easier to speak about noble intentions than of great results.” As quoted in Šipka, Milan (ed.). *Jezik i kultura Roma*. Sarajevo: Institut za proučavanje nacionalnih odnosa, 1989, p. XXV.

<sup>55</sup> Malcolm, pp. 203 and 210.

<sup>56</sup> *Ibid.*, pp. 214-217.

large majorities. The growing fractionalisation and nationalism of the 1980s and 1990s gave rise to increased prejudice and discrimination against Roma, and a return of explicit anti-Romani sentiment in some quarters.



#### 4. ROMA IN THE 1992-1995 WAR

The dissolution of the SFRY was facilitated by the rise to power of Slobodan Milošević as President of the Serbian Republic and his moves to embrace an extremist Serbian nationalist agenda, an agenda that called for the creation of a greater Serbia, uniting all Serbs in a single state.<sup>57</sup> In 1987, Milošević and his hard-line faction gained power within the Serbian Communist League. They subsequently initiated a crackdown on ethnic Albanians in Kosovo. Kosovo's status as an autonomous province was rescinded in 1989 and it was formally incorporated into Serbia and Montenegro. By 1989, internal tensions were so pronounced that international media began speculating about the prospects for Yugoslavia's future. Nationalism grew throughout the Federation and in the summer of 1991, Slovenia and Croatia declared independence from the Yugoslav federation. Following brief military action in Slovenia by the Yugoslav National Army (*Jugoslovenska narodna armija* – the “JNA”), Yugoslav troops were evacuated to bases in neighbouring Croatia, and Slovenia became an independent state. Ethnic Serbs dominated the JNA, and when the Federation crumbled, many of these very well equipped and organised armed forces came under the control of the Milošević government. Croatia was home to a large Serbian minority, and the JNA responded to the Croatian declaration of independence by launching a full-scale offensive in Croatia, in co-ordination with militias that had been formed by Serbian nationalists within Croatia. In the Croatian counteroffensive that

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<sup>57</sup> It is outside the scope of this report to examine in detail the roots of the break-up of post-World War II Yugoslavia, the origins of the genocidal ethnic conflict in Bosnia in particular, or the persistent problems of nationalism and ethnic hatred that plagued not only various periods of 20th century Yugoslav (and with it Bosnian) history, but indeed much of Bosnia's (and southeastern Europe's) Habsburg and late Ottoman history as well. There is now a wealth of literature on these interrelated issues (although consensus on causes remains elusive). Some titles of note include: Banac, Ivo. *The National Question in Yugoslavia: Origins, History, Politics*. Ithaca: Cornell University Press, 1984; Silber, Laura and Alan Little. *Yugoslavia: Death of a Nation*. Penguin, 1997; Woodward, Susan. *Balkan Tragedy: Chaos and Dissolution after the Cold War*. Washington: Brookings Institution, 1995. Malcolm, cited extensively herein, is among the only authors to date to take the history of Bosnia as a discrete entity as a subject, without simply capitulating to the new nationalist claims which are an integral part of post-1992-Bosnia and Herzegovina's elite and authorities' efforts to establish the legitimacy of Bosnian statehood and engage in “nation-building”.

followed in August in 1995, large numbers of ethnic Serbs and others including many Roma were forced to flee Croatia, many ending up in the Serb-controlled areas of Bosnia and Herzegovina, in what now constitutes Republika Srpska.

Following international recognition of Croatian and Slovene independence in January 1992, and news that Macedonia's succession was imminent, the government of Bosnia and Herzegovina found itself faced with the prospect of remaining part of a Yugoslavia dominated by Milošević and expansionist Serbian nationalism. While this was certainly undesirable to the majority of Bosnia and Herzegovina's Bosniak population, the independence of Bosnia and Herzegovina was just as unacceptable to many Serbs, both within Bosnia and Herzegovina and in Serbia. A referendum on the matter was held in Bosnia and Herzegovina in late February 1992. Despite threats of violence by Bosnian Serbs (and in particular by members of the Serbian Democratic Party – Srpska demokratska stranka (SDS)), participation was high and a majority of the voters voted in favour of independence. Bosnia and Herzegovina declared independence on April 5, 1992. The following day, JNA units began to shell Sarajevo from positions on the hillsides overlooking the city, and columns of troops and tanks crossed the Drina River from Serbia into eastern Bosnia. These forces were assisted by local Serbian paramilitaries, as well as paramilitaries from Serbia proper. Thanks to the support of the Milošević's government in Belgrade, Serbian nationalist forces in Bosnia had access to many of the resources of the JNA, an armed force that constituted the fourth largest arsenal in Cold-War Europe.<sup>58</sup> These vast military capabilities allowed for massive Serbian assaults on towns and villages throughout Bosnia and Herzegovina. In the course of the war in Bosnia and Herzegovina, concerted attempts were made to destroy all traces of people belonging to other ethnic groups. Historic mosques, churches, and synagogues, as well as national libraries, archives, and museums were burned down, exploded or otherwise demolished. Fighting also broke out between Bosniaks and Croats in 1993 but these hostilities came to an end with an agreement to form an alliance in March 1994. Towards the end of the war, the armed forces of Bosnia and Herzegovina, which was officially a multi-ethnic territorial defence force, gained strength despite the continued arms embargo imposed on the country. On March 20, 1995, these forces launched an offensive in north-eastern Bosnia and Herzegovina and, in combination with the increased pressure exerted on the Serbian forces by the Croatian army, Serb lines were pushed back.

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<sup>58</sup> Malcolm, pp. 236-238.

The break-up of the SFRY and the wars that ensued had a devastating effect on Romani individuals and communities in Bosnia and Herzegovina. Roma were brutally treated by all parties to the conflict, and it is feared that as many as 30,000 Roma were subjected to ethnic cleansing.<sup>59</sup> Many Roma were also detained and severely ill-treated in concentration camps, particularly Serb-run concentration camps. Roma and Romani communities were reportedly particularly targeted in Prijedor and the surrounding villages of Kozarac, Hambarine, Tukovi and Rizvanovići. Horrific atrocities were also committed against Roma from Vlasenica, Rogatica and in Zvornik and surrounding villages. At least seventy Roma were killed in the infamous massacre at Srebrenica in 1995.<sup>60</sup>

In contrast to Bosniaks, Croats and Serbs, Roma comprised no side in the war. However, because they lived throughout pre-war Bosnia, many Roma were dragged into the war on one of the three warring sides – generally that of the ethnic group that constituted the majority in the area in which they lived. In Serb-dominated areas of Bosnia and Herzegovina, mostly in what today comprises the Republika Srpska entity,

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<sup>59</sup> Latham, p. 213. Article 49 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (hereafter referred to as the “Fourth Geneva Convention”) states that “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.” The provisions from the Geneva Convention cited in this report relate to international armed conflict. It was found by the International Criminal Tribunal for the Former Yugoslavia, in the case of *Prosecutor v. Tadić* [Case No. IT-94-1-AR72, October 2, 1995] that the provisions relating to international armed conflict are applicable to the war in Bosnia and Herzegovina.

<sup>60</sup> Documentation of the Bosnian Section of the *Society for Threatened Peoples*, November 1999. Romani activists interviewed by the *ERRC* during research toward this report stated that as many as 100 Romani men aged 15-70 were missing from Srebrenica since July 1995 (*European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo). Srebrenica was designated a United Nations “safe haven” but instead became the scene of the most heinous atrocity committed on mainland Europe since atrocities by German authorities and their allies in World War II. A lightly armed battalion of one hundred and ten Dutch troops was supposed to defend 30,000 mostly Bosnian Muslim refugees from advancing Bosnian Serb forces. Outgunned and outnumbered, the troops’ resolve cracked and the town was taken by Bosnian Serb forces without a single shot being fired. The Dutch cabinet at the time decided that the soldiers should withdraw and leave the Muslims to their fate. Bosnian Serb forces under General Ratko Mladić then murdered up to 8,000 Bosnian Muslim men and boys – including many Roma – in cold blood, throwing the bodies into mass graves.

many Roma were driven out or killed together with other non-Serbs, while some Romani men were “recruited” into Serb forces. According to *ERRC* research, conducted in part in co-operation with the *Helsinki Committee for Human Rights in Republika Srpska (HCHRRS)*, many Romani men who served in the Serb forces were enlisted against their will. For example, the *ERRC/HCHRRS* met with Mr Mehmed Mujić, a Muslim Romani man from Budžak, a suburb of Banja Luka in Republika Srpska, in which only ten out of one hundred Roma remain after the war. Mr Mujić testified that he was intimidated into joining the Serb forces: “I knew that they hated us, and I feared what they might do if I did not join them [...]”.<sup>61</sup> Professor of Romani Studies Dr Thomas Acton has additionally written on the basis of testimony by Bosnian Romani refugees in the United Kingdom about Roma forced to join the Bosnian Serb forces. Of Roma in Banja Luka, Dr Acton wrote, “[...] the [Bosnian] Serbian soldiers came. In November [1992], they took some of the Serbian Roma to go to be soldiers too, but others they took to clear mines. They did this by taking their wives and children and saying they would not release them until [the men] had tested a stretch of ground to make sure it was clear of mines.”<sup>62</sup> The families of Romani men

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<sup>61</sup> *ERRC/HCHRRS* interview with Mr Mehmed Mujić, October 24, 2002, Budžak, Banja Luka. Article 51 of the Fourth Geneva Convention states that the “Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted. The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work, which would involve them in the obligation of taking part in military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour. The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article. In no case shall requisition of labour lead to a mobilisation of workers in an organisation of a military or semi-military character.” Article 147 goes on to declare that “compelling a protected person to serve in the forces of a hostile power” amounts to a grave breach of the Convention.

<sup>62</sup> Acton, Dr Thomas A. *A Romani Resettlement: Bosnia Refugee Rom in England*. 1996, available at: <http://www.geocities.com/Paris/5121/bosnia.htm>.

serving in the Bosnian Serb army were subjected to threats and harassment by the very same forces. In fact, the wife of Mr Mujić stated that after her husband was enlisted in the Serb forces, she often had to put up with threats from Serbs wishing to expel the family from Budžak.<sup>63</sup>

The village of Jasenje is located north-east of Tuzla, in north-eastern Bosnia.<sup>64</sup> Before the war, the village was reportedly home to some five hundred Muslim Roma, living in approximately one hundred and thirty-five homes. The local Romani community was prosperous: A number of inhabitants worked in Western European countries, primarily Austria and Germany, and their large houses adorned the centre of the village. Some Jasenje Roma owned land and forested areas; a number of the Romani villagers were employed by the local mine in the nearby town of Ugljevik. There was a four-grade primary school in the village, and most of the Romani children regularly attended classes. At the time of an *ERRC* field mission to Jasenje in January 2003, the village appeared to be predominately populated by Serbs and there were no remaining Roma. The houses in which the Roma once lived lay in ruins, and the area was deserted.<sup>65</sup> Ms Mijka Miličević, an ethnic Serbian woman living in the village, stated, “We assured the Roma living here that they had no reason to fear. We told them that they did not have to leave but they all left anyway. I suppose they did not want to stay.”<sup>66</sup> An elderly ethnic Serbian woman who introduced herself as “Borka” further informed the *ERRC*, “The last thing that the Roma did before they left was to set their own houses on fire [...] because they did not want Serbs to have the houses once they had left.”<sup>67</sup>

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<sup>63</sup> *European Roma Rights Center* interview with Ms Mujić, October 24, 2002, Budžak, Banja Luka.

<sup>64</sup> Jasenje is located on the former front line and also the inter-ethnic demarcation line. Before the war, this village administratively belonged to the municipality of Ugljevik, now Republika Srpska, while since the end of the war it is a part of the Municipality of Teočak, in the Federation.

<sup>65</sup> According to the *ERRC/HCHRRS* field research in November 2002, in 1997 the German non-governmental organisation *Society for Threatened Peoples* initiated a project for the return of Roma to Jasenje, and found donors to finance the reconstruction of 45 selected houses. The reconstruction was scheduled to start in the spring OF 1998, however during the winter before the reconstruction was slated to begin, the non-Romani inhabitants of the neighbouring villages completely devastated the Romani houses; anything that could be used was taken away. The project consequently failed, and since 1997 there were no new attempts to resettle Jasenje.

<sup>66</sup> *European Roma Rights Center* interview with Mr Mijka Miličević, January 19, 2003, Zvornik.

<sup>67</sup> *European Roma Rights Center* interview with “Borka”, January 19, 2003, Zvornik.

An SSSS symbol<sup>68</sup> was clearly visible on a wall of one of the houses and the houses had large holes in them, indicating that local discourse about Roma having destroyed their own houses was not likely true.

In Zvornik,<sup>69</sup> the *ERRC* met Mr S.B., one of the Roma who fled Jasenje during the war. Mr S.B. was reluctant to speak about the war. After some time, however, Mr S.B. stated, “Nothing really happened until the day when we were visited by some men from the Serbian army in Jasenje. They were not really from the army because they had black uniforms and not the regular green-brown uniforms of ordinary soldiers. But their hats had Serbian symbols and they carried arm-banners. They told all the men to line up outside the houses. We were all different ages but that did not matter; we were all told to climb up onto one of their lorries. We could not bring any belongings. We were not even given a chance to say good-bye to our families. I remember asking them what they wanted from us and where we were going. All that I got for an answer was a blow on my chin with the butt of a rifle. All in all, I think they took about thirty-five Romani men from our village. We were taken to the frontline between the Serbs and the Muslims (the Army of Bosnia and Herzegovina).”<sup>70</sup>

Other Roma from Jasenje testified to the *ERRC/HCHRRS* that they were forced out of the village by Serbian soldiers at the beginning of the war: Mr Š.B., a 46-year-old Romani man from Jasenje now living in Bijeljina, stated: “The Republika Srpska Army took us from the village. We stayed in Ugljevik for two days and then they transported us to Bijeljina. I settled there in a house owned by a Romani man who lived abroad, but most of the Jasenje Roma left Bijeljina soon.<sup>71</sup> Eighteen families from Jasenje stayed in Bijeljina throughout the war, and all of the men were conscripted in the Army. I was also in the Army. During the war, two of our local Roma died in the fighting at the Majevisa mountain.”<sup>72</sup> Mr Š.B. still lives in a house he does

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<sup>68</sup> The SSSS symbol is a cross with four Cyrillic “S” letters around it. SSSS stands for “Samo sloga Srbina spašava”, which is roughly translated as “Only unity shall save Serbs” in English.

<sup>69</sup> Zvornik is a town in Republika Srpska, northeastern Bosnia, bordering Serbia and Montenegro.

<sup>70</sup> *European Roma Rights Center* interview with Mr S.B., January 19, 2003, Zvornik. In some cases throughout this report, the *ERRC* has withheld the name of the person concerned. The full names are, however, on file at the *ERRC* and may be released if the interests of justice so require.

<sup>71</sup> The Jasenje Roma who left Bijeljina went to Germany and Austria and sought asylum there.

<sup>72</sup> *ERRC/HCHRRS* interview with Mr Š.B., November 23, 2002, Bijeljina.

not own with his wife and four children, and fears that they will have to leave when the owner decides to return; their own house in Jasenje is completely destroyed.

Orthodox Christian Roma do not appear to have received more favourable treatment from Serbian authorities on account of their common religion. Dr Acton's research revealed that when the war broke out, Bosnian Kalderash (Orthodox) Roma who before the war had become relatively integrated with the local Serb population, found that they were no longer accepted by the same people. Serbian extremists reportedly made it clear that the Bosnian Kalderash Roma were no longer welcome, and in 1992, suggested that they move to a Muslim dominated area. As the Bosnian Kalderash Roma felt they would not be accepted here, they fled elsewhere.

The village of Kozluk is located not far from the town of Žepa, in the eastern part of Republika Srpska. Most people who live in the village are ethnic Serbs. Before the war, some fifty Romani families lived in Kozluk. Today however, only fifteen remain. The houses in which the remaining Roma live are badly damaged and there are many buildings that are completely ruined, which presumably belong to the thirty-five Romani families that fled during the war. A man who would only call himself "Ševkija" told the *ERRC*: "When the war broke out, the Serbian army came here and picked up all the men from the village and took them to Kiseljački put. This was the front line back in those days. Roma did not choose to join the Serbs, they were forced to. When they were dragged onto the trucks, it was like they were slaves. We heard that one of our boys committed suicide when he arrived at the front."<sup>73</sup> Mr Bajro Hidanović further told the *ERRC*, "I was forced to join the Serbian army. It was the worst experience I have ever been through. One of my superior officers kept on telling the other Roma and myself in the battalion that we were more animals than men. The Serbian soldiers often took the opportunity to beat me although I was in their army. [...] Once I actually lost consciousness after a punch in my face. Another time they threw me into a pond of ice-cold water and prevented me from getting out of the water."<sup>74</sup>

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<sup>73</sup> *European Roma Rights Center* interview with "Ševkija", January 20, 2003, Žepa.

<sup>74</sup> *European Roma Rights Center* interview with Mr Bajro Hidanović, January 20, 2003, Žepa. Article 147 of the Fourth Geneva Convention declares that acts committed against protected persons amounting to "torture or inhuman treatment, [...] wilfully causing great suffering or serious injury to body or health [...]" constitute a grave breach of the Convention.

During the course of field investigation, the *ERRC* also received numerous accounts concerning Roma who had “disappeared” during the war. Mr Ševko Beganović, a Romani man from Kozluk, stated, “Some Roma just disappeared. [...] Emina Suljić was one of the young women from Kozluk who were taken by the Serbs. We heard they used her as a prostitute. I guess they raped her and kept her for fun. Then she disappeared.<sup>75</sup> Nobody really knows what happened to her. Clearly she died, but when, how and where is unknown.”<sup>76</sup> Romani activists in other parts of Bosnia and Herzegovina also confirmed instances of rape of Romani women in the 1992-1995 war. Women victims of rape reportedly live today under particularly harsh circumstances, as they are frequently rejected by the Romani community and also ignored by the local authorities.<sup>77</sup>

Romani men were also reportedly forcibly conscripted into the Bosniak-Croat dominated armed forces of Bosnia and Herzegovina during the war and also suffered humiliating and degrading treatment at the hands of Bosniak and Croat soldiers. In Vrace, on the outskirts of Sarajevo, the *ERRC* spoke with Mr Pašo Zećirović, a Romani man who lived in Tešanj, central northern Bosnia, before the war. Mr Zećirović testified, “I was forced to join the Bosnia and Herzegovina army. I served at the front. Many of the soldiers on the frontline were Roma; we were the ones who had to fight the hardest and we were the first ones to die if we did not fight well enough. There was a system in place, whereby all soldiers had to circulate. This system did not apply to us Roma; we were assigned to the front and we had to stay there for either as long as we survived or as long as the war lasted. Also, Roma never got to spend a night with our families. Others would be able to see their families for many days, but we never did. When I did get a chance to see my family, I could do so only for a couple of hours before I was ordered back to the front. Once the war was over and I returned to Tešanj I found my house in ruins. There was nowhere for us to go. I never got anything from the army, but I know for a fact that many Croats and Muslims got good benefits as war veterans. There are no benefits for Roma, although we lost so

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<sup>75</sup> Article 27 of the Fourth Geneva Convention states, “Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.”

<sup>76</sup> *European Roma Rights Center* interview with Mr Ševko Beganović, January 20, 2003, Žepa.

<sup>77</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, July 31, 2003, Sarajevo.



much in the war.”<sup>78</sup> There are also claims that Roma were disproportionately drafted into the army. Roma from the Svatovac Romani settlement, Lukavac municipality, for example, stated that 28 of their men were drafted into the Army of Bosnia and Herzegovina during wartime.<sup>79</sup> Two of the drafted young men were killed in the war.

During the war, many Romani civilians were rounded up and detained in concentration camps by both Serbian and Bosniak-Croat forces.<sup>80</sup> Roma with whom the *ERRC* spoke stated that the conditions in the camp were deplorable. Mr Murat Salkić, a now 72-year-old Romani man, was captured by Serbian paramilitary forces and taken to a prison camp approximately 25 kilometres outside Derventa, Republika Srpska, in central northern Bosnia.<sup>81</sup> Mr Salkić told the *ERRC*, “They separated old people from the younger ones. My son was also captured, but he was sent to another camp. They knew that the young men could work.”<sup>82</sup> The conditions in the camp were

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<sup>78</sup> *European Roma Rights Center* interview with Mr Pašo Zećirović, January 13, 2003, Vrace, Sarajevo.

<sup>79</sup> *European Roma Rights Center* interview with Ms Šerifa Mujić, August 5, 2003, Poljice.

<sup>80</sup> Article 3(1) of the Fourth Geneva Convention states, “Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples.”

<sup>81</sup> Article 147 of the Fourth Geneva Convention states that acts committed against protected persons amounting to “unlawful confinement” constitute a grave breach of the Convention.

<sup>82</sup> Article 40 of the Fourth Geneva Convention declares that, “[p]rotected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are. If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations. In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as national workers in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for



A Romani family in Poljice, Bosnia and Herzegovina, August 2003.

PHOTO: *ERRC/TATJANA PERIĆ*



Romani women in the Roham settlement Svatovac in Poljice, Bosnia and Herzegovina, August 2003. From left: Begzada Tahirović, Jasminka Mehić and Almasa Tahirović.

PHOTO: *ERRC/TATJANA PERIĆ*

very bad. Many of us suffered urinary tract infections because we had to sleep on the floor and the food was extremely poor. In any event, I did not have to stay in the camp for long before the Muslims and the Croats exchanged most of us for Serbs who had been caught. My son was not quite as lucky. He had to stay much longer [...] he died only a short while after he left the camp.”<sup>83</sup>

Mr Dževad Ferhatović, a Muslim Romani man, was also detained in a concentration camp. Mr Ferhatović testified to the *ERRC*, “We were taken to a camp in Doboј by Serbian paramilitary forces. We were about two hundred and fifty prisoners in the camp and I think all of us were civilians. We were all Muslims and some of us were Roma. Three days a week we were given bread smeared in pork fat [...].<sup>84</sup> The Serbs would laugh and say that it would be good for us and that it would keep us warm during the winter. The other days of the week we would not get anything to eat. Instead, a truck would come and dump garbage and we were told to serve ourselves, meaning that we were meant to find something to eat in all the litter. We had no beds and no mattresses. During the winter, we would all sleep close to each other in order to keep warm.<sup>85</sup> The women, in particular the younger ones, had to go with the soldiers in the evenings and they would come back in the morning. I think that they were raped.<sup>86</sup> My brother was also in the camp with his wife and 5-year-old daughter. One day the soldiers tied him up and brought him to a room where his wife and daughter were waiting. One of the soldiers held the daughter while the others raped his wife. He was forced to watch them do it, and so was the little girl. Every second day, the soldiers would grab a few men at random and beat us up in front of the rest of the prisoners. My wife and my son had to watch me being beaten up several times.

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occupational accidents and diseases. If the above provisions are infringed, protected persons shall be allowed to exercise their right of complaint in accordance with Article 30.”

<sup>83</sup> *European Roma Rights Center* interview with Mr Murat Salkić, January 13, 2003, Vrace, Sarajevo. Article 27 of the Fourth Geneva Convention states that protected persons “shall at all times be humanly treated [...]” Article 32 prohibits “any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands [...]”

<sup>84</sup> Islam prohibits eating pork and pork products. Article 27 of the Fourth Geneva Convention declares that protected persons are entitled to “respect for their [...] religious convictions and practises, and their manners and customs.”

<sup>85</sup> See Article 3(1) of the Fourth Geneva Convention.

<sup>86</sup> See Article 27 of the Fourth Geneva Convention.

Many people died in that camp while we were there. They died from a combination of things: starvation, cold, beatings and sickness.”<sup>87</sup>

*ERRC* research in Bosnia revealed that many Roma appear to have been forcibly taken into the camps by both armies, to be traded for prisoners-of-war captured by opposing forces. For example, Mr Ferhatović told the *ERRC* that after some time in the camps in Derventa, then Modriča, the prisoners from the camp at Modriča were taken to Bijeljina to be exchanged for Serbian soldiers being held by the Bosniak Army. However, something reportedly went wrong, and the prisoners were reportedly rounded up onto lorries and driven to an empty field. Mr Ferhatović reported that the prisoners were lined-up for execution, but as the Serbian soldiers were preparing to kill them, a Serbian woman ran out from a nearby house, crying and begging the soldiers not to kill the prisoners. The execution did not take place that day, and after some more time in the camps, the prisoners were eventually exchanged for Serbian soldiers.<sup>88</sup>

Further, the 1992-1995 war saw the wholesale destruction of a number of Romani communities. The Šehovice neighbourhood of Sanski Most in the Federation, which before the war was home to approximately forty Romani families, came under the control of Serbian forces during the war. During the war, some Romani families remained in the neighbourhood and reportedly were forced to work for the Serbian forces. These were widely viewed locally by non-Romani Bosniaks as collaborators. Bosniaks presently living in Šehovice told the *ERRC* that they believe local Roma joined the ranks of the Serbian forces and participated in atrocities against Bosniaks. However, Mr Idriz Bošković, a Romani man from Sanski Most, told the *ERRC* that Roma from Sanski Most did not join Serbian forces voluntarily, but that a number of times they were detained by Serbian forces, forced to put on military uniforms and perform compulsory labour for the Serbian military, among other things having to bury the bodies of dead combatants.<sup>89</sup> In 1995, Bosniak forces retook control of the area and in November 1995, destroyed all Romani houses in Šehovice. The destruction of property was apparently an act of collective punishment for the Roma for

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<sup>87</sup> *European Roma Rights Center* interview with Mr Dževad Ferhatović, January 13, 2003, Sarajevo.

<sup>88</sup> *European Roma Rights Center* interview with Mr Dževad Ferhatović, January 13, 2003, Sarajevo.

<sup>89</sup> *ERRC* interview with Mr Idriz Bošković, October 24, 2002, Sanski Most.

having collaborated with the Serbs. Many of the Romani families then reportedly fled to the United States. At the time of an *ERRC* visit in October 2002, the Bosniak families in the Šehovice neighbourhood continued to display very hostile attitudes towards Roma. One elderly female Bosniak returnee to the area told the *ERRC* without hesitation that it “would be impossible” for the Roma to return. Another young male Bosniak returnee repeatedly referred to the Roma as “traitors”. Mr Bošković told the *ERRC* that, indeed, one of the Roma who left for the United States did try to return: “We tried to help him reclaim his property but [the Bosniaks] of Šehovice threatened us and, when a fight was about to erupt, we gave up and left,” Mr Bošković stated. During a later visit to the town, Mr Bošković noted that the markers used to indicate the boundaries of some of the property owned by the Romani families had been removed.<sup>90</sup>

Seven Romani families who lived on the west bank of the river Neretva in Mostar in the Federation suffered a similar fate. In April and May of 1992, the JNA and local Serbian paramilitaries shelled Mostar with artillery. Later in 1992, Serbian forces were driven back by a joint Bosniak-Croat counteroffensive. Less than a year later, armed conflict broke out between the Croats and the Bosniaks. The Croatian Defence Council (*Hrvatsko vijeće obrane* – HVO) gained the upper hand in the battle<sup>91</sup> as the Muslim-dominated armed forces of Bosnia and Herzegovina were under-equipped and sustained heavy losses. While the HVO succeeded in driving away the Muslim population on the west bank of the river Neretva, it failed to push the Muslim population from the east bank of the Neretva. In August 2003, there were still no Roma living in the western, Croat-dominated, part of Mostar. The private houses of the seven Romani families on the western bank of the river had reportedly been systematically destroyed by the HVO.

In the course of the 1992-1995 war, Roma also reportedly suffered discrimination in the distribution of humanitarian aid, according to Mr Dervo Sejdić: “All humanitarian organisations distributed humanitarian assistance along ethnic lines. Sometimes Roma would get assistance from such organisations, but that was never in

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<sup>90</sup> *ERRC* interview with Mr Idriz Bošković, October 24, 2002, Sanski Most.

<sup>91</sup> The HVO was a Croat paramilitary group. The HVO received support from the Croatian government in the form of weapons, supplies and reinforcement soldiers, although it was not officially commanded by it.

sufficient amounts, especially taking into account the average size of a Romani family. This is how we came to the idea that forming Romani citizens' associations could help us do more." Consequently, the Sarajevo-based Romani organisation *Braća Romi* was founded in 1994.<sup>92</sup>

Roma were targeted by both the Serbian forces and the Bosniak-Croat forces in the war. When "recruited" through, in many cases, forcible abduction into the armed forces of both sides of the war, Roma were often subordinated to the position of slave labourers or disposable men to be sacrificed at the front line, rather than treated as soldiers. During the war, many Roma were killed, beaten, raped or detained in work camps or simply disappeared. In addition, the homes and property of many Roma were destroyed by military and para-military authorities, as well as by vigilante civilian forces during the war. To date, few if any Roma have received justice for crimes suffered during the armed conflict.<sup>93</sup> While several people have indeed been indicted for their actions in the wars that devastated the former Yugoslavia, many suspected war criminals are still at large,<sup>94</sup> and no one has come before the court for crimes

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<sup>92</sup> ERRC interview with Mr Dervo Sejdić, former Coordinator of the *Council of Roma* and activist from the Sarajevo-based non-governmental organisation *Roma Prosperity*, December 28, 2002, Sarajevo.

<sup>93</sup> The relevant law is the *jus in bello*, commonly known as humanitarian law or the law of armed conflict. This body of law is made up of customary international law, as well as codified treaty law, primarily the four Geneva Conventions. Humanitarian law imposes duties and liabilities upon individuals with respect to their conduct in armed conflict. On the basis of reports of mass killings of civilians, the continuance of the practise of ethnic cleansing and other grave violations of international humanitarian law within the territory of the former SFRY, the UN Security Council deemed the situation to be a threat to international peace and security. Using the powers that the UN Charter vests in the Council in such circumstances, it proceeded to establish the International Criminal Tribunal for the Former Yugoslavia (ICTY). The legal source of the power to establish the tribunal is Chapter VII of the United Nations Charter. The ICTY was created "for the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 [...]" (United Nations Security Council Resolution 808, February 22, 1993).

<sup>94</sup> In falling short of bringing many of the alleged war criminals to justice, the efforts of Stabilisation Forces (SFOR), which are charged with arresting the alleged perpetrators, drew criticism from ICTY Prosecutor, Ms Carla Del Ponte, who characterised them as "public relations operations" (Human Rights Watch, *World Report 2002*, available at: [www.hrw.org](http://www.hrw.org)).

committed against Roma in the 1992-1995 war in Bosnia and Herzegovina. Since its establishment, the tribunal has sought to identify reliable domestic courts to which cases can be transferred.<sup>95</sup> The year 2002 saw an increasing number of war crimes being tried domestically. However, in a May 2002 report, the Office of the United Nations High Representative in Bosnia and Herzegovina (OHR) stated that there is “little confidence that such [war crimes] cases can be tried impartially, independently and free from political criminal or other influence or without ethnic bias. There is little faith that mono-ethnic courts could deliver impartial judgements. Many witnesses are reported to be afraid to testify and some of the officials involved are concerned for their own safety because of real or imagined threats from those who oppose such prosecutions.”<sup>96</sup> Justice for Romani victims of actions during the 1992-1995 war has to date remained elusive.

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<sup>95</sup> The Rome Statement of February 18, 1996, requires that “[p]ersons other than those already indicted by the International Tribunal, may be arrested and detained for serious violations of international humanitarian law only pursuant to a previously issued order, warrant, or indictment that has been reviewed and deemed consistent with international legal standards by the International Tribunal.” See the full text of the Rome Statement at: <http://www.nato.int/ifor/general/d960218a.htm>.

<sup>96</sup> Office of the High Representative. *The Future of Domestic War Crimes in Bosnia and Herzegovina*. May 2002, p. 1.



## 5. ROMANI REPRESENTATION IN THE DAYTON STATE

The Constitution of Bosnia and Herzegovina states, “Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognised human rights and fundamental freedoms.”<sup>97</sup> The Constitution further gives priority to European human rights law over all other law<sup>98</sup> and includes non-discrimination provisions.<sup>99</sup> It also enshrines in the constitutional order a range of other international human rights agreements, including some not ratified by any other European state.<sup>100</sup> Nonetheless, certain provisions of both the Constitution of Bosnia and Herzegovina and the Constitutions of the two Entities *prima facie* discriminate against Roma, violating both themselves and international human rights law. The constitutional law of Bosnia and Herzegovina prevents Roma from enjoying a number of fundamental political rights. Bosnia and Herzegovina is the only country in Europe in which Roma are barred by law from holding key high political offices, including the Presidency.

### 5.1 The Sovereign State of Bosnia and Herzegovina

The armed hostilities ended with the signing of the General Framework Agreement for Peace (hereafter the “Dayton Agreement”) on December 14, 1995.<sup>101</sup> The sovereign state of Bosnia and Herzegovina was divided into two Entities: the Serbian

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<sup>97</sup> Article II(1) of the Constitution of Bosnia and Herzegovina.

<sup>98</sup> Article II(2) of the Constitution of Bosnia and Herzegovina.

<sup>99</sup> Article II(4) of the Constitution of Bosnia and Herzegovina states, “The enjoyment of the rights and freedoms provided for in this Article or in the international agreements listed in Annex 1 to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

<sup>100</sup> Bosnia and Herzegovina was, for example, at the time of writing, the only state in Europe to have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

<sup>101</sup> The full text of the General Framework Agreement for Peace in Bosnia and Herzegovina can be found at: <http://www.oscebih.org/essentials/Default.htm>.

dominated Republika Srpska, comprising around 49 percent of the territory and forming an irregular crescent shape around the north and east, and the Bosniak-Croat dominated Federation of Bosnia and Herzegovina, comprising approximately 51 percent of the territory. Each Entity has its own political structure and administration, with an overarching but relatively weak central government. Accordingly, each Entity enjoys an extensive degree of autonomy. The Constitution of Bosnia and Herzegovina specifies the competencies of the State. Competencies not specifically assigned to the State rest with the Entities.<sup>102</sup> Three constituent groups are recognised in the Constitution of Bosnia and Herzegovina: Bosniaks, Croats and Serbs.<sup>103</sup>

The central government of Bosnia and Herzegovina consists of a Parliamentary Assembly, which is divided into a House of Representatives and a House of Peoples, a rotating tripartite Presidency and a Council of Ministers with six ministries. The political structure of the Federation is divided into three levels: the Entity level, with a two-chamber Parliament, a President, a Vice President and a government under a Prime Minister; the Cantonal level, each of the ten cantons having its own assembly with the power to adopt cantonal laws; and the Municipal level, each municipality similarly having its own assembly. By contrast, the Republika Srpska is more centralised as it has only municipalities and no cantons. At the Entity level, there is a National Assembly, a President, a Vice President and a government under a Prime Minister. Each municipality has its own assembly and administrative structures. There are three Constitutional Courts in Bosnia and Herzegovina: One at State level and one in each Entity.

The status of the District of Brčko was finally decided in 1999, when it was established as a special district, belonging simultaneously to both the Republika Srpska and the Federation, with a single, multiethnic government. Present-day Bosnia and Herzegovina is home to approximately four million people. The population is largely split, not only along ethnic lines, but also based on religious affiliation. Generally speaking, Bosniaks are Muslim, Serbs are Orthodox Christian and Croats are Roman Catholic.

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<sup>102</sup> Article III of the Constitution of Bosnia and Herzegovina.

<sup>103</sup> Preamble of the Constitution of Bosnia and Herzegovina.

## 5.2 The Dayton Agreement

Mr Carl Bildt, co-chairman of the Dayton peace talks and UN High Representative in Bosnia and Herzegovina through the summer of 1997 has stated that, “The peace agreement for Bosnia is the most ambitious document of its kind in modern history, perhaps in history as a whole. A traditional peace treaty aims at ending a war between nations and coalitions of nations, while here it is a question of setting up a state on the basis of little more than the ruins and rivalries of a bitter war.”<sup>104</sup> The Dayton Agreement did more than end the war; it established a state, using the peace that it had achieved as a foundation. The existence of the State of Bosnia and Herzegovina arguably depends on whether this peace can be sustained. Against this background, human rights in Bosnia and Herzegovina have a unique role to perform. Human rights must be realised in Bosnia and Herzegovina, not only because they are rights which all people are entitled to enjoy by virtue of being human, but also because they are recognised as a precondition to sustainable peace in Bosnia and Herzegovina. Indeed, the parties to the Dayton Agreement have stated “[...] that the observance of human rights and the protection of refugees and displaced persons are of vital importance in achieving a lasting peace [...]”<sup>105</sup>

Human rights and fundamental freedoms are a cornerstone to the multiethnic, democratic state of Bosnia and Herzegovina. The state is under an obligation to secure and uphold the inherent rights of all people within its territory. The legal aspect of this obligation derives from two main sources; international law and the constitutional law of the State itself. As a sovereign state, Bosnia and Herzegovina is bound by both customary international law as well as by any treaty to which the state is a party.<sup>106</sup> There are certain human rights that are recognised as *ius cogens* and integrated into the body of customary international law, hence giving rise to obligations *erga omnes*, meaning that all states, irrespective of consent, are legally obliged to respect those rights. In addition, Bosnia and Herzegovina is also party to a number of multilateral

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<sup>104</sup> Bildt, Carl, *Peace Journey: The Struggle for Peace in Bosnia*, London: Weidenfeld & Nicholson, 1998, p. 392.

<sup>105</sup> Article VII of the Dayton Agreement.

<sup>106</sup> Article 38(1b) of the Statute of the International Court of Justice accepts “international custom, as evidence of a general practise accepted as law.” As to the binding nature of treaties, Article 26 of the Vienna Convention on the Law of Treaties incorporates the principle of *pacta sunt servanda*.

treaties featuring human rights provisions. These treaties are listed in Annex 6 of the Dayton Agreement, which, in itself, is a treaty that is legally binding on the state.<sup>107</sup> Annex 4 of the Dayton Agreement comprises the Constitution of Bosnia and Herzegovina. Constitutional law in Bosnia and Herzegovina places clear obligations on the State with respect to human rights.<sup>108</sup>

### **5.3 Obstacles to Romani Political Participation under the Dayton Agreement**

The Presidency is the principal executive organ of the State of Bosnia and Herzegovina. There are three members of the Presidency, one for each of the three constituent peoples:<sup>109</sup> Bosniaks, Croats, and Serbs. The Constitution makes clear that non-constituent peoples in Bosnia and Herzegovina are not eligible to be elected as a member of the Presidency. It thus practically bars Roma from even running for the office of the Presidency. Not only is a Romani citizen deprived of his or her right to be elected, but also the entire electorate is deprived of the right to have the elections express their free will, should they wish to elect a Romani candidate to the Presidency.

Legislative power in Bosnia and Herzegovina rests with the Parliamentary Assembly. This body consists of two chambers; the House of Representatives and the House of Peoples. All legislation requires the approval of both chambers.<sup>110</sup> Members of the House of Representatives are directly elected. The composition of the House of Peoples is more complex. The House of Peoples consists of fifteen delegates. Ten delegates are elected from the territory of the Federation; five of whom must to be Croat, the other

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<sup>107</sup> Article VII of the Dayton Agreement provides, “[...] the Parties agree to and shall comply fully with the provisions concerning human rights set forth in Chapter One of the Agreement at Annex 6, as well as the provisions concerning refugees and displaced persons set forth in Chapter One of the Agreement at Annex 7.”

<sup>108</sup> Article II(2) of the Constitution of Bosnia and Herzegovina affirms that the “[...] rights and freedoms set forth in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols shall apply directly in Bosnia and Herzegovina. These shall have priority over all other law.”

<sup>109</sup> Article V of the Constitution of Bosnia and Herzegovina .

<sup>110</sup> Article IV 3(c) of the Constitution of Bosnia and Herzegovina.

five of whom must be Bosniak. The remaining five delegates are elected from the Republika Srpska and must be Serb.<sup>111</sup> The Croat and Bosniak delegates of the House of Peoples of the Federation elect the five Croat and five Bosniak delegates respectively. The National Assembly of the Republika Srpska elects the five Serb delegates.<sup>112</sup> The Constitution of Bosnia and Herzegovina therefore also prevents Roma and other non-constituent peoples from running for election to, being elected to and, in the case of the Federation, even voting for delegates to the House of Peoples.

There is clearly no equality among the Parliamentarians of the Federation House of Peoples; a Romani parliamentarian would, by virtue of his or her ethnicity, have less power than a Bosniak or a Croat parliamentarian would. This becomes explicit when a comparison is made to the rules of the Republika Srpska National Assembly, where a Romani member would be permitted to vote in the elections of the five Serb members of the House of Peoples.<sup>113</sup> Furthermore, should Roma wish that their representative in the Entity legislatures appoint a Romani delegate to the House of Peoples, this would be impossible under the current rules. Not only Roma, but the entire electorate is deprived of the right to have the House of Peoples' elections express their free will, should they wish to elect a Romani candidate to the House of Peoples, as these seats are reserved for members of the three constituent groups.

Discrimination against Roma embedded in the legal framework of Bosnia and Herzegovina, through the elimination of the opportunity for Roma to be a part of the Presidency and the House of Peoples of Bosnia and Herzegovina, clearly impedes them from fully taking part in the political process. Furthermore, if the majority of one of the constituent peoples represented in the House of Peoples considers a proposed decision of the Parliamentary Assembly to be damaging to a vital interest of "their" people, they have the power to veto such a proposal.<sup>114</sup> Since Romani delegates are

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<sup>111</sup> Article IV 1 of the Constitution of Bosnia and Herzegovina.

<sup>112</sup> Article IV 1(a) of the Constitution of Bosnia and Herzegovina.

<sup>113</sup> Article 70 of the Constitution of the Republika Srpska.

<sup>114</sup> Article IV(3e) of the Constitution of Bosnia and Herzegovina. This can be contrasted with the wording in respect of the Presidency, where a dissenting member may declare a decision to be destructive to the vital interest of the Entity from which he/she was elected. Article V(2d) of the Constitution. At least in theory, members of the Presidency are mandated to cater to the interests of Roma should such interests be judged to be vital to the Entity.

barred from the House of Peoples, there is evidently no possibility for Roma to veto legislative measures they may deem to be damaging to their interests. Even if one of the other peoples represented in the chamber were to wish to act in solidarity with Roma and veto a proposal deemed to be destructive to a vital interest of Roma, it would be prohibited by the Constitution, as Roma are not included in “their” people.

These conditions are *prima facie* in violation of Article 25 of the International Covenant on Civil and Political Rights (ICCPR), which states, “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: 1. To take part in the conduct of public affairs, directly or through freely chosen representatives; 2. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors; 3. To have access, on general terms of equality, to public service in his country.”<sup>115</sup> The Constitution of Bosnia and Herzegovina further violates Article 5(c) of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in denying Roma the right to stand for elections to the Presidency and the House of

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<sup>115</sup> Article 2 of the ICCPR states, “1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. 2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.” The wording of the ICCPR appears to be much more comprehensive than Article 3 of the First Protocol to the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) which states, “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.” However, Article 53 of the ECHR states, “Nothing in this Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any High Contracting Party or under any other agreement to which it is a Party.” In addition, as a member of the Council of Europe Bosnia and Herzegovina has undertaken to abide by the values of the organisation, one of which is the respect for rule of law. Clearly, the observance of the principle of *pacta sunt servanda* in respect of international obligations is a crucial aspect of this duty. As to the binding nature of treaties, Article 26 of the Vienna Convention on the Law of Treaties incorporates the principle of *pacta sunt servanda*.

Peoples on the sole basis of their ethnicity.<sup>116</sup> Moreover, the Constitution of Bosnia and Herzegovina, in excluding minorities from the Presidency and the House of Peoples, fails to ensure “[...] full and effective equality between persons belonging to a national minority and those belonging to the majority”, in violation of Article 4(2) of the Council of Europe’s Framework Convention on the Protection of National Minorities.<sup>117</sup>

#### **5.4 Reinforcing the Vulnerability of the Roma Minority**

There exists a tendency to downplay the practical effects of the aforementioned constitutional provisions on persons in Bosnia and Herzegovina who do not declare themselves to be a member of any of the three constituent peoples.<sup>118</sup> The European Commission for Democracy through Law of the Council of Europe, commonly known as the “Venice Commission”, which has played a leading role in shaping the post-1989 constitutions in Central and Eastern Europe and has been actively involved in the interpretation of said constitutions, for instance, has written, “[...] it may be observed

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<sup>116</sup> Article 5(c) of the ICERD states, “In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (c) Political rights, in particular the right to participate in elections, to vote and to stand for election on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service [...].”

<sup>117</sup> Bosnia and Herzegovina acceded to the Framework Convention on National Minorities (FCNM) on February 24, 2000, and the Convention entered into force on June 1, 2000. As Bosnia and Herzegovina failed to submit its state report 24 months after the deadline set by Article 25 of the FCNM, the Secretary Committee of Ministers authorised the Advisory Committee on September 3, 2003, to start monitoring of the implementation of FCNM in Bosnia and Herzegovina. (Secretariat of the Framework Convention for the Protection of National Minorities – Committee of Ministers. “Proposal regarding the commencement of the monitoring of the Framework Convention without a state report (CM/Del/Dec(2003)832/4.2).” September 3, 2003).

<sup>118</sup> For example, in an interview with the *ERRC*, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina Mr Slobodan Nagradić expressed the opinion that it would be premature to argue that the constitutional set up violated international law bearing in mind the very particular circumstances that led up to the peace agreement (*European Roma Rights Center* interview with Mr Slobodan Nagradić, February 3, 2003, Sarajevo).

as a preliminary remark that the terms Bosniak, Croat and Serb, used throughout the relevant texts, may be more flexible than they appear, as there is no constitutional or legal definition of who is a Bosniak, Croat or Serb. Current electoral rules simply require electoral candidates to make a declaration as to their ethnicity.”<sup>119</sup> The argument suggests that a Romani person can easily gain access to those public offices reserved for constituent people by simply declaring her/himself to be Bosniak, Croat or Serb. This idea, however, is in contravention of Article 3(1) of the Framework Convention for the Protection of National Minorities, which states, “Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.” Roma in Bosnia and Herzegovina choosing to be recognised as a Roma clearly confront serious disadvantages as a result of that choice.

Authorities have similarly sought to downplay the exclusion of Roma from areas of legislative and executive power by emphasizing that persons serving in representative capacities represent not only members of their own ethnic group, but rather all citizens of the two entities. Thus, the Constitutional Court of Bosnia and Herzegovina has ruled: “One must not forget that the Serbian member of the Presidency, for instance, is not only elected by voters of Serbian ethnic origin, but by all citizens of Republika Srpska with or without a specific ethnic affiliation. He thus represents neither Republika Srpska as an entity nor the Serbian people only, but all the citizens of the electoral unit Republika Srpska. And the same is true for the Bosniak and Croat Members to be elected from the Federation.”<sup>120</sup> The Venice Commission has commented on this ruling that, “If the members of the Presidency elected from an Entity represent all citizens residing in this Entity and not a specific people, it is difficult to justify that they must identify themselves as belonging to a specific people. Such a rule seems to assume that only members of a particular ethnicity can be regarded as fully loyal citizens of the Entity capable of defending its interests.”<sup>121</sup> This comment begs

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<sup>119</sup> The Venice Commission. *Opinion on the Electoral Law of Bosnia and Herzegovina*. 2001, para. 14, available at: <http://venice.coe.int>.

<sup>120</sup> Constituent Peoples’ Decision of the Constitutional Court of Bosnia and Herzegovina, U 5-98 III Djelomična odluka, para. 65.

<sup>121</sup> The Venice Commission. *Opinion on the Electoral Law of Bosnia and Herzegovina*. 2001, para. 17.



the question: Why would Roma, whose ancestors may well have resided on the territory of what is today Bosnia and Herzegovina since long before the Ottoman conquest, not be as capable to represent the State or an Entity as a Bosniak, a Croat or a Serb? Professor Zoran Pajić points out that the constitutional set-up makes the three constituent peoples, rather than the people as a whole, the source and bearers of sovereignty in Bosnia and Herzegovina.<sup>122</sup> The quota system is designed to ensure that constituent peoples are guaranteed a certain degree of representation for the purpose of securing the interests of their own particular ethnicity rather than that of any Entity.

The Constitutional Court's decision cited above notwithstanding, at the heart of the constitutional system of Bosnia and Herzegovina is the assumption that political representatives will act primarily in the interests of their own ethnic group.<sup>123</sup> Politics in Bosnia and Herzegovina remains in practice dominated by nationalist parties of the three constituent peoples which, in fact, defend and pursue politics in the favour of the interests of their own particular ethnic group.<sup>124</sup> One result of Bosniak, Croat and Serbian nationalist politics and a constitutional system that provides a legal and structural basis for such politics is that the fundamental rights of Roma and other minorities in Bosnia and Herzegovina continue to be infringed and in a number of cases violated outright amidst sustained ethnic tensions and mistrust. Mr Dervo Sejdić of the *Council of Roma* in Bosnia and Herzegovina described for the *ERRC* one practical effect of extremely limited representative powers for Roma: "When a Bosniak decides to return to Republika Srpska he can always count on the [pro-Bosniak] SDA to cry foul in the event that for some reason he is not treated well in his place of return. If, on the other hand, a Romani person is denied access to healthcare, prevented from

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<sup>122</sup> Pajić, Prof. Zoran. "A critical appraisal of the Dayton Accord Constitution of Bosnia and Herzegovina". In Bendek, Wolfgang (ed.). *Human Rights in Bosnia and Herzegovina after Dayton: From Theory to Practise*. The Hague: Martinus Nijhoff Publishers, November 1998.

<sup>123</sup> According to Professor Yash Ghai, "The system creates incentives for parties and their leaders to intensify appeals to narrow ethnic interests, linked to their kinsfolk in other states, which does little for the unity of the country." Ghai, Professor Yash. *Public Participation and Minority Rights*. London: Minority Rights Group, 2001, p. 16.

<sup>124</sup> The main nationalist parties are the Croatian Democratic Union (*Hrvatska demokratska zajednica* - HDZ), the Serbian Democratic Party (*Srpska demokratska stranka* - SDS) and the Party of Democratic Action (*Stranka demokratske akcije* - SDA), the Bosniak nationalist party.

repossessing property or prevented from sending his children to school, no one says anything. And this is just considered normal.”<sup>125</sup> Political organisation among Roma in post-war Bosnia is in a nascent state: in April 2003, the new Romani Democratic Party was formed in Sarajevo, with Mr Bajro Beganović as President and Mr Alija Abazi as Vice-President. Roma are for the most part absent from the ranks of non-Romani political parties, with few exceptions.<sup>126</sup>

By excluding Roma from political offices of the highest positions, the constitutional arrangements of Bosnia and Herzegovina as agreed upon in the Dayton Agreement are discordant with a number of provisions of international law. Roma in Bosnia and Herzegovina cannot, under the current legal framework, hope to be President, or even a member of the House of Peoples. In addition, in the case of the delegates of the House of Peoples from the Federation, Romani delegates would even be prevented from voting for prospective candidates. These arrangements reinforce the vulnerable position of Roma in Bosnia and Herzegovina and provide permanent and standing institutional support for the hegemony of the three “constituent peoples”. Amidst continuing animosity between ethnic groups, the current state institutions in Bosnia and Herzegovina are organised in such a way as to create incentives for the three strongest groups to rule in ways beneficial to themselves and to the detriment of citizens outside these three ethnic groups, including Roma.

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<sup>125</sup> *European Roma Rights Center* interview with Mr Dervo Sejdić, December 28, 2002, Sarajevo.

<sup>126</sup> In November 2002, Mr Salko Muratović from Tuzla was elected a delegate in the Assembly of the Social Democratic Party of Bosnia and Herzegovina, according to the November 2002 electronic newsletter of the Tuzla-based Romani non-governmental organisation *Sae Roma*. According to the same source, this was the first time that a Romani person was elected a delegate in a political party.

## 6. CITIZENSHIP AND ACCESS TO PERSONAL DOCUMENTS

The non-constituency of Roma in Bosnia and Herzegovina is reinforced by the fact that many Roma in Bosnia and Herzegovina may not be citizens of the state, despite real and effective ties to Bosnia and Herzegovina, including as a result of having been born there. A serious obstacle to the exercise of fundamental human rights by Roma in the countries of the former Yugoslavia, including Bosnia and Herzegovina, is the lack of personal documents – including but not limited to birth certificates, personal identification documents, documents related to state-provided health insurance and social welfare, and passports. In extreme cases, Roma lack citizenship, and the anathema phenomenon of statelessness has arisen among Roma in Bosnia and Herzegovina.<sup>127</sup> Exclusionary obstacles created by lack of documents

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<sup>127</sup> The principle that statelessness is anathema has been repeatedly affirmed by the international community. Article 24 of ICCPR, addressing the rights of children, stipulates that “[e]very child has the right to acquire a nationality.” The Convention of the Rights of the Child states at Article 7: “The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents [...]” A number of international legal instruments address the issue of statelessness exclusively. The Convention on the Reduction of Statelessness includes a number of provisions aiming to prevent statelessness as a result of loss of nationality due to any change in the personal status of an individual. Article 8 states that “[a] Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless.” Article 9 stipulates that a State may not deprive any person or group of persons of their right to nationality on racial, ethnic, religious or political grounds. Further, the Convention Relating to the Status of Stateless Persons provides, *inter alia*, “The Contracting States shall as far as possible facilitate the [...] naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings” (Article 32). Paragraph 5 of Annex I of the Constitution of Bosnia and Herzegovina (which in itself constitutes Annex 4 of the Dayton Agreement) provides that the “1961 Convention on the Reduction of Statelessness [...] [is] to be applied in Bosnia and Herzegovina.” The European Convention on Nationality recognises the right to nationality and Article 3 acknowledges the principle that each State determines under its own law who are its nationals. However, domestic laws of States Parties must be in conformity with a set of principles enumerated in the Convention. These principles are: everyone has the right to a nationality; statelessness shall be avoided; no one shall be arbitrarily deprived of his or her nationality; neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically

can be daunting and in many instances, the lack of one document can lead to a “chain reaction”, in which the individual is unable to secure further documents. Despite domestic legal requirements stipulating that all adults have to have personal documents, and the evident problem in this regard existing in the Romani community, this problem has not been systematically addressed by the authorities of Bosnia and Herzegovina. Consequently, Roma lacking personal documents and/or citizenship in Bosnia and Herzegovina are unable to realise basic rights such as voting, housing, health, education, social benefits, etc. Although apparently aware of this problem, some officials in Bosnia and Herzegovina have made statements based on stereotypes and verging on blaming Roma themselves for this state of affairs, as well as indicating that there may be a lack of real political will to address the issue adequately. For example, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina Mr Slobodan Nagradić stated to the *ERRC* that while “[i]t is true that the social position of Roma in Bosnia and Herzegovina makes it difficult for them to obtain all the papers that one needs in a modern society, [...] they themselves are not doing what they can to improve their situation. Many Roma have a very unfortunate attitude towards procedures that require them to do things. They often do not care about deadlines. They seem unwilling to understand that the state can only help them if they comply with their obligations towards the state. Maybe this is a result of their traditionally unsettled

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affect the nationality of the other spouse. (Article 4) Article 5 states that the rule of non-discrimination applies in matters of nationality: The rules of a State Party on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin. Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently. In addition, the European Convention on Nationality renders explicit that the context of state succession places particular burdens on states to act to avoid statelessness. State succession is regulated under an entirely separate chapter of the Convention (Chapter VI), which states, at Article 18, “(1) In matters of nationality in cases of State succession, each State Party concerned shall respect the principles of the rule of law, the rules concerning human rights [...] in particular in order to avoid statelessness. (2) In deciding on the granting or the retention of nationality in cases of State succession, each State Party concerned shall take account in particular of: (a) the genuine and effective link of the person concerned with the State; (b) the habitual residence of the person concerned at the time of State succession; (c) the will of the person concerned; (d) the territorial origin of the person concerned. [...]” Bosnia and Herzegovina was at the time of writing not a party to the European Convention on Nationality. The Convention is nevertheless the European standard in the area and its provisions will have to be met by Bosnia and Herzegovina as part of its effort towards European integration.

lifestyle [...].”<sup>128</sup> Thus, in addition to the constitutional impediments to full citizenship and real access to political rights raised above, many individual Roma have no possibility whatsoever to exercise *any* political rights in Bosnia and Herzegovina, and may also be further blocked from realising a number of other fundamental rights as well.

## **6.1 Access to Birth Certificates**

The law that regulates the registration of a birth and the issuance of birth certificates is the Law on Registries in both Entities.<sup>129</sup> In accordance with the law, the birth of a child in Bosnia and Herzegovina must be reported by the parents and/or legal guardian to the Registrar’s Office in the municipality of birth within a certain number of days from the date of birth. In the case that the birth took place in a medical institution, the institution is also obliged to report the birth to the Registrar’s Office, but this does not constitute registering the child. This reporting requirement is intended to ensure that, in the event that the parents fail to fulfil their obligation to register the birth, the authorities will be able to track down the child for the purpose of having it registered. Parents are obliged to register the birth once it has been reported. Before registration, the child must be examined by a medical doctor who will issue a record containing certain information about the child, such as physical attributes, medical condition, etc. This document must then be brought to the Registrar’s Office in the municipality in which the child was born for the birth to be registered. The child must also have a name in order to be registered. There is no fee for the registration process in either of the Entities. However, a fee is owed when the birth certificate is produced.

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<sup>128</sup> *European Roma Rights Center* interview with Mr Slobodan Nagradić, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina, February 3, 2003, Sarajevo.

<sup>129</sup> The Federation and Republika Srpska Laws on Registries, which are largely taken over from the former Yugoslavia, regulate these matters. This means that the laws are very similar to each other, although there are small differences in respect of matters such as time limitations. The Entities’ laws on registration also foresee fines for negligent behaviour of parents and guardians or a health institution in reporting and registering the birth of a child. The laws stipulate that the health institution will be fined 100 Bosnian convertible marks (approximately 50 EUR) and the responsible official of the institution will be fined 50 Bosnian convertible marks (approximately 25 EUR) for such a breach. The parent and/or guardian of the child will also be fined 50 Bosnian convertible marks (approximately 25 EUR) for failing to report and register a birth.

In the event that the birth of a child is not registered within the prescribed specified time of the date of birth, this can be done at a later stage, through an administrative procedure determined by the Ministry of Interior. According to this procedure, the parents, guardians, or the persons concerned over the age of 18, would need to give a statement verifying the birth to the Ministry of Interior, usually the local police station. Two witnesses then have to sign that statement, verifying it to be true. The police then issue a document that must be brought to the municipality in which the birth took place and, based on that document, the municipality decides whether or not to allow the registration. Once the birth is registered, a birth certificate can be issued.

While this procedure seems relatively straightforward, many Roma in Bosnia and Herzegovina encounter serious hurdles in obtaining birth certificates. *ERRC* field investigation, as well as documentation by other NGOs, indicates that many Roma are without birth certificates in Bosnia and Herzegovina. On March 20, 2003, Ms Nedžmija Aljić, a Romani woman from the Straževac Romani settlement in Modriča in the Republika Srpska, informed the *ERRC/HCHRRS* that she had given birth to a son five months earlier and that she had not been able to register him as of the date of the interview. As such, she had not managed to obtain a birth certificate for him. Prior to the war, according to her testimony to the *ERRC/HCHRRS*, Ms Aljić's family lived in the home of her husband's parents, which was destroyed during the war. Ms Aljić, her husband Mr Salko Halilović, and their three children were living in an improvised shack at the time of the *ERRC/HCHRRS* visit. Ms Aljić did not have a personal identification card ("ID card") and was reportedly told by an official at the Registrar's Office that she could not register her son without such a document. However, Ms Aljić told the *ERRC/HCHRRS* that she had earlier tried to obtain an ID card in September 2001 but was refused at the Ministry of Interior in Modriča because she did not live at a registered address and had not filed a request for the return of property, although the property was not registered in her name and had not been occupied.<sup>130</sup>

Similarly, Mr Ismet Alimanović, a Romani man living in a tent on land owned by his father beside their home that was destroyed in the war in the same settlement told the *ERRC/HCHRRS* that he had four children, none of whom he and his wife had been able to register at the local Registrar's Office, because neither he nor his wife had ID

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<sup>130</sup> *ERRC/HCHRRS* interview with Ms Nedžmija Aljić, March 21, 2003, Straževac Romani settlement, Modriča.

cards. Accordingly, none of his children had birth certificates.<sup>131</sup> Mr Behader Aljić, another man from the Straževac Romani settlement, testified to the *ERRC/HCHRRS* that he did not have an ID card. Because of this, Mr Aljić was unable to register his 11-month-old son with the local Registrar's Office and his son did not have a birth certificate.<sup>132</sup>

Ms Adisa Zahirović lives in the Straževac Romani settlement with her husband and six children. Ms Zahirović told the *ERRC/HCHRRS* that she was born in Sombor, in what is now Serbia and Montenegro, and moved to Modriča with her parents long before the war. Ms Zahirović did not have a birth certificate and was therefore reportedly denied an ID card two years earlier when she applied at the Ministry of Interior. Ms Zahirović stated that she could not go to Sombor to obtain a birth certificate because she lacked an ID card or a passport. Ms Zahirović also reported that her two youngest children did not have birth certificates because she was unable to register their births at the Registrar's Office due to her own lack of personal documents.<sup>133</sup> Roma with whom the *ERRC* spoke appeared unaware that they might register children with the assistance of witnesses, and the *ERRC* is unaware of any comprehensive programmes aimed at informing Roma in Bosnia and Herzegovina that this possibility exists.

Another problem experienced by Roma in Bosnia and Herzegovina is that a lack of personal documents precludes many from accessing state-provided medical insurance, meaning that they are liable to pay full hospital fees. Patients covered with health insurance normally are still liable to pay a certain portion of the fee. Many impoverished Roma cannot afford to pay even the subsidised fee, therefore some Romani women leave hospitals after giving birth before being formally discharged, so as not to pay the fee. This means that they do not acquire the necessary medical record for the purpose of registering the child.<sup>134</sup> Children born outside a medical

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<sup>131</sup> *ERRC/HCHRRS* interview with Mr Ismet Alimanović, March 21, 2003, Straževac Romani settlement, Modriča.

<sup>132</sup> *ERRC/HCHRRS* interview with Mr Behader Aljić, March 21, 2003, Straževac Romani settlement, Modriča.

<sup>133</sup> *ERRC/HCHRRS* interview with Ms Adisa Zahirović, March 21, 2003, Straževac Romani settlement, Modriča.

<sup>134</sup> According to the Head Nurse of the cantonal hospital in Travnik, some Romani women are exempted from paying for delivery either through the unemployment bureau or by way of certificate from the social welfare centre. She nonetheless confirmed that in the event that a woman who had given birth was unable to pay the fee or provide proof that she was exempted from paying the

institution must be brought to a medical practitioner, who charges fees, and obtain the medical record before their birth can be registered. The end result is that the birth of many Roma in Bosnia and Herzegovina was not registered and they are, consequently, unable to obtain a birth certificate.

Additionally, there is widespread confusion as to what the rules relating to registration and the issuance of birth certificates actually are, which creates an obstacle for Roma when trying to obtain birth certificates. Mr Nenad Sulejmanović told the *ERRC* that his son was born in October 2000 in Sarajevo, but he did not register his son in the Book of Births or obtain a birth certificate because he could not get the necessary medical documents. Mr Sulejmanović stated that his son was not able to get medical check-ups or vaccinations, because he did not have a birth certificate. According to Mr Sulejmanović, “The first time I tried to register the birth was in Mostar. The authorities refused to register the birth of my son. They told me that I could not register the birth there since I was not a permanent resident in Mostar. They advised me to try to do it in Sarajevo, as that is where I am registered. In May, we moved to Livno. I tried to register my son into the Book of Births there. The officials asked me to provide evidence of permanent residence in Livno. I had no such evidence so I was told that the birth of my child could not be registered. Later, I went to Bugojno and submitted a request for registering my son’s birth in July. They accepted my application and they told me that it would be solved. I had to pay a fee of 60 Bosnian convertible marks (approximately 30 EUR).”<sup>135</sup>

An entire generation of Romani children born during the 1992-1995 war is particularly affected by not having been registered because they were born during wartime. In the Svatovac Romani settlement, Tuzla Canton, the *ERRC* met Ms Zineta Hasanović whose eldest daughter Emira was born at home in 1993. As the birth took place during wartime, Ms Hasanović was afraid for her safety and did not dare leave her settlement neither for the sake of giving birth at hospital nor for the purpose of registering the birth. The three younger children of Ms Hasanović are registered. If Ms Hasanović sought to register Emira’s birth belatedly, her husband would first need to obtain a new ID himself. Mr Hasanović is registered to live in the nearby municipal-

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fee, she would be discharged without the documentation that is necessary to register the child. *European Roma Rights Center* interview with Ms Belma Hodžić, February 2, 2003, Travnik.

<sup>135</sup> *European Roma Rights Center* interview with Mr Nenad Sulejmanović, July 30, 2002, Livno.



ity of Gračanica, and in order to register his daughter's birth, he would need to re-register in the municipality of Lukavac, where the family lived at the time the *ERRC* interviewed him. Only after this, the family could embark on registering Emira. However, Ms Hasanović has given up on this idea, because she estimated that including all expenses, this procedure would require around 100 Bosnian convertible marks (approximately 50 EUR), which due to her poverty she felt she could not afford.<sup>136</sup> Another Romani child from the same settlement, Esad Mujić, was also born during the war, in 1993. His mother, Ms Sanela Mujić, told the *ERRC* that the boy was born while her husband was in the army, and she was too afraid to go to town and register the child on her own. Ms Mujić gave birth in a hospital, but – having no health insurance – the hospital authorities requested her to pay 54 Bosnian convertible marks (approximately 28 EUR), which she could not do. As such, the hospital did not issue her with documents proving the child's birth. So, in order to register Esad, Ms Mujić would first need to pay the hospital bill, and then go to the registrar's office, which she stated she was not able to afford.<sup>137</sup>

Despite the extent of this problem in local Romani communities, in the course of the field research in Bosnia and Herzegovina the *ERRC* was not informed of any governmental initiative aimed at making the birth registration and belated birth registration process any less expensive or more accessible to members of the Romani community or other people living in poverty.<sup>138</sup>

## **6.2 Access to Personal Identification Cards**

The Law on the Personal Identification Number regulates assignment, registration and use of the personal identification number.<sup>139</sup> Each citizen of Bosnia and Herzegovina is required to have such an identification number. The number is assigned to a person, via the Ministry of Interior, when his or her birth is registered. In practice, this means

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<sup>136</sup> *European Roma Rights Center* interview with Ms Zineta Hasanović, August 5, 2003, Poljice.

<sup>137</sup> *European Roma Rights Center* interview with Ms Sanela Mujić, August 5, 2003, Poljice.

<sup>138</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo)

<sup>139</sup> In Bosnian: *jedinstveni matični broj (JMB)*.

that once a birth has been registered and a birth certificate issued, the certificate must be taken to the local police station where the number will be issued and printed on the certificate. The number hence appears on the birth certificate and all documents issued on the basis of the birth certificate, such as the citizenship certificate, the ID card or the passport. In the event that a person does not have a number, this fact must be reported to the Ministry of Interior.<sup>140</sup> Each citizen of Bosnia and Herzegovina over 18 years of age must possess an ID card. In order to obtain an ID card, a person must produce before the Ministry of Interior, usually the local police station, a birth certificate with the personal identification number printed on it, two passport size photographs and a completed form. The cost of this is 25 Bosnian convertible marks (approximately 13 EUR), including the fee and having the photos taken. A project of the Citizens Identificational Protection System (CIPS)<sup>141</sup> aiming to harmonise ID cards, driving licenses, and other personal documents between the two Entities was introduced in January 2003. Citizens are obliged by law to replace their old Entity ID card (which carries the Entity insignia on it) with a new one (which displays the coat of arms of the state of Bosnia and Herzegovina) within a year. The cost of a new ID card is 11 Bosnian convertible marks (approximately 6 EUR).<sup>142</sup>

Roma in Bosnia and Herzegovina experience extreme difficulties obtaining ID cards, not least because of the effect that the 1992-1995 war has had on their lives in Bosnia and Herzegovina. Another reason many Roma encounter obstacles in acquiring ID cards is the informal nature of their living arrangements. Roma living in settlements and homes that are not legally registered are blocked in practice from obtaining ID cards. In some cases in which Roma in informal settlements apply for ID cards, Bosnian authorities apply regulations fully irrelevant to the situation of the person at issue. For example, Mr Hilmo Ferhatović, a Romani man from the Straževac Romani settlement in Modriča, testified to the *ERRC/HCHRRS* that he had a pre-war ID card

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<sup>140</sup> Articles 46 to 56 of the Law on the Personal Identification Number.

<sup>141</sup> In Bosnian: *Sistem za zaštitu ličnih podataka građana*. The CIPS began operation in Bosnia and Herzegovina in October 1998.

<sup>142</sup> The price of the new ID was initially set by the Office of the High Representative at 14.5 Bosnian convertible marks (7.5 EUR), but was corrected by a decision of the Council of Ministers of Bosnia and Herzegovina to 11 Bosnian convertible marks (6 EUR) on March 13, 2003. As of August 2003, for technical reasons related to the new technology necessary for the procedure, not all the branch offices of the Ministry of Interior were able to issue new IDs.

issued in Modriča before the war that was no longer valid. Mr Ferhatović applied for a new ID card from the Ministry of Interior in October 2001, but was refused because he first needed to provide evidence of a legal permanent address. The land on which Mr Ferhatović's home is situated is owned by his grandmother who died in 1982, although the land is still legally in her name. According to Mr Ferhatović, the costs of the legal procedure to change ownership on the property are approximately 1,000 EUR, which he could not afford. The Ministry of Interior also reportedly requested a decision for the repossession of property in Mr Ferhatović's name – i.e., that he was repossessing his land from those who had occupied it during the 1992-1995 war – even though the land had not been occupied during the war and also despite the fact that it had never been registered in his name.<sup>143</sup>

Mr Sead Alimanović, a Romani man living in the same settlement, similarly told the *ERRC/HCHRRS* that neither he nor his wife had ID cards at the time of the interview in March 2003. Mr Alimanović, his wife and three children live on land registered in his deceased father's name. Mr Alimanović applied for an ID card in October 2001 but was reportedly refused because he could not prove to the Ministry of Interior that he had a legal permanent address. The Ministry reportedly told Mr Alimanović that he needed to file a claim for the repossession of property (i.e., reclaim from a person illegally occupying the property during the 1992-1995 war). However, the property is not registered in his name so he could not do this.<sup>144</sup> Mr Alimanović reported that because he and his wife could not acquire personal documents, they had as of the date of the interview been unable to marry legally.

In the same settlement, Mr Behader Aljić reported to the *ERRC/HCHRRS* that neither he nor his wife or father were in possession of ID cards. Mr Aljić's seven-member family, which included his father, was living in a small shack built on his father's property following the 1992-1995 war. Mr Aljić stated that he applied for a new ID card at the Ministry of Interior in February 2002, but was refused because he first had to prove that he legally owned the land and house in which he lived, as well as provide a decision for the repossession of property, again although he was not

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<sup>143</sup> *ERRC/HCHRRS* interview with Mr Hilmo Ferhatović, March 21, 2003, Straževac Romani settlement, Modriča.

<sup>144</sup> *ERRC/HCHRRS* interview with Mr Sead Alimanović, March 21, 2003, Straževac Romani settlement, Modriča.

among persons “repossessing” property under regulations related to the return of displaced persons in Bosnia and Herzegovina. Because he was denied an ID card, Mr Aljić told the *ERRC/HCHRRS*, he could not get a passport and, therefore did not have citizenship, so was unable to travel abroad or even far outside the settlement.

Mr Alija Salkić, a 28-year-old Romani man from the Veseli Brijeg Romani settlement in Banja Luka in Republika Srpska, told the *ERRC/HCHRRS* that he had unsuccessfully been trying to obtain an ID card for four years. Like many Roma, Mr Salkić was ordered to leave Serbian controlled territory in eastern Bosnia (today, “Republika Srpska”) during the war. According to Mr Salkić, “In order to make it look like voluntary migration and as if we moved to the Federation of our own free will, the authorities wrote in our ID cards that we were voluntarily de-registering.” However, Mr Salkić stayed in Veseli Brijeg and moved into the ruins of an abandoned house. Mr Salkić told the *ERRC/HCHRRS* that in 1997 he applied for a new ID card. However, “The clerk asked me for a registration document from a municipality in the Federation and a document verifying that I had de-registered in the Federation. Only then would I be able to register in Banja Luka, he said. I tried to explain that I had not moved away from Banja Luka. I offered to bring witnesses who would confirm this. My brother can testify to this, and so can my neighbours, and they are Serbs. I have proof that I was in the [Bosnian] Serbian military as well. He did not accept any of this.” Mr Salkić stated to the *ERRC/HCHRRS* that he had tried numerous times afterwards, most recently in February 2002, to get a new ID card, but each attempt had been unsuccessful: “I have not been anywhere else. I was born here and I have a birth certificate, but the authorities do not want to issue me an ID card. They do not even want to hear any witnesses who can confirm that I never moved to the Federation.” The lack of an ID card has been a serious impediment to Mr Salkić’s enjoyment of many fundamental rights. Mr Salkić stated: “Because I do not have an ID card, I was not able to vote and the same shall probably happen in the next elections. I will not be able to get legally married without an ID card. I cannot get a passport, so I cannot travel anywhere. The police can detain me, because I do not have that document. If there were a job for me, I could not have it without an ID card and certificate of residency.”<sup>145</sup> Ms Dika Musić, a Romani woman living in the Varda Romani settlement in Kakanj in the Federation, reported similar problems arising from the failure of her husband to procure an ID card.

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<sup>145</sup> *ERRC/HCHRRS* interview with Mr Alija Salkić, May 16, 2002, Veseli Brijeg Romani settlement, Banja Luka.

Ms Musić told the *ERRC* that her husband had been fired from his job at a paper factory at an unspecified earlier date because, as his employer told him, he could not continue working since he did not have an ID card.<sup>146</sup>

### **6.3 Access to Citizenship**

The Law on Citizenship of Bosnia and Herzegovina entered into force in May 1997. Citizenship of Bosnia and Herzegovina may be acquired by descent, by birth on the territory of Bosnia and Herzegovina, by adoption, through naturalisation and/or through international agreement. The documentary evidence of citizenship is the certificate of citizenship. If citizenship is sought on the basis of having been born on the territory of Bosnia and Herzegovina, then such a certificate will be issued by the Registrar's Office in the municipality of birth on the basis of the registration of birth.<sup>147</sup> Persons born outside of Bosnia and Herzegovina seeking to claim citizenship by descent must produce the citizenship certificates of the parents or a parent, if only one of them is a citizen. A copy of the birth certificate in the foreign country must also be produced. This provision is of relevance to many Roma, in that many Romani children were born outside Bosnia and Herzegovina to Bosnian Romani parents who fled the country during the 1992-1995 war.

An additional provision of the Bosnian citizenship law sets forth the possibility for citizens of the former Yugoslavia to acquire citizenship of Bosnia and Herzegovina under certain conditions. A person who, between April 6, 1992 and the entering into force of the citizenship law permanently resided on the territory of one of the Entities and who also was a permanent resident for two years after the entering into force of the law, is entitled to citizenship.<sup>148</sup> In order to obtain citizenship on this basis, a

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<sup>146</sup> *European Roma Rights Center* interview with Ms Dika Musić, January 22, 2003, Varda Romani settlement, Kakanj.

<sup>147</sup> Citizenship is registered in Book of Births. Article 35(2) of the Law on Citizenship.

<sup>148</sup> Article 38 of the Law on Citizenship. Article 38(4) further provides that all persons, who were citizens of the former Yugoslavia and who, between the date the law entered into force and December 31, 1998, took up permanent residence in the territory of an Entity and who maintained this residence for a continuous period of three years, shall upon application receive the citizenship of that Entity and of Bosnia and Herzegovina. The right of option to change Entity citizenship may be exercised within one year following the expiration of the said three-year period.

person must show that he/she resided in the territory at a legally registered address. Many Roma in Bosnia and Herzegovina who were citizens of the former Yugoslavia and fulfil the conditions elaborated above but who are not or have not been registered as permanently legally resident in the Republic of Bosnia and Herzegovina, are unable to substantiate claims for citizenship of Bosnia and Herzegovina on this basis, although they may be so entitled. This is particularly true of Roma living in informal settlements, who may be unable to demonstrate an official address for the purposes of demonstrating legal residence.

In the course of research in Bosnia, the *ERRC* and partner organisations have documented a disturbing number of cases in which Bosnian Roma have failed to secure evidence of citizenship in Bosnia and Herzegovina or of any other state, and are therefore for all intents and purposes stateless. Reasons for statelessness in cases documented by the *ERRC* tend to arise from a complex web of bureaucratic requirements. In many cases, Roma report that in the course of attempting to secure Bosnian citizenship they have been provided with conflicting instructions and/or information by officials of various offices. In a number of cases, Roma report that they have been required to produce documents from the authorities of other states (particularly former Yugoslav successor states), but as a result of being stateless, cannot secure travel documents in order to travel internationally to procure the requested documents.

In one case documented by the *ERRC/HCHRRS*, Mr Sead Alimanović, a Romani man living in the Straževac Romani settlement in Modriča, told the *ERRC/HCHRRS* that his common-law wife, who was born in Knin, Croatia, but did not have a birth certificate or ID card, had moved to Modriča when the war broke out in Croatia. Ms Alimanović reportedly applied for an ID card in Modriča in October 2001 and was told by the Ministry of Interior that she must obtain a birth certificate from Croatia and de-register herself from Knin before she could register in Modriča. Knin authorities told Mr Alimanović, over telephone, that his wife needed to apply in person for the birth certificate and de-registration. However, in the absence of any personal documents whatsoever, Mr Alimanović's wife cannot cross the border between Bosnia and Herzegovina and Croatia. She was at the time of the interview in March 2003 effectively stateless.<sup>149</sup>

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<sup>149</sup> *ERRC/HCHRRS* interview with Mr Sead Alimanović, March 21, 2003, Straževac Romani settlement, Modriča.

Mr Ismet Alimanović, a Romani man from the same settlement, reported to the *ERRC/HCHRRS* that he, his wife and their four children do not have the citizenship of Bosnia and Herzegovina or of any other country. Mr Alimanović was born in Osijek, Croatia but moved to Modriča prior to the war, where he was issued an ID card. During the war, Mr Alimanović and his family left Modriča. The Alimanović family returned to Modriča after the war, in March 2001, and Mr Alimanović and his wife reportedly applied for new ID cards in October 2001. A representative of the Ministry of Interior reportedly told Mr Alimanović that he had to return to Croatia and obtain a birth certificate from Croatian authorities. Without any personal documents, including a passport, Mr Alimanović cannot cross the border between Bosnia and Herzegovina and Croatia to have a new birth certificate issued. Mr Alimanović's wife was also refused an ID card because she is not the registered owner of the land on which the family lives, as the land is still formally owned by Mr Alimanović's late father. Mr Alimanović told the *ERRC/HCHRRS* that because members of his family do not possess personal documents including documents attesting to their citizenship of Bosnia and Herzegovina, they are denied access to social services, such as state provided health insurance.<sup>150</sup>

Existing legal provisions also cause difficulties for Roma who were de-registered when leaving Bosnia and Herzegovina and who were therefore not registered on the territory of either of the two Entities during the war. Mr Ismet Derviš, a Romani man born in Kosovo, moved to Prijedor in today's Republika Srpska in 1972, where he registered and started a family. His wife and children were registered in Prijedor as well. In 1986, Mr Derviš got a job in Nova Gradiška in Croatia, so he de-registered from Prijedor and registered in Nova Gradiška. Ms Derviš and their children remained registered in Prijedor. Mr Derviš told the *ERRC* that they "did not think much of it, the whole matter was a mere formality and it had no practical importance." The family visited Prijedor regularly, as they regarded the town as their home. When the war broke out, the whole family fled to Germany. Mr Derviš stated that the family went to the Embassy of Bosnia and Herzegovina in Bonn, Germany, where they were all issued Bosnian passports. In 2000, the family returned to Bosnia and Herzegovina and applied for ID cards in Prijedor, but authorities refused to issue an ID card to Mr Derviš, because he reportedly did not fulfil the requirements for citizenship in Bosnia

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<sup>150</sup> *ERRC/HCHRRS* interview with Mr Ismet Alimanović, March 21, 2003, Straževac Romani settlement, Modriča.



Ms Rahima Musić, Zenica, Bosnia and Herzegovina, August 2003.

PHOTO: *ERRC/TATJANA PERIĆ*





Ms Munevera Tahirović (22) and her children, Zavidovići, Bosnia and Herzegovina, August 2003.

PHOTO: *ERRC/TATJANA PERIĆ*

and Herzegovina. According to Mr Derviš, “I showed them my passport which I had been given in Germany but all they told me was that it meant nothing and they accused me of having bought it.”<sup>151</sup>

Article 35(4) of the Law on Citizenship states that when documentary information relating to citizenship is not accessible or cannot be obtained within a reasonable time, the competent bodies shall allow such a person to provide this information by other means including statements made by or for such persons. The *ERRC* contacted registry offices in Bugojno, Zenica and Tuzla in Bosnia and Herzegovina but was unable to receive any indication that this provision had ever been applied,<sup>152</sup> although cases similar to the ones described here are reportedly widespread.

#### **6.4 Access to Documents Related to Wartime Military Service**

The *ERRC* is aware of some instances in which authorities appear to have destroyed the records of fallen Romani combatants, the families of the victims believe, in order to prevent their families from receiving the relatively generous pension packages to which families of war veterans are entitled. Mr Refik Grgić, a Romani man from Gradiška in eastern Republika Srpska, died while serving in the army of the Republika Srpska. His son, Mr Adem Grgić testified to the *ERRC/HCHHRS*:

One year ago, I asked the municipal military secretariat for a certificate stating that my father fought in the army and died while serving in the forces. They told me that my father was not in the military archives and that the Republika Srpska Army had never mobilised him. They advised me to inquire with the Ministry of Defence or the military units in which I claimed he had served. I went to Banja Luka and submitted a request to the Ministry of Defence. They could not provide the documentation either,

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<sup>151</sup> *ERRC/HCHHRS* interview with Mr Ismet Derviš, November 4, 2002, Bosanska Krupa. The *ERRC* is not aware of the current citizenship status of Mr Derviš.

<sup>152</sup> Article 35(3) of the Law on Citizenship provides that, in the event that the registrar refuses to register the citizenship and issue a certificate attesting to the citizenship of the bearer on what appears to be an illegitimate reason such as discrimination, the matter can be referred to the Ministry of Civil Affairs and Communications of Bosnia and Herzegovina.

since my father was not listed in their records, and told me to go back to the municipal military secretariat. I went there again, but of course, that did not change anything. I also went to the military units, but I had no luck in finding anyone who could help me. I submitted a complaint to the Ministry of Defence. After two months, they informed me that there was nothing that could be done. I proposed to the municipal military secretariat that I bring several witnesses to confirm that my father was in the army and that he died while digging trenches. I also offered to show them a death certificate and picture of my father in a military uniform. They did not accept that. They told me that they could issue a paper stating that my father was a civilian victim in the war. I do not want that. They obviously want to cover up for the fact that my father died on a military assignment. I know other cases in which Romani people died and their families have pensions now. I think that the authorities do not want to pay pensions to Romani families.<sup>153</sup>

## **6.5 Summary**

Roma in Bosnia and Herzegovina suffer from a lack of personal documents including, but not limited to birth certificates, personal identity documents, documents related to state-provided health insurance and social welfare, and passports. Roma are frequently unable to access citizenship, and the phenomenon of statelessness has arisen in the aftermath of the 1992-1995 war. The lack of one document leads to the inability, in many cases, to access others. The inability of Roma to obtain such basic personal documents has given rise to a situation in which their ability to access services crucial to the realisation of a number of fundamental rights and freedoms is threatened and, in many cases, denied. Due to a lack of personal documents, many Roma in Bosnia and Herzegovina are barred in practice from registering to vote, registering residences, and accessing rights to health care, education, employment and social benefits, as well as loans and other benefits to which war veterans are entitled.

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<sup>153</sup> *ERRC/HCHHRS* interview with Mr Adem Grgić, December 17, 2002, Gradiška.



## 7. THE TREATMENT OF ROMANI REFUGEES IN BOSNIA AND HERZEGOVINA

A number of Roma currently living in Bosnia and Herzegovina fled to the country from other former Yugoslav regions, mainly from Kosovo. Following the end of the 1999 bombing campaign by NATO forces of the Federal Republic of Yugoslavia and the return of large numbers of ethnic Albanians to Kosovo from places to which they had fled abroad, Roma in the province became the victims of a campaign of ethnic cleansing by ethnic Albanians in the province.<sup>154</sup> Tens of thousands of Roma fled Kosovo to other places throughout Europe, with some of them ending up in Bosnia and Herzegovina. These joined a number of Roma from Serbia proper who had fled Serbia during the NATO bombing.<sup>155</sup> As of August 2003, the two main asylum reception centres in Bosnia were Smrekovica, hosting 336 Roma, and Gorinčani, with 197 Kosovo Roma as of July 2003; smaller groups of Kosovo Roma were accommodated in the reception asylum centres Salakovac (84 Romani persons) and Rakovica (13 persons). Regarding Roma from places in Serbia and Montenegro (not including Kosovo), there were 40 such persons in Gorinčani, 38 in Mostar and 5 in Smrekovica in July 2003. In total, 713 Romani persons were accommodated in official asylum centres, constituting 61 percent of all persons with such status in Bosnia and Herzegovina.<sup>156</sup>

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<sup>154</sup> For information about the ethnic cleansing of Roma from Kosovo, see <http://errc.org/publications/indices/kosovo.shtml>. For further information on the violations of Roma in Kosovo in 1999, see the European Roma Rights Center, *Roma Rights* No. 2/1999, available at: [http://errc.org/rr\\_nr2\\_1999/index.shtml](http://errc.org/rr_nr2_1999/index.shtml).

<sup>155</sup> The arrival of new Roma to Bosnia and Herzegovina has caused strife within the Romani community: According to the Bosnian daily *Dnevne novine* of August 8, 2003, local Roma from Prijedor requested the local authorities to expel Roma who came to their town from Kosovo and Serbia, as the latter were reportedly increasingly involved in begging. On August 13, 2003, the UNHCR office in Banja Luka expressed their concern over the requests for expulsion, and emphasized that the Roma in question cannot be deported to their country of origin until they have been issued a final decision in asylum claims, according to Belgrade-based *Radio B92* on August 14, 2003.

<sup>156</sup> *ERRC/HCHRRS* interviews with staff of the UNCHR Representation in Bosnia and Herzegovina, Sarajevo, August 18, 2003. Gorinčani is located in the municipality of Bosanski Petrovac, Una-Sana Canton, Federation of Bosnia and Herzegovina, north-western Bosnia; Smrekovica is in the municipality of Breza, Zenica-Doboj Canton, Federation of Bosnia and Herzegovina, central Bosnia; Salakovac is in the municipality of Mostar, Federation of Bosnia and Herzegovina; Rakovica is near Sarajevo, Sarajevo Canton, Federation of Bosnia and Herzegovina, central Bosnia.

Additionally, some displaced Kosovo Roma live in abandoned buildings in many of the Federation's bigger cities, particularly Sarajevo.<sup>157</sup>

At the time of great exodus of persons from Kosovo, in spring and summer 1999, the status of persons arriving to Bosnia and Herzegovina from the then-Federal Republic of Yugoslavia was regulated by a document of the Ministry of Civil Affairs and Communications. In May 1999, it passed the Instruction on the Temporary Admission to Bosnia and Herzegovina of Refugees from the Federal Republic of Yugoslavia (FRY). According to this instruction, persons arriving from Kosovo were admitted to Bosnia and Herzegovina on a temporary basis.<sup>158</sup> This instruction did not allow for an opportunity to seek asylum, as there was no adequate national legislation at the time: the Law on Immigration and Asylum, drafted with the assistance of Council of Europe, Office of the High Representative and United Nations High Commissioner for Refugees (UNHCR), was only passed in December 1999.<sup>159</sup> This law, however, is not considered applicable, in the opinion of local experts; according to UNCHR, a number of by-laws were necessary in order to ensure the law's application.<sup>160</sup> In the following year, on May 25, 2000, a new governmental body responsible for the regulation of the asylum procedure was established – the Ministry of Human Rights and Refugees. The obstacles to the effective work of this ministry are reported to be

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<sup>157</sup> In November 1999 it was estimated that a total of some 2-3,000 Kosovo Roma arrived in Bosnia and Herzegovina (Society for Threatened Peoples Section for Bosnia and Herzegovina. *Roma of Bosnia and Herzegovina*. Sarajevo, 1999).

<sup>158</sup> Article 4, Instruction on the Temporary Admission to Bosnia and Herzegovina of Refugees from the Federal Republic of Yugoslavia (FRY), *Official Gazette of Bosnia and Herzegovina* No. 7/99 of May 20, 1999. The full text of the instruction is available at: <http://www.unhcr.ba/protection/as@refugee/bhfryinstf.pdf>.

<sup>159</sup> Law on Immigration and Asylum, *Official Gazette of Bosnia and Herzegovina* No. 23/99 of December 23, 1999. The full text of the law is available at: <http://www.unhcr.ba/protection/as@refugee/BHIMMA%7E1.pdf>.

<sup>160</sup> UNHCR Representation in Bosnia and Herzegovina. "The Interface Between Migration and Asylum in Bosnia and Herzegovina." Sarajevo, 2001, p. 14. In general, immigration and asylum appear to be inadequately addressed by the authorities of Bosnia and Herzegovina: on his May 2003 visit to Sarajevo, Mr Laszlo Surjan, Co-Rapporteur of the delegation of the Monitoring Committee of the Parliamentary Assembly of the Council of Europe, stressed that issues related to immigration and asylum need to be urgently resolved. (Information from the Sarajevo-based *ONASA News Agency*, May 20, 2003)

numerous, and it is considered “understaffed and underfunded”.<sup>161</sup> For this and other reasons, as of September 2003, the refugee status determination process was administered by UNHCR, on behalf of the state of Bosnia and Herzegovina.

The instruction relating to refugees from the then-Federal Republic of Yugoslavia partially ceased to be applied in November 2001 and further ceased to be valid in February 2002.<sup>162</sup> A new document, the Instruction on the Status of Persons from the Federal Republic of Yugoslavia Admitted Temporarily in Bosnia and Herzegovina, was passed in March 2002. This instruction extended the temporary protection – “temporary” being already four years long – and provided for the possibility of applying for asylum for persons whose “temporary admission has been lifted”.<sup>163</sup> On April 26, 2003, following a decision of the Council of Ministers of Bosnia and Herzegovina of March 27, 2003, the temporarily protected status of Romani and other refugees from Kosovo was extended to June 30, 2004.<sup>164</sup> As for Roma and other persons from other parts of Serbia and Montenegro, the same Council of Ministers decision put an end to their protected status on June 30, 2003.<sup>165</sup> Eventually, a new Law on Movement and Stay of Aliens and Asylum was passed on July 18, 2003.

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<sup>161</sup> UNHCR Representation in Bosnia and Herzegovina. “The Interface Between Migration and Asylum in Bosnia and Herzegovina.” Sarajevo, 2001, p. 6.

<sup>162</sup> Decision on Partial Cessation of Application of the Instruction on Temporary Admission of FRY Refugees in Bosnia and Herzegovina, *Official Gazette of Bosnia and Herzegovina* No. 28/01, November 13, 2001, and the Decision on Lifting the Instruction on Temporary Admission of FRY Refugees in Bosnia and Herzegovina and the Decision on Partial Cessation of Application of the Instruction on Temporary Admission of FRY Refugees in Bosnia and Herzegovina, February 7, 2002, available at: <http://www.unhcr.ba/protection/as@refugee/asylum%20and%20migration.htm>.

<sup>163</sup> Article 2 and Article 13(2) of the Instruction on the Status of Persons from the Federal Republic of Yugoslavia Admitted Temporarily in Bosnia and Herzegovina, *Official Gazette of Bosnia and Herzegovina* No. 5/02, March 12, 2002, available at: <http://www.unhcr.ba/protection/as@refugee/instructionfinal.pdf>.

<sup>164</sup> “Decision on Extension of Temporary Admission of Persons from Serbia and Montenegro in Bosnia and Herzegovina.” *Official Gazette of Bosnia and Herzegovina* No. 11/03, April 26, 2003. UNHCR reportedly recommended this extension regarding their information on the situation of minorities in Kosovo (*European Roma Rights Center* correspondence with Mr Toshitsuki Kawauchi, Protection Officer, UNHCR Representation in Bosnia and Herzegovina, August 26, 2003).

<sup>165</sup> Roma and other refugees from Serbia and Montenegro (excluding Kosovo) have thus lost the right of accommodation in collective centres. The options at their disposal are the following:

The *ERRC/HCHRRS* visited the Smrekovica reception asylum centre, near Breza, on August 18, 2003. The camp consisted of around 20 wooden shacks accommodating exclusively Roma. A canteen, a shack serving as a classroom for school children, sanitary facilities and the camp administration were located in the centre of the camp. School children in grades 1-4 attended classes in the camp, while the elder children attended classes in a school in Breza, by means of organised transport.<sup>166</sup> The camp inhabitants can seek medical assistance from a doctor coming to the camp twice a week.

One of the camp's inhabitants, Ms Remzija Haziri, a 46-year-old Kosovo Romani woman originally from Priština, has lived in Smrekovica with 15 members of her family since the camp was founded in 1999. According to Ms Haziri, the camp was overcrowded, and the rooms are not heated well in winter time. She also criticised the quality and quantity of food delivered to the camp, a complaint voiced by other interviewees as well, whereas Roma for the most part had no funds to buy supplementary food themselves. However, Ms Haziri's gravest concern was their unclear status. She and her family are afraid to return to Kosovo, where they would also be homeless as they had sold their house to ethnic Albanians before they fled for the symbolic sum of 500 EUR. "Returning to Kosovo is out of the question," Ms Haziri told the *ERRC/HCHRRS*, "because [ethnic Albanians] would kill us there." Ms Haziri stated that she would like to resettle to the US or Germany, and if this were not possible she would agree to stay in Bosnia and Herzegovina, expecting that the authorities would provide at least her four sons, each a father of a family, with employment opportunities.<sup>167</sup> Similarly, Ms Metija Sulja, formerly of Vučitrn/Vushtrri, also stated that she believed that there is "no life for Roma in Kosovo."<sup>168</sup> Both fifty-four-year-old Ms Sulja and her husband

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(1) voluntary return to Serbia and Montenegro, (2) applying for the status of foreigners residing in Bosnia and Herzegovina, (3) applying for asylum (see Ministry of Human Rights and Refugees. "Instruction on the Status of Persons from Serbia and Montenegro Admitted Temporarily in Bosnia and Herzegovina." Sarajevo, April 30, 2003). According to the information made available to the *ERRC/HCHRRS* by the Ministry of Human Rights and Refugees in July 2003, 20 Romani persons from Serbia and Montenegro who had lost temporarily protected status left Bosnia and Herzegovina in the course of the month of July 2003.

<sup>166</sup> At the time of the camp establishment, Romani children faced difficulties in accessing education – for more information, see Section 10.4. of this report.

<sup>167</sup> *ERRC/HCHRRS* interview with Ms Remzija Haziri, August 18, 2003, Smrekovica camp, Breza.

<sup>168</sup> *ERRC/HCHRRS* interview with Ms Metija Sulja, August 18, 2003, Smrekovica camp, Breza.



have health problems and often pay visits to the camp doctor. Ms Sulja reported that she had difficulties in obtaining needed medications, as the Sulja family was usually required to pay the full price, while the financial resources of the couple are extremely meagre. A son and daughter of Ms Sulja live in Germany, and she expressed a desire to move to Germany and live with them. If that were not possible, she hoped of being allowed to stay in Bosnia and Herzegovina. On the other hand, Mr Sokol Ćemaj told the *ERRC/HCHRRS* that he feared the end of temporary status, because his family feared becoming victims of violence if they were forced to return to Kosovo.<sup>169</sup> He also stated that he believed that an application for asylum or another residence status on behalf of himself and his family would be turned down.<sup>170</sup>

Many other Roma interviewed expressed deep scepticism at the possibility of earning an independent living in Bosnia and Herzegovina without institutional support. Ms Habibe Bajruši told the *ERRC/HCHRRS* that she did not want to stay: “I can see how difficult it is to live here, especially that one cannot get a job. The position of Roma is worse than of any other group in Bosnia. The only solution for us would be

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<sup>169</sup> The Law on Movement and Stay of Aliens and Asylum includes provisions protecting aliens from *refoulement* (Article 60).

<sup>170</sup> *ERRC/HCHRRS* interview with Mr Sokol Ćelaj, August 18, 2003, Smrekovica camp, Breza. According to the new Asylum Law, aliens may apply for temporary residence permits “for justified reasons such as marriage with a BiH citizen, reunification of a family, education, scientific/research and artistic work, employment as specified in the work permit granted, for business purposes, medical treatment, tourism or humanitarian reasons” (Article 33). Aliens may apply for permanent residence permits if living on the territory of Bosnia and Herzegovina for at least five years under temporary residence permits, having funds to support themselves and their health care, and submitting a “medical certificate issued over the period of the three months prior to submission of the application, showing that he/she does not suffer from a disease of a high risk to the community and/or that he/she is capable for work.” (Article 40) It is important to note that the period that the applicants spent in Bosnia and Herzegovina under temporary admission – as is the case with most Kosovo Roma – does not count towards the period necessary to fulfil the conditions listed (*European Roma Rights Center* correspondence with Mr Toshitsuki Kawauchi, Protection Officer, UNHCR Representation in Bosnia and Herzegovina, August 26, 2003). Furthermore, the “Rule Book on Conditions and Methods of Entry of Aliens, Issuance of Visas and Other Travel Documents and Issuance of Residence Permits for Aliens in Bosnia and Herzegovina” issued by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina, also specifies that all aliens applying for any type of residence in Bosnia and Herzegovina “must be in possession of a valid passport” (Article 2). (See <http://www.unhcr.ba/protection/as@refugee/RBOOK11A.pdf>)

to leave for Western Europe or the US.”<sup>171</sup> Mr Raif Gaši also noted that not even domiciled Roma had any rights, while 57-years old Mr Elez Ajdini doubted his survival “without a job, without accommodation, and without any money at all.”<sup>172</sup> Another Romani man shared with the *ERRC/HCHRRS* his concerns about Roma in Smrekovica living in complete insecurity: “We would like to know what is waiting for us in a year. We do not want to remain refugees for the rest of our lives,” said Mr Muhamed Ali.<sup>173</sup>

Only one family with whom the *ERRC/HCHRRS* spoke in Smrekovica wanted to return to Kosovo. Ms Emira Džinalić from Peć/Pejë in Kosovo wanted to return to her pre-war home together with her husband and four children. The house of the family was reportedly in good condition and, as of recently, unoccupied. Ms Džinalić complained that she told the UNHCR of their intention to go back to Kosovo, but the procedure leading to the return had, at the time of the interview, reportedly taken more than a year, mostly because of delays in negotiations between UNHCR and the authorities of both Kosovo and Serbia and Montenegro, where the latter have to give safety assurances to the family. “We are ready to go on our own responsibility,” said Ms Džinalić, “but we are not allowed to. We only have refugee IDs, with which we cannot cross the border. All we can do is sit and wait for the UNCHR and the Serbian-Montenegrin and Kosovo authorities to reach an agreement.”

Roma in the Smrekovica camp with whom the *ERRC/HCHRRS* spoke for the most part could not understand why their status was only temporary. Most were in a state of confusion and uncertainty as to their future after June 30, 2004. Most of them expressed security concerns related to their possible return to Kosovo. Additionally, many stated that their houses in Kosovo were either destroyed or occupied by ethnic Albanians. The possibility of stay in Bosnia and Herzegovina offered little comfort. Third-country relocation, or reunion with their relatives in Western Europe, was by far the most frequently stated most favourable option.

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<sup>171</sup> *ERRC/HCHRRS* interview with Ms Habibe Bajruši, August 18, 2003, Smrekovica camp, Breza.

<sup>172</sup> *ERRC/HCHRRS* interviews with Mr Raif Gaši and Mr Elez Ajdini, August 18, 2003, Smrekovica camp, Breza.

<sup>173</sup> *ERRC/HCHRRS* interview with Mr Muhamed Ali, August 18, 2003, Smrekovica camp, Breza.

It also seems that the authorities of Bosnia and Herzegovina did not treat all persons fleeing conflict in the same way. Bosnia and Herzegovina hosts around 22,000 Croatian Serbs, now living mostly in Republika Srpska, who have been arriving in the country from Croatia since 1990 (when the threat of ethnic war became very apparent in Croatia), and especially in 1995. Unlike Kosovo Roma, Croatian Serbs were not given any temporary status, but rather for the most part became refugees or citizens instead. For Croatian Serbs, Bosnian citizenship was apparently not difficult to obtain; a UNHCR survey in 2000 established that 75 percent of heads of Croatian Serb households held the passports of Bosnia and Herzegovina.<sup>174</sup> Furthermore, both the refugee status and citizenship allowed Croatian Serbs in Bosnia and Herzegovina to seek legal employment, a possibility from which Kosovo Roma are precluded, due to their temporary status. The only reason behind this differential treatment appears to be racial discrimination.<sup>175</sup>

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<sup>174</sup> UNHCR Representation in Bosnia and Herzegovina. “The Status of the Croatian Serb Population in Bosnia and Herzegovina: Refugees or Citizens?” Sarajevo, May 2003.

<sup>175</sup> Notably, Article 6 of the new Asylum Law, on prohibition of discrimination, states that “[t]here must be no discrimination expressed towards aliens on any grounds whatsoever, including sex, race, colour of skin, language, religion, political and other views, national and social origin, status of a national minority, property status, age, psychological or physical disability, status attained by birth or some other status”. (Unofficial translation provided by the UNHCR Representation in Bosnia and Herzegovina). Additionally, Article 15(2) of the “Instruction on the Status of Persons from Serbia and Montenegro Admitted Temporarily in Bosnia and Herzegovina” states that, “[a]ll authorities in BiH are obliged, in co-operation with UNHCR, to ensure that persons granted temporary admission status are treated in accordance with the following standards: – there shall be no discrimination on the grounds of religion, political opinion, nationality, country of origin or any other status [...]”



## 8. POLICE ABUSE OF ROMA

Enduring ethnic tensions and mistrust, coupled with stereotypes about Roma, have rendered Roma particularly vulnerable to police abuse in Bosnia and Herzegovina. Documented abuses include outright violence towards Roma, harassment of Romani vendors in informal markets, abusive raids on Romani settlements, accusations against Roma based on flimsy evidence or no evidence whatsoever, and the failure of police to adequately investigate and prosecute crimes committed against Roma.<sup>176</sup>

Policing in Bosnia and Herzegovina falls within the power of the Entities. There exist in Bosnia and Herzegovina two police forces, one in the Republika Srpska and one in the Federation. Additionally, Annex 11 of the Dayton Agreement provided for a UN International Police Task Force (IPTF) for the purpose of assisting, advising and training the local law enforcement agencies in both Entities. On January 1, 2003, the European Union Police Mission (EUPM) assumed the mandate of the IPTF. The aim of the EUPM is to “establish sustainable policing arrangements under Bosnia and Herzegovina ownership in accordance with best European and international practice.”

A survey conducted in 1999 revealed that approximately 20 percent of Roma reported that they had suffered “unpleasant experiences” with the police on one or more occasions: “According to the obtained results, 4.37 percent of Roma have a memory of one [unpleasant] experience with the police, 15.05 percent of them had

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<sup>176</sup> Annex I of the Dayton Agreement on Additional Human Rights Agreements to be Applied in Bosnia and Herzegovina also includes the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On June 4, 2003, the state of Bosnia and Herzegovina accepted without reservations the competence of the Committee Against Torture under Article 22 of the UN Convention, recognising the “competence of the Committee to receive and consider communications from or on behalf of individual subjects to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.” Additionally, Bosnia and Herzegovina ratified the Council of Europe’s Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on July 12, 2002. The Convention entered into force on November 1, 2002. On April 27, 2003, a delegation of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the Council of Europe commenced its first visit to Bosnia and Herzegovina. As of January 2004, the delegation’s report was not available to the public.

such and experience on several occasions, and with 4.69 percent of Roma and unpleasant experience in the communication with the police due to their Romani background has been a fairly frequent case.”<sup>177</sup> Mr Nijaz Biberović, a Romani activist based in Sapna, in the Kalesija municipality, told the *ERRC* that Roma continue to experience problems with police. As he told the *ERRC*, “The police never liked us.”<sup>178</sup> Mr Biberović claimed to have knowledge of a number of incidents in which police treated Roma violently.

In one reported instance of physical abuse<sup>179</sup> of Roma by police officers in Bosnia and Herzegovina, Mr Asim Mehić, a Romani man also from Sapna, was assaulted by police while in custody on three occasions in 2002. According to a report of the Kalesija Police Department, a burglary took place in a private residence in the village of Memići, sometime between January 16 and January 24, 2002; another police report revealed that a private home in nearby village of Brda had been broken into sometime between February 13 and 14, 2002.<sup>180</sup> In both cases, it was reported that home electronics, kitchen utensils and some clothing were missing. On March 7, 2002, Mr Muhamed Salkić, a 31-year-old Romani man from Sapna, was informed by a neighbour that the police had been looking for him. Mr Salkić testified that, to be on the safe side, he went to the Sapna Police Station the same day to see what they

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<sup>177</sup> Kukić, pp. 32-33. The research conducted however does not indicate the severity of the incidents to which the surveyed persons referred.

<sup>178</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, January 22, 2003, Sarajevo. The town of Kalesija is located 30 kilometres southeast of Tuzla, north-eastern Bosnia, Tuzla Canton in the Federation of Bosnia and Herzegovina.

<sup>179</sup> Article 1 of the International Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment (CAT) states: “For the purposes of this Convention, the term ‘torture’ means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. [...]”

<sup>180</sup> Memići is a village in the Kalesija municipality, 8 kilometres southeast of the town of Kalesija. Brda is a village in the same municipality, located some 3 kilometres south-west from Memići (Tuzla Canton).

wanted. At the station, Mr Salkić met his neighbour, Mr Asim Mehić, a 31-year-old Romani man, who had also been called to the station.<sup>181</sup> Police officers there told the Romani men that they were wanted for questioning in connection with the two burglaries. After waiting for approximately one hour, Mr Salkić and Mr Mehić were put into a police vehicle and brought to the Kalesija Police Station, where they were placed in separate rooms for interrogation. Mr Salkić told the *ERRC/HCHRRS* that three uniformed police officers and three police inspectors in civilian clothes asked him many questions about the appliances in his home and threatened that, if he didn't tell the officers the truth, he would be charged with sixteen offences. Mr Salkić stated that the interrogation lasted until 5:00 PM. At this point, Ms Salkić was brought out of the interrogation room, saw Mr Mehić and both men were released. According to Mr Salkić, Mr Mehić "looked awful; his clothes were all dirty, his jacket was torn and his face was swollen." Mr Mehić later reported to the *ERRC/HCHRRS* that, on the day in question, two uniformed police officers and five police officers in civilian clothes asked him many questions but before he had the chance to answer any of them, the officers beat him. Mr Mehić testified that the officers slapped him repeatedly, pushing him around the room and insulted his ethnicity. The officers then pushed Mr Mehić to the floor where he was reportedly punched twice in the face. According to Mr Mehić, "The officers told me that the best thing I could do was to confess, but I did not know what to confess to."

The following day, four police officers from Sapna searched the house of Mr Salkić, while another two officers waited in front of his house. The officers took away his washing machine, as it was reportedly the same brand as one of the appliances that had been stolen. Mr Salkić stated that he showed the officers the sales receipt from the store in Zvornik in which he had purchased the washing machine, but the officers ignored this, reportedly stating that they did not see any reason why he should have gone as far as Zvornik to purchase it. The same officers also searched the house of Mr Mehić. After receiving a request to report to the Kalesija Police Station, on March 9, 2002, Mr Salkić, Mr Asim Mehić and Mr Rasim Mehić, the 28-year-old brother of Mr Asim Mehić, went to the station for further questioning. Mr Mehić testified that he was placed in an interrogation room and while being questioned, an unspecified number of police officers again hit and pushed him repeatedly

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<sup>181</sup> The information on this case was provided by Mr Salkić and Mr Mehić who were interviewed in Sapna by the *ERRC* on February 23, 2003, and by the *ERRC/HCHRRS* on May 24, 2003.

while insulting his ethnicity and warning him to confess. Mr Mehić was released after the interrogation.

Mr Mehić further reported that at around 2:30 PM on March 11, 2002, he was brought to the Kalesija Police Station for a third time in connection with the burglaries. Mr Mehić stated, “The third time was the worst. It was not over until in the evening. They beat me with poles and sticks. They whipped me on the soles of my feet and hands and on my back. At one point, one of the police officers held me while another twisted my head. I thought they would break my neck. They kept on shouting at me to tell them the truth. My memory is not very clear – I think I fainted at some stage. The next thing I remember is that I was thrown out of a car along the road. It was not very far from my house, but I could not walk. All I could do was to crawl. My mouth was so swollen that I could not call for help.” Mr Mehić reported that he crawled to Mr Salkić’s home nearby and threw stones at the window to attract his attention. The following day, after taking photographs of Mr Mehić’s injuries,<sup>182</sup> Mr Salkić brought Mr Mehić to the local medical centre where Dr Mirza Mulaosmanović, on duty at the emergency department, examined Mr Mehić and recommended that he visit a hospital to get an x-ray of his head to determine if he had sustained serious injury.<sup>183</sup> However, Mr Mehić did not get the x-ray because he could not afford to pay for the procedure. On March 13, 2002, Mr Salkić and Mr Mehić reported these incidents to the IPTF. According to Mr Salkić, the IPTF officer took the photos and a copy of the doctor’s report and sent them to the IPTF Office in Tuzla. Mr Salkić and Mr Mehić were, however, told by the IPTF officer to contact the Internal Control Division of the police. Mr Salkić stated that they have not heard anything more from the IPTF. Officers of the internal control division of the police told Mr Salkić and Mr Mehić that they would look into the allegations, but had reportedly never informed them of their findings, if there were any. On December 27, 2002, Mr Salkić and Mr Mehić were accused of robbery in accordance with Article 23 of the Criminal Code of the Federation of Bosnia and Herzegovina. Court hearings were held on June 3, 2003, and August 7, 2003. On

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<sup>182</sup> The only copies of these photographs were later submitted to the IPTF.

<sup>183</sup> Mr Asim Mehić showed the *ERRC/HCHRRS* a document testifying that it was very likely that his injuries indeed had come about as a result of physical abuse. This medical report, issued on March 12, 2002, by the Sapna Medical Centre, also outlined, in considerable detail, the numerous bruises and haematomas, resulting from blows to Mr Mehić’s body.



September 18, 2003, the local Court of Kalesija sentenced Mr Mehić and Mr Salkić to 10-months imprisonment suspended for 2 years and fined them to 220 convertible marks (approximately 110 EUR).<sup>184</sup>

In another report, Mr Kadrus Hasani, a Romani vendor in the Otoka market in Sarajevo, told the *ERRC* that Romani vendors in the Otoka market suffer physical attacks and harassment by police. About half of the approximately four hundred vendors operating in the Otoka market are Romani. Mr Hasani told the *ERRC* that at the beginning of 2002, the wife of his cousin, Mr L.H., was selling goods in the market when police officers approached her and told her to leave the market. Mr Hasani told the *ERRC* that he witnessed his cousin's wife ask the officers why none of the other vendors had to leave. One of the male officers responded by punching his cousin's wife so hard that she fell to the ground. Mr L.H., who was nearby at the time, then struck the officer in return. According to Mr Hasani, his cousin was arrested. Mr Hasani told the *ERRC* that after Mr L.H. was released from police custody, Mr L.H. and his wife fled Bosnia and Herzegovina for Western Europe. According to Mr Hasani, the physical abuse of Romani vendors by police in the Otoka market is quite a common occurrence. Mr Hasani also told the *ERRC* that the vast majority of vendors at the market operate without legal permits because the procedure for obtaining such is complicated and expensive. According to Mr Hasani, when police perform checks on the vendors in the market, they only approach Romani vendors. Vendors unable to produce the required permits are reportedly fined anywhere from 500 to 2000 Bosnian convertible marks (approximately 255 to 1,025 EUR). According to Mr Hasani, Roma, who are in most cases unable to pay such fines, are detained in police custody, often for months at a time.<sup>185</sup>

There is scarce evidence of cases of police abuse registered by the international community in Bosnia and Herzegovina. In July 2003, UNHCR noted that, “[o]f particular concern both in 2002 and 2003 are reports about ill-treatment by the local police of returnees and of members of the Roma communities.”<sup>186</sup> With regards to

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<sup>184</sup> *European Roma Rights Center* correspondence with Mr Nenad Djurić, National Rule of Law Monitor in the Field Office Zvornik of the OSCE Mission to Bosnia and Herzegovina, August 20, 2003.

<sup>185</sup> *European Roma Rights Center* interview with Mr Kadrus Hasani, January 5, 2003, Otoka, Sarajevo.

<sup>186</sup> UNHCR. “Concerns with the Designation of Bosnia and Herzegovina as a Safe Country of Origin.” Sarajevo, July 2003, available at: <http://www.unhcr.ba>.

earlier cases, according to the Office of the United Nations High Representative in Bosnia and Herzegovina's Human Rights Coordination Committee, a group of Roma in Tuzla lodged a complaint of ill-treatment by local police officers during interrogation on an unspecified date in June 1998.<sup>187</sup> Earlier in the same year, United Nations Mission in Bosnia and Herzegovina (UNMBIH) registered another allegation of police abuse: Mr Hajrudin Beganović, a 41-year-old Romani man claimed that he had been physically abused several times by officers of the Teslić police station in 1998.<sup>188</sup> According to an official report, Mr Beganović was on his way home late in the evening on February 6, 1998, when he was met by a police officer who asked Mr Beganović whether he was drunk. In an argument that followed, the officer verbally abused Mr Beganović, slapped him in the face, and then knocked him to the ground. At that point, Mr Beganović ran to the local IPTF station to file a complaint. The two IPTF monitors who met him did not speak any Bosnian. Out of frustration, Mr Beganović then started throwing office items around, and the IPTF officers restrained him and called the Teslić police. Three police officers arrived and took Mr Beganović away in a police vehicle; Mr Beganović was reported to have had no visible injuries at the time he was arrested. At the police station, Mr Beganović was reportedly repeatedly physically abused by police officers.<sup>189</sup> The IPTF investigation of this case estab-

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<sup>187</sup> Office of the High Representative. "Human Rights Report June 1998." Sarajevo, 1998, available at: [http://www.ohr.int/ohr-dept/hr-rol/thedepth/hr-reports/hrcc-hr-rep/98-99-monthly/default.asp?content\\_id=5067](http://www.ohr.int/ohr-dept/hr-rol/thedepth/hr-reports/hrcc-hr-rep/98-99-monthly/default.asp?content_id=5067).

<sup>188</sup> United Nations Mission in Bosnia and Herzegovina. "Torture and abuse by Teslić Police (August 1998)." Sarajevo, 1998. Teslić is a town in Republika Srpska, approximately 30 kilometres southwest of Dobož, in northern Bosnia.

<sup>189</sup> The UNMBIH report states the following: "Beganović alleges that upon arrival at the Teslić police station one officer said to him: 'You know what is going to happen tonight.' He was taken into a room and asked why he had gone to the IPTF Station. When he explained he wanted to file a complaint about being beaten by the Teslić police officer, he was insulted and slapped across the face. Overcome by nervousness and fear, he vomited onto the floor. The lights in the room were turned off, and he was left alone in the room.

"After a short time he heard the door open but could not see if anyone had entered the room. Fearing he was about to be beaten, he pleaded not to be hit on the back, as he suffers from a shrapnel injury received during the war. Nevertheless, he was battered about his body with what he described as a police baton or a similar instrument. He was also kicked and felt a heavy blow to his left ankle. He says his attackers grabbed hold of his hair and bashed his head against the corner of a filing cabinet, knocking him unconscious. When he regained consciousness, one

lished that Mr Beganović must have received his injuries while he was held at the Teslić Police Station. The IPTF's Investigation Commission also noted that Mr Beganović was held in custody for three days, in contravention of regulations issued by the Ministry of Interior. The commission recommended initiating a criminal investigation against four police officers and disciplinary proceedings against six other officers. However, the IPTF criminal investigation team could not establish with certainty who caused Mr Beganović's injuries, and "therefore could not recommend criminal proceedings against those officers."<sup>190</sup>

Police in Bosnia and Herzegovina have also subjected Roma to abusive raids on their homes. On June 29, 2002, the Sarajevo-based daily newspaper *Dnevni avaz* reported that, late in the evening on June 27, 2002, seventy-six police officers from the Sarajevo Canton allegedly raided the Dom penzionera building, an abandoned pensioners' home, in the Nedžarići neighbourhood of Sarajevo. Around three hundred Roma were residing in the Dom penzionera and *ERRC/HCHHRS* field investigation revealed that most of the Roma, who had been living in the building for around two years, were internally displaced persons from the Republika Srpska and the District of Brčko. According to the *Dnevni avaz*, police surrounded the temporary settlement and performed an intensive identification check on the three hundred Roma

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officer slapped him across the face and ordered him to eat the vomit which was still on the floor. After eating his vomit he was dragged to a cell, where he drifted in and out of consciousness.

"On 9 February, Beganović was taken to Teslić Basic Court where he was released after a later hearing was scheduled. IPTF members present in the Court observed that Beganović was unable to walk properly. They interviewed him at home later that same morning, and Beganović told them that he had been beaten.

"At 16:00 hours on 10 February, Beganović was examined by a SFOR doctor. The ankle and sole of the right foot was severely bruised and swollen, and the abdominal area tender and painful. He was X-rayed at a local hospital but no fractures found.

"The documents delivered to IPTF by Teslić police pertaining to the detention of Beganović make no reference to injuries. The records instead reveal that he was taken to the Teslić Health Centre (apparently a standard practice when dealing with detainees believed to be drunk), where a doctor concluded that there was no need for treatment. He was returned to the police station and issued at about 10:00 with a detention order effective as of 1.00 on 7 February (although he had been removed from the IPTF Station at about 23:00 on 6 February)."

<sup>190</sup> United Nations Mission in Bosnia and Herzegovina. "Torture and abuse by Teslić Police (August 1998). Sarajevo, 1998.

living in the settlement. *Dnevni avaz* reported that the police violently searched through the belongings of Roma living in the settlement and scared the Romani inhabitants. Mr Abaz Mešković, a Romani man living in the settlement, was quoted in the newspaper as having stated that the police were masked and did not provide an explanation for the search. According to reports, police temporarily confiscated two pistols, one truncheon and one sabre. On July 27, 2002, the Bosnian radio station *Radio BORAM* reported that the police claimed that the search was conducted following reports of drug trafficking in the settlement.<sup>191</sup> However, according to *Dnevni avaz*, the police did not find any drugs during the search.<sup>192</sup>

In cases in which police are not themselves the perpetrators of violent acts against Roma, Roma have informed the *ERRC* that the police fail to adequately investigate and prosecute the perpetrators of such crimes. Mr Nijaz Biberović told the *ERRC* of an event in the autumn of 1996 in which Roma from the village of Sapna were involved in a dispute with non-Roma over the use of a piece of land owned by a Romani man from the village. The non-Roma reportedly wanted to use the land, on which Romani children played football, to graze their cattle. Mr Biberović stated that the dispute ended with two non-Roma from the village physically attacking him and his brother, hitting them both. Mr Biberović explained that he and his brother did not fight back because they were afraid of further abuse. Mr Biberović also stated that when such events take place, everyone, the police included, are quick to blame Roma solely. The day following the incident, Mr Biberović and his brother reported the incident to the Sapna police, who allegedly took no action in the case. Because of this, Mr Biberović and his brother reported the incident to the IPTF, officers of which agreed to monitor the investigation of the local police. Mr Biberović reported that a few days later, the Sapna police began investigating the incident. However, one of the investigating officers was reportedly the uncle of one of the non-Romani men who had abused them. According to Mr Biberović, the officers took the statements of Romani witnesses and then left without undertaking any further action. After this, Mr Biberović told the *ERRC* that he did not pursue the matter because he did not want to stir up trouble.<sup>193</sup>

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<sup>191</sup> Information from the Bosnian radio station *Radio BORAM*, July 27, 2002.

<sup>192</sup> Information from the Sarajevo-based daily newspaper *Dnevni avaz*, June 29, 2002.

<sup>193</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, January 22, 2003, Sarajevo.

The *ERRC* has also received disturbing reports that police in Bosnia and Herzegovina accuse Roma of crimes without basis. Mr Miralem Biberović from Živinice told the *ERRC/HCHRRS* that police officers in Srebrenik, approximately 50 kilometres north of Živinice, where Mr Biberović sells goods at the local market, had accused him of theft: “It was in October 2001. I brought some goods to the Srebrenik market, and put them on a stall for sale. Two police officers approached me and asked me to come with them to the police station. When I asked them for a reason, they replied, ‘Shut up, don’t ask any questions, and come with us right now unless you want to be handcuffed.’ They took me to the police station, where I requested again to know why I was detained. The officers told me that a man’s wallet had been stolen and that they were looking for a thief. I told them I had nothing to do with that and asked to be released. The officers kept shouting at me and telling me to keep quiet, and that I had no right to talk. I insisted that I had done nothing wrong, and it went on like this for two hours. The officers threatened me that they would leave me in jail. Then one of the theft witnesses from the market came to the police station. He testified that the theft took place before I even arrived at the market, and that he knew me as an honest man. The police released me then. I went back to the market, picked up my goods, and returned to Živinice.”<sup>194</sup> Mr Biberović had apparently been detained solely because he is Romani. He has not received any compensation for his arbitrary detention.

In a case the *ERRC* documented in the town of Zenica, central Bosnia, police officers raided the apartment of a Romani family and detained three Romani men, reportedly without providing them with evidence of a court order or any other authorisation for the raid and/or their detention. According to Mr Hasan Musić, around 2:00 AM on the night of May 1, 2001, a group of ten police officers forcibly entered their flat, and took Mr Musić, his father Mr Osman Musić and his brother Mr Zajko Musić to a local police station. At the station, police officers interrogated the Romani men about their activities on the previous day, and stated the theft of a synthesizer as a reason. Then the police took the men to a hospital, where they were requested to give a sperm sample. Only then the Roma were told that they were actually interrogated and detained because of an alleged rape. Mr Musić, his father and brother were released around 12:00 AM the following day, because a police officer who knew them vouched for their characters and secured their release. The real culprit of

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<sup>194</sup> *ERRC/HCHRRS* interview with Mr Miralem Biberović, June 6, 2002, Živinice.

the crime was found after the release. No one in the Musić family had a criminal record, and Mr Musić could not find any other reason – apart from their ethnicity – why the police singled them out.<sup>195</sup>

In other Romani communities, local Roma also testified to the *ERRC* that police often come to settlements and interrogate Roma “whenever something is reported to be stolen nearby.”<sup>196</sup> A young Romani man in Zenica told the *ERRC* that the police stopped him and asked to see his personal documents “a million times”: just two days before the *ERRC* interviewed him, two police officers had reportedly stopped Mr Sead Mehmetović in the street and asked to see the contents of a plastic bag he was carrying.<sup>197</sup>

*ERRC* field research also indicates that traffic police officers subject Roma to malicious treatment on ethnic grounds. Mr Muradif Biberović, a community leader from the Bare Romani settlement in Živinice in the Federation, informed the *ERRC/HCHRRS* that, while Roma in the community do not experience problems with local police, once they leave the area, they encounter problems. Mr Biberović stated that he personally had had problems with police in the towns of Banovići, Olovo, and Kladanj. Mr Biberović told the *ERRC/HCHRRS* that on May 16, 2002, he, together with Mr Miralem Biberović and Mr Džemal Biberović, both Romani, went to Banovići for a meeting with the UNHCR. Just outside Banovići, the police reportedly stopped the three Romani men without reason. The officers reportedly questioned the three men for fifteen minutes, asking them why they wanted to go to Banovići and whether they planned to steal anything. The police then placed the three men in the police vehicle and brought them to the station for further questioning. Mr Biberović stated that the officers verbally abused them for about an hour. Only when a representative of the UNHCR arrived at the police station did the police release the three men, reportedly apologising for having made a mistake.<sup>198</sup>

Another Romani activist, Mr Nijaz Biberović from the *Kate Acha* Romani youth association in Sapna, was also subject to harassment by traffic police. In early January

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<sup>195</sup> *European Roma Rights Center* interview with Mr Hasan Musić, August 3, 2003, Zenica.

<sup>196</sup> *European Roma Rights Center* interviews with local Roma, August 5, 2003, Poljice.

<sup>197</sup> *European Roma Rights Center* interview with Mr Sead Mehmetović, August 2, 2003, Banlozi.

<sup>198</sup> *ERRC/HCHRRS* interview with Mr Muradif Biberović, June 6, 2002, Bare Romani settlement, Živinice.

2002, together with Mr Mujo Mehić, Mr Biberović travelled in a private car to a meeting of Romani activists in Tuzla. When they were entering the major road from Memići to Tuzla, they were stopped by a police patrol from Memići: “A police officer whom I know approached the car. He did not ask Mr Mehić, who drove the car, for his documents. Instead, he pointed at me, and said, ‘You, you show me your ID.’ I replied, ‘Yes, sir, here it is sir, I don’t mind your checking me even though you know who I am.’ He then told me to get out of the car, which I did, with a document case in my hands. The officer asked what was in the bag, to which I answered that these were documents I needed for a meeting. He replied rudely, ‘What kind of meetings could you attend?! Come on, open it up, so that I can see what is inside. Is this meeting some Gypsy business of yours?’ I refused to open the bag, where he continued insisting, and insulting me with derogatory statements about ‘Gypsy business’ and ‘Gypsy meetings’. It lasted for 45 minutes, and then I insisted that he call the police chief and that I would open my bag only in front of the police chief. After the officer made this call, the police chief ordered him to let us go. We were let go, without any word of explanation or apology from the police officer.”<sup>199</sup> Mr Biberović did not file a complaint against the officer in question. According to Mr Biberović, this officer still worked as a member of the Memići police force at the time of the *ERRC/HCHRRS* interview.

Similarly, Mr Miralem Biberović from Živinice testified that traffic police officers from Srebrenik regularly stop and check cars driven by Romani vendors who come to sell goods at the Srebrenik market.<sup>200</sup> According to Mr Biberović, “They already know what our cars are. They check our driver’s licences and the merchandise we have in the cars. They ask us what we came for, why we are there at all. They always ask us where our goods are from and if the goods were stolen, and they simply never give us any peace”. Mr Biberović sells second-hand goods in the market and cannot prove the origin of his merchandise, which causes new problems with the police. Mr Muradif Biberović additionally testified that, in the past, if he had merchandise in his car, he was forced to pay the officer a bribe of 20 Bosnian convertible marks (approximately 10 EUR) because he sold second-hand items and could not prove the formal origin of his goods. In the event that such a bribe is not paid, the police

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<sup>199</sup> *ERRC/HCHRRS* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, May 24, 2003, Sapna.

<sup>200</sup> *ERRC/HCHRRS* interview with Mr Miralem Biberović, June 6, 2002, Živinice.

reportedly informed the local magistrate and the amount increases to 500 Bosnian convertible marks (approximately 255 EUR).<sup>201</sup>

The *ERRC* was also informed of a case in which a traffic police officer verbally and physically abused members of a Romani family. Around 12:00 PM on December 9, 2001, four Romani persons were travelling in a car from Tuzla to Zvornik – Mr S.A. who was driving the car, his father Mr R.A., his mother Ms A.A., and his brother Mr D.A – when a police patrol stopped them near the village of Sapna. The police check established that the position lights of the car were not working, and one of the officers asked Mr S.A. to pay a fine of 20 Bosnian convertible marks (approximately 10 EUR). After Mr S.A. replied that he only had 10 Bosnian convertible marks (approximately 5 EUR) and offered this money to the police officers, the officer started swearing at Mr S.A., abusing his Romani ethnicity, and slapped Mr S.A. At that point, Ms A.A. got out of the car, at which the officer in question kicked her. This incident was reportedly witnessed by two non-Romani persons. Immediately following the incident, Mr S.A. went to the local police station to inquire on the identity of the police officer who abused him, and later reportedly complained about the incident to the Zvornik office of the IPTF.<sup>202</sup> The *ERRC* is not aware of any investigation conducted into this case.

Mr Dervo Sejdić of the Council of Roma of Bosnia and Herzegovina, who worked as a police officer in Bosnia and Herzegovina between 1975 and 1997, told the *ERRC* that police brutality against Roma has always been widespread and still occurs frequently. According to Mr Sejdić, “[The police] are exceptionally harsh against Roma”. Mr Sejdić claimed to be aware of numerous instances in which police detained Roma, then beat them while insulting their ethnicity. Mr Sejdić testified that in a number of cases, he tried to intervene on behalf of the Romani detainee, but his colleagues merely insulted him, saying, “You Gypsy, what are you doing here anyway, get out of here or we will do the same to you [...]”.<sup>203</sup>

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<sup>201</sup> *ERRC/HCHRRS* interview with Mr Muradif Biberović, June 6, 2002, Živinice.

<sup>202</sup> Information on this case was provided to the *ERRC* by the OSCE Mission to Bosnia and Herzegovina on December 10, 2001.

<sup>203</sup> *European Roma Rights Center* interview with Mr Dervo Sejdić, former Coordinator of the *Council of Roma* and activist from the Sarajevo-based non-governmental organisation *Roma Prosperity*, December 13, 2002, Sarajevo.



Statements such as those by Mr Sejdić's colleagues in law enforcement agencies in Bosnia and Herzegovina reinforce the concern that many abusive acts towards Roma by police may be racially motivated. *ERRC* field research findings lead to the conclusion that unfortunately a high number of incidents of police violence against Roma go unreported, for fear on the side of the victims that, by lodging an official complaint, they would face further attacks or other forms of intimidation. Problems of abuse by police officers and a climate of fear in reporting such abuses are compounded by the remarkably low number of Romani police officers in Bosnia and Herzegovina. For example, the *ERRC* is aware of only three Romani men employed as police officers in the Tuzla Canton, the area with highest concentration of Roma in the country.<sup>204</sup>

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<sup>204</sup> *European Roma Rights Center* interview with Mr Ahmet Mujić, President of the Tuzla Canton Roma association *Roma Dream*, August 4, 2003, Tuzla.



## 9. RACIALLY MOTIVATED ATTACKS ON ROMA

According to the *ERRC/HCHRRS* field research findings, racially motivated attacks against Roma by vigilante individuals have persisted since the end of the 1992-1995 war. There are no precise records of registered cases of racially-motivated attacks against Roma by non-state parties, and those records that do exist are considered to document a mere fraction of the actual number of attacks occurring. Under-reporting is due to the general lack of trust on the part of the Romani community in the impartiality of police and the judiciary, but also because – in a country where all records are kept on an ethnic basis according to the main three “constituent” groups – Bosnian Roma fall into the “others” category, and so are effectively invisible for the purposes of documenting the extent of violence, including racially motivated violence.<sup>205</sup> There was an alarming rise in the frequency and intensity of violent attacks against Roma in Autumn 2003.

During September 2003 there were two grenade attacks and gunfire against Roma in Bosnia and Herzegovina. One of the incidents occurred at 1:30 AM on September 23, 2003 in Bijeljina. Mr Mehmedalija Suljić, a 34-year-old Romani man, testified to the *ERRC/HCHRRS* that he was sitting on the front porch of his house with his friend Djordje Jovanović, a 24-year-old Romani man from Serbia, and his 24-year-old neighbour Nedžad Nedžad Hidanović, when a grenade exploded in front of the house.<sup>206</sup> The three men fell to the ground as a result of the blast. Mr Suljić’s wife and children, who were inside the house, began to cry and his brother, 29-year-old Ahmet Suljić, who had entered the house just minutes before the attack, came out to see if they were alive. According to Mr Suljić, the glass in the windows and door of the house, as well as that of a car parked in front of the house, shattered. Mr Suljić, Mr Jovanović and Mr Hidanović sustained cuts to their hands and faces. Mr Suljić stated that if the car had not been parked in front of the house, they would have been seriously injured. The police reportedly arrived soon thereafter and checked the

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<sup>205</sup> For example, the IPTF registered only three minority-related incidents reported by “others” in the period of January 3, 2000, to November 16, 2001. It is not clear whether these cases involved Roma.

<sup>206</sup> *ERRC/HCHRRS* interview with Mr Mehmedalija Suljić, September 24, 2003, Bijeljina.

area for the perpetrators. During the search, the pin of the grenade was discovered. Ahmet Suljić then transported Mr Suljić, Mr Jovanović and Mr Hidanović to a medical centre, where Mr Suljić and Mr Jovanović were treated for their wounds. Mr Hidanović did not receive medical treatment because he could not afford to pay for it. According to Mr Suljić, the police continued their investigation in the morning.

The evening before the attack, Mr Suljić reported, gunshots had been fired in front of their house. Ahmet Suljić testified to the *ERRC/HCHRRS* that at around 1:00 AM on September 22, 2003, he went outside to the garden where he noticed a man about twenty metres away from him.<sup>207</sup> Mr Suljić stated that he asked the man what he was doing and the man raised a gun, which he pointed at him. According to Ahmet, he shouted to his brother that there was a man with a gun and fell to the ground, at which point several gunshots were fired above him, then the man disappeared. The incident was reported to the police, who came to investigate in the morning. The police reportedly did not find any evidence. Ahmet informed the *ERRC/HCHRRS* that since he had reconstructed his house about a year earlier, he had not had any problems until the summer. Reportedly, at the beginning of August 2003, an unknown person set fire to the haystack in front of his house. Soon thereafter, his wooden shed was burned down, followed by his brother's about ten days before the *ERRC/HCHRRS* interview. According to Ahmet Suljić and Mehmedalija Suljić, though the police had not identified any of the perpetrators as of the date of their interviews with the *ERRC/HCHRRS*, they suspected nearby ethnic Serbian refugees were responsible for the attacks.

Another incident took place at around 10:00 PM on September 13, 2003. Mr Husein Nuhanović, a 58-year-old Romani man who returned to his home in the town of Kozluk in the Tuzla Canton in July 2003, testified to the *ERRC/HCHRRS* that he and his wife were in bed when they heard an explosion outside their home.<sup>208</sup> According to Mr Nuhanović, he and his wife did not go outside until the morning because they were afraid. Mr Nuhanović and his wife went outside to see what had happened in the morning and saw that a grenade had exploded approximately ten metres from their home. Mr Nuhanović informed the *ERRC/HCHRRS* that he reported the incident to the police. Officers reportedly visited his home to survey the damage then left. Though he had no proof, Mr Nuhanović believed that ethnic Serbian

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<sup>207</sup> *ERRC/HCHRRS* interview with Mr Ahmet Suljić, September 24, 2003, Bijeljina.

<sup>208</sup> *ERRC/HCHRRS* interview with Mr Husein Nuhanović, September 18, 2003, Kozluk.

refugees from other parts of Bosnia, currently occupying Romani property in the town, were responsible for the grenade attack. According to Mr Nuhanović, the refugees regularly curse the “Gypsy origin” of Romani returnees and have threatened them to leave the town “because there is no place for them.”

Earlier, in April 2003, an elderly Romani couple was beaten and robbed in Kozluk, eastern Bosnia. Mr Murat Nuhanović, a 68-year-old Romani man, testified to the *ERRC/HCHRRS* that one evening at around midnight he and his wife, 62-year-old Rasema Nuhanović, heard the glass of one of their windows break.<sup>209</sup> The house then reportedly filled with tear gas and Mr and Ms Nuhanović tried to leave the house. At the entrance, however, they met three men wearing ski masks. Mr Nuhanović reported that one of the men punched him in the stomach and face, causing him to fall to the ground and one of the other men began to kick him. Ms Nuhanović testified to the *ERRC/HCHRRS* that one of the men picked her up by her hair and threw her into the door.<sup>210</sup> She fell to the ground and the perpetrators reportedly kicked her in the stomach and threatened to kill her if she made any noise. The attackers cursed the Nuhanović’s “Gypsy” origin and threatened to kill them if they didn’t hand over their money. Mr Nuhanović informed the men that they didn’t have any money and they began to beat him again until he told them where he and his wife kept the money they receive from their children living abroad. The attackers then took a wallet containing 1,440 Bosnian convertible marks (approximately 735 EUR) the Nuhanović’s had saved and left after threatening to kill them if they reported the incident to the police, according to Mr Nuhanović. Mr Nuhanović was taken to a medical centre at which he was treated for injuries to his face. The following morning, Ms Nuhanović stated, she reported the incident to the police. As of the date of the *ERRC/HCHRRS* interview, the police had not identified the perpetrators though the wallet had been found empty. Mr Nuhanović told the *ERRC/HCHRRS* that he now lives in fear of further attacks. Although the case appears to have been a robbery, the fact that racial epithets were used during the event raises the disturbing specter of racial animus.

In another case of racially-motivated violence against Roma in Bosnia and Herzegovina, a group of unknown non-Romani attackers beat the 16-year-old Fadil Mršić in Kalesija, on an unspecified date at the end of 2002. According to the testimony

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<sup>209</sup> *ERRC/HCHRRS* interview with Mr Murat Nuhanović. September 18, 2003. Kozluk.

<sup>210</sup> *ERRC/HCHRRS* interview with Ms Rasema Nuhanović. September 18, 2003. Kozluk.

given to the *ERRC/HCHRRS* by Mr Hasan Mršić, the boy's father, in the early evening of the day in question, Fadil Mršić was in town with a group of friends when they were met by a group of non-Roma. The non-Roma reportedly verbally insulted the Roma and asked them what the "Gypsies" were looking for in town. After one of the Romani young men replied that it was their town too, the non-Roma physically attacked them. While other Roma ran away, the attackers caught Fadil Mršić and beat him; after a while, the Romani boy managed to flee. When he returned home that evening, his father witnessed that the boy's nose was broken and that his body was covered with bruises. When Mr Hasan Mršić reported the case soon afterwards to the police, the officers in charge told him that the case would be investigated, but as of May 2003, he had received no information on any developments in the investigation.<sup>211</sup>

In an earlier case, according to the testimony of the victims received by the *ERRC*, on the afternoon of September 13, 2000, an ethnic Serb man, Mr Marko Maksić, armed with an M48 rifle, shot Mr Mehmed Ahmetović and beat another Romani man after he forced Mr Ahmetović, Mr Zaim Šečić, Mr Ramiz Halilović and a seven-year-old girl I.H., to park their cart in his yard in the village of Vučilovac near Brčko. Mr Maksić reportedly forced the Roma to leave there all the scrap material they had gathered from the local garbage dump. Mr Maksić pointed the rifle at the Roma and forced them to take off their clothes. One of the men pleaded to be allowed not to do it, as the small girl was present, but Mr Maksić shot at him in response, missing him. Mr Maksić then forced Mr Zaim Šečić to do push-ups, and when the man was too tired to continue, Mr Maksić then beat Mr Šečić with the butt of his gun on the back and insulted his ethnic origin. Mr Maksić then forced the group, without their clothes, to leave on their cart and then he shot at them several times from a distance. One shot struck Mr Mehmed Ahmetović in his arm and another shot struck the horse. The Roma consequently informed the police, who arrested Mr Maksić. On December 20, 2000, Mr Maksić was sentenced by the Brčko District First Instance Court to fourteen months in prison for unlawful possession of firearms and explosives (Article 213 para. 1 of the Criminal Code of Republika Srpska), and severe violation of public peace and order (Article 177, para. 1, in conjunction with Article 172 para. 1 of the Criminal Code of Republika Srpska).<sup>212</sup> Experts noted that the latter charges

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<sup>211</sup> *ERRC/HCHRRS* interview with Mr Hasan Mršić, May 19, 2003, Kalesija.

<sup>212</sup> As of April 1, 2001, the Criminal Code of Republika Srpska was no longer applicable in the Brčko District, and was replaced by a new criminal code created by a group of experts.

were not appropriate in that Mr Maksić had not merely disrupted public order but rather had seriously harmed someone.<sup>213</sup>

In an earlier incident, on April 11, 2000, a group of Bosniaks attacked four Roma in the Novo Podgorje neighbourhood of the village of Savići, near Banovići, in the Tuzla Canton. Mr Nezir Mehić, president of the local Roma association *Bahtalo Ilo*, told the *ERRC* on June 17, 2000, that on the day of the incident he was passing a local shop where he noticed a group of five Bosniak men standing and talking. He approached them and heard that their conversation was about political parties and the April 8, 2000 municipal elections in Bosnia. At that point, Mr Nesib Tahirović, a 41-year-old Romani man from Novo Podgorje, approached the group to greet Mr Mehić, accompanied by his brother-in-law, Mr Samir Tahirović, from the nearby village of Svatovac, and another young Romani man known as “Sule”. Without any warning, Mr R.B., one of the Bosniak men present, grabbed Mr Nesib Tahirović by the chest and neck, and asked him for whom he had voted. Mr Tahirović refused to reply, and Mr R.B. told him that it was widely known that all local Roma had voted for the non-nationalist Social Democratic Party, and that “all Gypsies should be killed”. He then pulled Mr Nesib Tahirović closer and head-butted him, after which the Romani man fell down unconscious. Mr Mehić intervened, pointing out that they all had the right to vote for whom they chose. In response, Mr R.B. punched him in the nose. At this point, Mr Mehić ran towards his car intending to go to the police. Mr R.B. threw stones at his car, smashing the lights. When Mr Nesib Tahirović regained consciousness shortly thereafter, he found Mr R.B. on top of him, trying to cut his throat with a knife, and Mr K.K., another man from the Bosniak group, also approaching him with a knife. Mr Tahirović shook the first attacker off and told the other Roma present to run away. As Mr Nesib Tahirović tried to run away, one of the Bosniak men hit him in the back of his head with a stone and he lost consciousness again, for about ten minutes, according to an eyewitness. Mr K.K. reportedly tried to stab him again, but Mr Samir Tahirović found a knife under a table and stabbed Mr K.K. in order to defend his brother-in-law. In the course of the fighting, Mr Samir Tahirović was stabbed six times, resulting in four serious wounds.

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<sup>213</sup> Information on this case was based on a written statement by Mr Mehmed Ahmetović, Mr Zaim Šečić, Mr Ramiz Halilović, and I.H., sent to the *ERRC* by fax, and consultations with the Human Rights Officer of the OSCE Brčko Centre, IPTF Brčko, UNMBIH Regional Human Rights Office Brčko and Mr Slavko Lakić, the then Brčko District Attorney, in the period of January-April 2001.

When Mr Nesib Tahirović regained consciousness, he and his brother-in-law fled the scene. A man driving by stopped and took them to a local medical centre, after which they were sent to the University Clinic in Tuzla, where their wounds were stitched and they obtained medical certificates. In the meantime, Mr Mehić reached the central police station in Banovići where he was told that the police could not intervene immediately, as there were no officers available. Mr Mehić finally persuaded police to send someone. When two police officers and Mr Mehić arrived on the spot, they found Mr K.K., Mr R.B. and many villagers who had gathered there. When Mr Mehić tried to explain what had happened, one of the police officers abruptly told him to “shut up”, and the other policeman reportedly told him that the local Roma “have to conform to the will of the [Bosniak] majority.” In front of the police officers, Mr R.B. threatened to kill Mr Mehić. The police reportedly did not react. When Mr R.B. continued to threaten to kill all of the Roma in the village, the police took him away. Police criminal investigators and court investigators visited the village on the day of the fight, and in the next days, the IPTF also carried out an investigation. An initial hearing in the case was held on June 5, 2000.

In the week following this incident, a representative of the Sarajevo-based non-governmental organisation *Centre for the Protection of Minorities' Rights* met with Romani representatives from Novo Podgorje and Tuzla in relation to the incident. According to the Romani activists present at the meeting, which took place in a local hotel, at least four police officers were present in the hotel during the meeting. According to the Centre's press statement of April 25, 2000, the police followed the cars of the participants until they left Banovići. In the months after the incident, Romani villagers in Savići reportedly lived in fear of reprisal attacks by local Bosniaks. Mr Mehić told the *ERRC* that his family left their house for one month after the incident out of fear. Mr Nesib Tahirović heard a rumour that local non-Roma planned to throw a bomb into his house. This is particularly disturbing in light of the fact that according to *ERRC* field research in the same village in January 1999, in 1996 a bomb was thrown into the house of a Romani returnee to the village. The incident was reported to the police but allegedly was never investigated.<sup>214</sup> As of January 2003, Mr Šaban Mujić, who had by that point become the President of the Advisory Board

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<sup>214</sup> *European Roma Rights Center* interview with Mr Nezir Mehić, president of the Romani association *Bahtalo Ilo*, January 30, 1999, Savići.



on Roma, informed the *ERRC* that no efforts had yet been made to resolve the case of either the attack or the bomb threat.<sup>215</sup>

Roma in Bosnia and Herzegovina also face verbal abuse and threats of violence by non-Roma. According to the testimony of Mr Esad Ibralić from the village of Lipovica in the Kalesija municipality, Roma from this settlement often have to pass through the neighbouring village of Meškovići, which is a Bosniak village. In many cases, Bosniaks from Meškovići provoked Roma by loudly warning their children “to run away, as the Gypsies are coming,” or they asked the Roma “for how long they would be passing through.” Mr Ibralić claimed that these provocations have taken place so often that some Romani families refuse to send children to primary school in Meškovići, for fear for their safety. In 2000, when the villagers of Meškovići built an asphalt road through their settlement, they reportedly attempted to ban Roma from using the road, under the pretence that Roma “did not participate in financing the construction work.” At first the villagers of Meškovići threatened Roma verbally with violence when they attempted to pass down the new road (the Roma could not in fact avoid using the road as there is no other way to enter their village by car). Shortly after the threats, the villagers of Meškovići set up barricades for Roma, at which local Roma informed the police and the IPTF, who intervened and removed the barricades on the same day. Since then, there were no new barricades, however the verbal abuses of Roma have reportedly continued.<sup>216</sup>

In some cases, verbal insults by non-Roma have acted as a significant factor in the reluctance of Roma to return to their pre-war homes. For example, Mr Hasan Mršić, a Romani man living in Kalesija, told the *ERRC/HCHRRS* that before the war he lived in the Staro Selo village, in the Memići municipality. On his way to Staro Selo, he has to pass through the village of Bulatovci, populated by Bosniaks, where one particular family reportedly constantly threatens and verbally abuses Roma who pass by. As this happened many times to Mr Mršić as well, he felt that the situation in the area is not safe for Roma, and he is reluctant to return to Staro Selo.<sup>217</sup>

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<sup>215</sup> *European Roma Rights Center* interview with Mr Šaban Mujić, President of the Advisory Board on Roma and President of the non-governmental organisation *Sae Roma*, January 17, 2003, Tuzla.

<sup>216</sup> *ERRC/HCHRRS* interview with Mr Esad Ibralić, May 19, 2003, Lipovica.

<sup>217</sup> *ERRC/HCHRRS* interview with Mr Hasan Mršić, May 19, 2003, Kalesija.

Non-Roma also engage in verbal abuse of Roma who make a living through collecting scrap materials in villages. “When we collect materials in villages, going from house to house, non-Roma often swear at us, as they think that we are thieves. If it happens that something gets stolen, non-Roma say that we did it,” a Romani man from Poljice told the *ERRC*.<sup>218</sup> The situation is reportedly similar in urban centres as well – Mr Muharem Šuvalić told the *ERRC* that once someone threw a bottle at him from a building as he was collecting scrap iron in the city of Zenica.<sup>219</sup>

Racially motivated attacks against Roma by vigilante individuals and groups have persisted since the end of the war. Mr Slobodan Nagradić confirmed the *ERRC*’s finding that racially motivated attacks against Roma continue to be problem when he stated that, according to information that he received from the police, there has been an increase of reported abuses against Roma by non-Roma.<sup>220</sup>

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<sup>218</sup> *European Roma Rights Center* interview with Mr Refik Mujić, August 5, 2003, Poljice.

<sup>219</sup> *European Roma Rights Center* interview with Mr Muharem Šuvalić, August 2, 2003, Banlozi.

<sup>220</sup> *European Roma Rights Center* interview with Mr Slobodan Nagradić, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina, February 3, 2003, Sarajevo.

## **10. HOUSING AND PROPERTY RIGHTS OF ROMA IN BOSNIA AND HERZEGOVINA**

Many Roma have experienced serious obstacles in exercising their right to return to their pre-war homes, the most apparent impediment to the right to return being the inability to exercise property rights and access housing in post-war Bosnia and Herzegovina. Indeed, many Roma are still internally displaced within the country. In some cases, Roma have been unable to return to their pre-war homes due to fear and/or hindrances created by barriers to regional cross-border return in the former Yugoslavia. Repossession of personal property by Roma has been left to the discretion of local non-Romani authorities slow to expel temporary occupants from their property, and in many of the cases of repossession of personal property by Roma that the *ERRC* is aware of, temporary occupants have vandalised or looted property owned by Roma before leaving. Many of the informal settlements in which Roma lived prior to the war have been destroyed and no adequate alternative accommodation has been made available. Roma who have returned to informal settlements are increasingly finding themselves subject to the whims of local authorities anxious to allocate the land for more lucrative purposes while at the same time making no plans for the provision of alternative accommodation to the Romani inhabitants. Roma living in informal settlements have been forcibly evicted in recent times. Those Roma who lived in social housing before the war and who now live in informal settlements are further precluded from the benefits of new property laws and are apparently ineligible for the substantial financial assistance that has been made available under reconstruction schemes since the war. In such settlements, living conditions are highly substandard and in the most serious of cases, have led to the death of vulnerable inhabitants. However, many Roma in Bosnia and Herzegovina find themselves trapped in such living conditions *inter alia* because property owners are frequently unwilling to rent to “Gypsies”.

### **10.1 The Right to Return**

The majority of Roma who lived in Bosnia and Herzegovina prior to the outbreak of hostilities in the early 1990s were displaced during the war.<sup>221</sup> Annex 7 of the

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<sup>221</sup> From April 1992 until December 1995, around 2.2 million people were displaced in Bosnia and Herzegovina, including those who fled abroad (approximately 1.2 million persons). In the year

Dayton Agreement states, “[...] refugees and displaced persons have the right freely to return to their homes of origin. They shall have the right to have restored to them property of which they were deprived in the course of hostilities since 1991.” However, the right to return of Roma in Bosnia and Herzegovina has been severely hampered by several factors, including fear and serious obstacles created by impediments to cross-border return in the former Yugoslavia.

The Zećiri family, from Dobož before the war, moved to Vrace on the outskirts of Sarajevo when the war broke out. The *ERRC* had an opportunity to speak with Ms Hanka Zećiri during a field mission in January 2003. Thirty family members were living in a house no larger than fifty square metres and survived by begging. Ms Zećiri stated that the owner of the house, an ethnic Serb, had filed for repossession of the house, so the family was paying him 150 Bosnian convertible marks (approximately 77 EUR) rent per month so that the owner would not evict them. Ms Zećiri stated that because they did not own the house they live in and did not have regular employment, they were unable to register in the Sarajevo Canton and therefore could not access public services. However, Ms Zećiri told the *ERRC* that “We are afraid of returning [to Dobož] and the fact that our houses are being reconstructed by foreigners cannot change that. We are not Serbs, we are Muslims, and even worse, some of us are Roma. [...] The most important reason why we do not want to return is that we are afraid to do so. We know that we are not welcome in Dobož.”<sup>222</sup>

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2000 it was estimated that around 857,000 persons in Bosnia and Herzegovina were internally displaced, with 55.3 percent of them currently living in the Federation, and 44.7 percent in Republika Srpska. (Ministry of Human Rights and Refugees. “Izvješće o realiziranju Anexa VII Općeg okvirnog sporazuma za mir u BiH (GFAP) – Dejtonskog mirovnog sporazuma (DPA).” Sarajevo, October 2000, available at: <http://www.mhrr.gov.ba>). There are no reliable estimates as to the number of displaced Roma, either internally displaced persons or those who left Bosnia and Herzegovina. According to UNHCR, to date over 875,000 refugees and displaced persons have returned to their pre-war homes. However, while there are statistics measuring the return of Bosniaks, Croats and Serbs, there is no clear information on the return of refugee or displaced Roma. Most Roma are likely counted as ‘others’, of which only 7,585 have returned from January 1, 1996, until March 31, 2003. (UNCHR Representation in Bosnia and Herzegovina. “Returns Summary to Bosnia and Herzegovina from 01/01/1996 to 31/03/2003.” Sarajevo, 2003, available at: <http://www.unhcr.ba>).

<sup>222</sup> *European Roma Rights Center* interview with Ms Hanka Zećiri, January 14, 2003, Vrace, Sarajevo.

Violence and threats directed towards returnees have commonly occurred since the end of the war. Return-related violence continues to be a significant barrier to sustainable return. On March 3, 2000, for instance, Italian authorities reportedly expelled to Bosnia and Herzegovina fifty-six Roma who had been detained during raids on two Romani settlements in Italy. According to a later report by *Amnesty International*, twenty-nine of the Roma travelled to their former homes in the Municipality of Vlasenica in the Republika Srpska, to see their houses. There, the Roma were reportedly beaten by a group of local Serbs who told them to return to the Federation. The Romani group returned to the Federation, but were not provided with accommodation by Bosnian authorities.<sup>223</sup> The *ERRC* provided legal assistance in two legal cases on behalf of Roma from this group against Italy before the European Court of Human Rights. In the first case, the applicants were Ms Fatima Sejdović and Mr Izet Sulejmanović and their two children, who were born in Italy in 1998 and 1999. In the second case, the applicants were Mr Pašo Sulejmanović and his wife Ms Hadžira Sulejmanović who, along with their children, had come to Italy in 1991 after fleeing the war in the former Yugoslavia.<sup>224</sup> According to several field investigations conducted by *ERRC* during the summer of 2002, after their return to Bosnia, the Sulejmanović family was forced out of Sarajevo and fled to Mostar, where they were

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<sup>223</sup> Amnesty International, *Concerns in Europe: January-June 2000*, September 2000, available at: <http://web.amnesty.org/library/Index/engEUR010032000>. According to governmental sources in Bosnia and Herzegovina, 60-65 percent of persons expelled to Bosnia and Herzegovina from (primarily) Western European countries have since lived in places different from their original residences. In a large number of cases, their status as applicants for asylum has merely been exchanged for the status of internally displaced persons (See Ministry of Human Rights and Refugees of Bosnia and Herzegovina. "Informacija o realiziranju bilateralnih sporazuma o povratku." Sarajevo, January 2003, available at: <http://www.mhrr.gov.ba>). In its "Concerns with the Designation of Bosnia and Herzegovina as a Safe Country of Origin" from July 2003, UNHCR listed "some 430 security incidents related to return or directed against 'minority' returnees" in 2002, with additional 155 incidents from January to May 2003, and concluded that, "it is particularly important that international protection needs of persons from BiH are assessed on an individual basis and without resorting to safe country of origin designation." (See UNHCR. "Concerns with the Designation of Bosnia and Herzegovina as a Safe Country of Origin." Sarajevo, July 2003, available at: <http://www.unhcr.ba>)

<sup>224</sup> Ms Sejdović had given birth to her youngest child less than three months earlier, on December 22, 1999. Allissa Sulejmanović, the youngest daughter of Pašo and Hadžira Sulejmanović, suffers from Down's syndrome and reportedly underwent heart surgery in Rome shortly before being expelled from Italy.

also attacked by local residents. They then tried to set up their tents in a field in Jablanica and were chased away by police. They finally ended up living in a field in Livno, in the south-eastern part of Bosnia and Herzegovina, where they tried to eke out a living by collecting scrap and begging. They received no assistance from either the Bosnian government or from local or international humanitarian organizations. Allissa's health continued to deteriorate significantly.<sup>225</sup>

In 2003, attacks on returnees appear to have continued unabated. In most cases, the police failed to identify and arrest the perpetrators.<sup>226</sup> Such attacks, directed at minority returnees, are discouraging for displaced Roma wishing to return to their pre-war homes, due to the extraordinary vulnerability of Roma in Bosnia and Herzegovina. A Romani individual who returns to Doboje for instance, will not be part of a larger returnee community, nor will he or she have the support of any political party or interest group. The war in Bosnia and Herzegovina placed Roma in various areas at times in conflict or tension with members of all three "constituent" groups. Therefore their return to any part of Bosnia and Herzegovina from which they were displaced is fraught with risk and Roma frequently have only minimal expectations for protection.

There is also a regional dimension to the problems encountered by Roma exercising their right to return. The significant obstacles to regional cross-border returns between Bosnia and Herzegovina, Croatia and what is now Serbia and Montenegro,

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<sup>225</sup> Pursuant to the settlement of the cases, on November 14, 2002, the Italian government agreed to revoke the expulsion decrees, return the plaintiff families to Italy, grant them humanitarian residence permits, and pay financial damages of over 161,000 EUR. The settlement agreement also required the Italian government to provide the families with temporary accommodation, school enrolment for the children, and medical care for Allissa.

<sup>226</sup> "From January to May 2003, according to the most recent data available, there were a total of 155 incidents affecting returnees, IDPs and other persons of concern to UNHCR. [...] Out of the total number of incidents, 26 consisted of assault. [...] Inadequate investigations or reluctance to investigate return-related incidents have also resulted in lack of follow-up action or closure of these cases. In certain cases, serious negligence and mishandling during the examinations have cast serious doubts on the ability and willingness of the police to identify and arrest the suspects. Prosecutors have also on several occasions been reluctant to act upon a case. The number of perpetrators convicted is low, and the sentences imposed are often lenient in spite of the seriousness of the crime." (UNHCR. "Concerns with the Designation of Bosnia and Herzegovina as a Safe Country of Origin." Sarajevo, July 2003)

constitutes a severe impediment to the enjoyment of human rights in the entire region.<sup>227</sup> The armed hostilities between the seceding Republic of Croatia and what still remained of Yugoslavia in the early 1990s forced large numbers of ethnic Serbs who lived in Croatia to flee either to Serbia or to the Serb controlled areas of Bosnia and Herzegovina. As of October 2002, an estimated 701,000 persons were still displaced among the three countries. Many of the displaced people are living as temporary occupants in property belonging to individuals who also fled the war. Although the republics shared the same legal framework before 1991, since the war, governments have pursued ethnically-based policies that discriminate against minorities. Although most such discriminatory legislation in Bosnia and Herzegovina has been repealed, this continues to be a problem, particularly with respect to Croatian laws. The Organization for Security and Co-operation in Europe (OSCE) indicates that the most significant obstacle to regional return is legislation, policies and administrative procedures in Croatia that impede the return of Croatian Serbs from Bosnia and Herzegovina to Croatia. Croatian Serbs continue to face serious obstacles in Croatia related to civil status, property repossession, support for reconstruction and access to social services. On the whole, the Croatian legislation has impeded the enjoyment of human rights in Bosnia and Herzegovina by slowing down the property law implementation process and by decreasing the number of displaced persons who would return to Bosnia and Herzegovina. The fact that Croatian Serbs who are currently temporary occupants of homes that belong to people who fled what is now the Republika Srpska are prevented from returning to Croatia severely hampers the efforts of returnees in Bosnia and Herzegovina in repossessing their properties.<sup>228</sup> This constitutes an additional burden for Roma who seek to return to their pre-war homes, as the majority of Roma fled from the Republika Srpska.

As one example, the town of Gradiška in the Republika Srpska was home to some 2,500-3,000 Roma before the war, the majority of whom owned private houses and many of whom had permanent jobs in state-run companies. The town was not the scene of any battles during the war, yet the vast majority of the Roma population left Gradiška with other non-Serbs due to fear of what may happen if they stayed. As Roma fled the town, Serb refugees fleeing persecution in Croatia or in other parts of

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<sup>227</sup> In February 2003, the Federal Republic of Yugoslavia was renamed Serbia and Montenegro.

<sup>228</sup> Organization for Security and Co-operation in Europe Mission to Bosnia and Herzegovina. *Annual Report 2002*. Available at: [http://www.osce.org/publications/annual\\_report/](http://www.osce.org/publications/annual_report/).

Bosnia and Herzegovina moved into the houses they left empty in Gradiška. In 2000, Roma began to return to Gradiška in larger numbers. Today, it is estimated that about 1,700 Roma live in the city and its surroundings. The local office of the Ministry of Refugees and Displaced Persons (*Odsjek Ministarstva za izbjeglice – OMI*), the office which handles claims for the repossession of property, is dealing very slowly with Romani applications for repossession. *ERRC/HCHRRS* field research in Gradiška established that obvious obstruction for repossession is being justified with statements that temporary occupants who are living in Romani houses have nowhere to go, and claiming that the temporary occupants' property in Croatia or in the Federation is destroyed. The authorities on the other hand appear not to be particularly concerned about the accommodation of the returnee Romani families. Awaiting the return of their houses, many Roma are accommodated with their relatives, sometimes even in garages and sheds. Mr Muharem Halilović told the *ERRC/HCHRRS*, "I came back from Germany three years ago with my wife, who is handicapped, and my son. Our family had a house in Dubrave and 8,000 m<sup>2</sup> of land next to the main road from Gradiška to Banja Luka. When we returned we found a Serb refugee family from Croatia living in the house. As we had nowhere else to go, some relatives let us stay in their garage. I immediately submitted a request for the return of my property. I often went to the OMI to see how far they had come with my application. They always sent me back and they told me to come back after one month. It went on like that for two years. Then they told me that they could not evict the Serb family because they had no other place to stay. They told me that the Serb's property in Croatia had been destroyed and that he could not go back. This summer the officers at the OMI told me that the best thing I could do was to sell my house and land to the temporary occupant."<sup>229</sup>

## **10.2 The Right to Property in the Aftermath of the 1992-1995 War**

Article 1 of Protocol 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) guarantees the right to peaceful enjoyment of possessions.<sup>230</sup> The European Court of Human Rights has defined the scope of this right in an extensive body of case law and generally, the right has been given a

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<sup>229</sup> *ERRC/HCHRRS* interview with Mr Muharem Halilović, December 17, 2002, Gradiška.

<sup>230</sup> Article 1 of Protocol 1 of the ECHR states, "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the



wide interpretation. Furthermore, the right to property is a significant feature of the constitutional framework of Bosnia and Herzegovina; the right to property has come to play an extraordinarily important role in securing the right of return for refugees and IDPs. The Laws on Cessation in the Federation and the Republika Srpska, which allow returnees to take possession of the property they were forced to abandon during the war, were passed in accordance with Annex 7 of the Dayton Agreement.<sup>231</sup> The Laws on Cessation repeal wartime laws and set up a process under which people who were granted occupancy rights during the war must either vacate said property or have the occupancy right revalidated under the new legal regime. The laws have subsequently been complemented by a number of amendments and clarifications aimed at harmonising the law and addressing the difficulties experienced in the course of implementation in the two Entities.

While there is little doubt that Roma in Bosnia and Herzegovina were extensively displaced as a result of the 1992-1995 war, there is no precise data available as to the extent of displacement. It is not clear how many Roma left the country, nor is it known how many were internally displaced. What is known is that while before the war most Roma in Bosnia and Herzegovina lived on the area which today is the Entity of the Republika Srpska, the majority of Roma in Bosnia and Herzegovina today live in the Entity of the Federation.<sup>232</sup> Despite the new laws, Roma have faced extraordinary difficulties in realising their property rights.<sup>233</sup> Many Roma who had clear legal title to their properties have submitted claims for repossession of such property.

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public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.” Bosnia and Herzegovina ratified the European Convention on July 12, 2002.

<sup>231</sup> In the Federation of Bosnia and Herzegovina, the relevant laws are the Law on Cessation of the Application of the Law on Abandoned Property Owned by Citizens and the Law on Cessation of the Application of the Law on Abandoned Apartments. In the Republika Srpska, the relevant law is the Law on Cessation of the Application of the Law on Abandoned Property.

<sup>232</sup> Perić, Tatjana. “‘We Don’t Have the Same Rights as Other People’: Roma in Bosnia and Herzegovina”. In Liegeois, Jean Pierre, and Nicolae Gheorghe. *Romi: europska manjina*. London: Minority Rights Group, 2001, p. 1.

<sup>233</sup> See Prettitore, Paul. “Exercise of Fundamental Rights by the Roma of Bosnia and Herzegovina: Access to Personal Documents and the Right to Housing”. In *Roma Rights 3/2003*, European Roma Rights Center, pp. 46-51.

However, since the enactment of the laws, the implementation of the property laws has largely been subject to the discretion of the local housing authorities in which Roma have almost no representation. Decision-making has been conducted with little regard for the principle of administrative fairness. Particularly during the first years of the process, political interference, corruption, and often pure arbitrariness have dictated which claims have been processed by the housing authorities and when. Property laws have not been enforced in a uniform, efficient and transparent way. This has left Romani claimants vulnerable.

Since 2000, a number of measures have been undertaken in relation to ensuring property rights in Bosnia and Herzegovina. Firstly, with an aim of resolving outstanding claims for property repossession filed by refugees and displaced persons, the OSCE Mission to Bosnia and Herzegovina, the UN Mission in Bosnia and Herzegovina, The Office of the High Representative, UNCHR and the Commission for Real Property Claims of Displaced Persons and Refugees adopted in October 2000 the Property Law Implementation Plan (PLIP). PLIP proposed de-politicisation of the property issue and the institutionalisation of the property return process through a number of operational mechanisms. A year later, in December 2001, with a view of bringing an end to the selective implementation of the property laws, and ensuring that the authorities allow claimants to repossess their property in a timely manner, the High Representative imposed a package of decisions.<sup>234</sup>

The underlying intention was to further clarify and strengthen the laws relating to the exercise of property rights by displaced persons and refugees. These decisions, which were incorporated in property laws, were drafted after extensive consultation with certain international organisations, as well as local authorities. The new regulations clarified questions such as who actually is entitled to alternative accommodation, i.e. the housing provided by the authorities to a temporary user so that the property in question can be vacated, allowing the owner or occupancy right-holder of the property to repossess it. The laws also elaborated exactly who is responsible for providing such alternative accommodation. Other important matters include the use of unclaimed apartments for alternative accommodation and how to address the problem of properties that have been looted by temporary occupants. Finally, it should be pointed out that the new regulations stipulated harsher sanctions to be imposed on persons obstructing

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<sup>234</sup> Available at: <http://www.ohr.int/decisions/archive.asp?m=12&yr=2001>.

implementation of the property laws. The ultimate aim of the policy was to ensure that local authorities shall have no discretion as to which claims they process and enforce or the order in which they do so. There should be no more exceptions or prioritisation of some claims over others. Furthermore, on September 12, 2002, the PLIP agencies launched “A New Strategic Direction: Proposed Ways Ahead For Property Law Implementation In A Time of Decreasing IC Resources”,<sup>235</sup> which required the housing authorities to resolve property claims in chronological order and to respect legal deadlines for decision enforcement, regardless of whether alternative accommodation had been provided or not. As of June 30, 2003, the ratio of implementation of property laws (total number of closed cases / total number of claims expressed in percentage form) was 86.44 percent for the Federation and 80.48 percent for Republika Srpska (See UNHCR, OHR, OSCEBIH, CRPC. “Statistics: Implementation of the Property Laws in Bosnia and Herzegovina”. Sarajevo, June 30, 2003.<sup>236</sup> According to Mr Paul Prettitore, Legal Advisor for Human Rights Institutions in the Human Rights Department of the OSCE Mission to Bosnia and Herzegovina, the new measures have eliminated much of the discrimination against Roma who filed repossession claims. He however noted that, “The problems of informal settlements and pre-war social housing, however, were not addressed in the amendments and still remain an obstacle for the Roma community in particular. It is important to note much of the housing in BiH prior to the war was built without required permits, but nonetheless has been ‘formalized’ by local officials, except in cases where the property belonged to Roma. There are only several cases where local officials have made attempts to provide some security of tenure to Roma in informal settlements.” (*European Roma Rights Center* correspondence with Mr Paul Prettitore, May 26, 2003).

### *10.2.1 Repossession of Personal Property*

Roma in Bosnia and Herzegovina have experienced difficulties in repossessing their property in the aftermath of the 1992-1995 war. The situation of the Roma in Bijeljina serves well as an illustration. The *HCHRHS* reports that approximately 1,200 Roma have returned to Bijeljina since the end of the war but only 10 percent

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<sup>235</sup> Available at: [http://www.ohr.int/plip/key-doc/default.asp?content\\_id=27904](http://www.ohr.int/plip/key-doc/default.asp?content_id=27904).

<sup>236</sup> Available at: <http://www.unhcr.ba>.

live in the homes they left. The remaining 90 percent live in old houses, cellars, garages, and tents. Only fifty-one houses formerly owned by Roma have been returned to their owners. More than seven hundred Romani houses are still occupied by ethnic Serbian refugees.<sup>237</sup> The *HCHRRS* further reported, however, that out of the fifty-one Romani families who had, indeed, managed to repossess their property, many were only able to do so after having paid the temporary occupant to leave, usually an amount between 2,000 and 5,000 Bosnian convertible marks (approximately 1,020 to 2,555 EUR).

The *ERRC/HCHRRS* has found that Romani claimants for the repossession of their property have faced discrimination. Claims filed by Roma generally have taken much longer to be resolved, due to discrimination against Roma and the corruption of the local authorities, estimates the *HCHRRS*. The measures introduced by the Office of the High Representative in December 2001 in order to improve the implementation of property laws, are causing positive changes in this respect: As of March 2003, 78 percent of all property claims have been resolved throughout Bosnia and Herzegovina, though it is not known how many of these cases are Romani, and less than 50,000 claims were still pending with the housing authorities.<sup>238</sup>

After the relevant authorities approve the repossession of Romani property, there is still a long way to go before the owners indeed get their homes back. Mr Huso Beganović, a Romani man, returned to Bosnia and Herzegovina in 1997 with his family. The family reportedly stayed in Tuzla for their first three months, then returned to Bijeljina to find that an ethnic Serbian family had occupied their house. Mr Beganović told the *ERRC/HCHRRS* that they asked the occupants to allow them either to share the house or to live in the small house and shed in the yard, but the occupant refused. Therefore, Mr Beganović told the *ERRC/HCHRRS*, he filed

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<sup>237</sup> The temporary occupants of property owned by Roma are not always only private individuals. In an article appearing in the Sarajevo-based weekly magazine *Dani* on December 6, 2002, the President of the *Association of Roma in Bijeljina*, Mr Pašaga Beganović, mentioned the case of a company in the aerospace industry called “Orao”, which occupied two large Romani homes to accommodate its employees. “Orao” is reportedly not paying rent to the owners of the houses. The article ended by saying that discrimination faced by non-Serbs is so bad in Bijeljina that it can only be described as the “capital of Apartheid in Republika Srpska”.

<sup>238</sup> UNCHR Representation in Bosnia and Herzegovina. “PLIP Statistics for March 2003.” Sarajevo, May 6, 2003, available at: <http://www.unhcr.ba/press/2003pr/060503>.

a claim for the repossession of his property and returned to Tuzla. In 1999, the Ministry finally issued a decision stating that the property was to be returned to Mr Beganović.<sup>239</sup> According to Mr Beganović, “This did not persuade them to move out. They said that they were also refugees who had fled their homes during the war and that they did not want to go back.”<sup>240</sup> At this time, the Beganović family was allowed by the occupants to move into the small house and shed in the yard. Mr Beganović’s brother and his family also reportedly returned to Bijeljina at this time and were unable to return to their house because it was occupied by an ethnic Serbian displaced family, so the two families, comprising twenty-four people, stayed together in approximately 30m<sup>2</sup> of space. Mr Beganović told the *ERRC/HCHRRS* that this state of affairs lasted for two and a half years.

The property law implementation process has seen a considerable degree of obstruction on behalf of the authorities. Mr Beganović stated, “The authorities refused to give effect to their own decision to return the property to me by evicting the Serbs. We often visited the Municipal Office of the OMI, asking them to have the Serbs evicted. The officers refused to do so.”<sup>241</sup> Eventually, the occupying family

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<sup>239</sup> Article 9 of the Republika Srpska Law on The Cessation of Application of the Law on the Use of Abandoned Property (*Official Gazette of Republika Srpska*, Nos. 38/98, 12/99, 31/99) states, “The competent authority of the Ministry of Refugees and Displaced Persons shall be obliged to issue a decision to the claimant within 30 days from the date of receipt of the claim for repossession of real property. The claim shall be solved in the chronological order in which it was received, unless specified otherwise in law.” (Official translation available at: <http://www.unhcr.ba/protection/plip/Property%20law/rspptfin.pdf>.)

<sup>240</sup> Article 6 of the Republika Srpska Law on The Cessation of Application of the Law on the Use of Abandoned Property (*Official Gazette of Republika Srpska*, Nos. 38/98, 12/99, 31/99) states, “If a temporary user is required to vacate the real property pursuant to the provisions of this Law, the competent authority of the Ministry of Refugees and Displaced Persons shall determine within the deadline of 30 days for making the decision under Articles 9 and 11 of this Law whether s/he is entitled to alternative accommodation in accordance with Article 34 of this Law. In case that the temporary user is entitled to alternative accommodation, the competent authority shall provide alternative accommodation within the time limit in which the temporary user is required to vacate the property under Article 11 of this Law. In no event shall failure of the competent authority to meet its obligations under paragraph 1 of this Article operate to delay the ability of the owner, possessor or user to enter into possession of his/her property.”

<sup>241</sup> *ERRC/HCHRRS* interview with Mr Huso Beganović, March 15, 2002, Bijeljina. Article 21 of the Republika Srpska Law on The Cessation of Application of the Law on the Use of Abandoned Property (*Official Gazette of Republika Srpska*, Nos. 38/98, 12/99, 31/99) states, “If the current

agreed to allow Mr Beganović's family to move into the main house with them; Mr Beganović and his family shared their house with the occupants until July 2002. Since the house was seriously damaged, they had to invest some 3,000 EUR to undertake basic refurbishing.<sup>242</sup>

The *ERRC/HCHRRS* field research has established that the destruction of Romani property by temporary occupants is a phenomenon reaching alarming proportions, especially in the Bijeljina area. In July 2003, when the ethnic Serbian family who occupied the house of Mr Atif Hidanović, a Romani man from Bijeljina working in Germany, almost completely demolished the property before their departure. Two ethnic Serbian families from Rajlovac, suburban part of Sarajevo, had initially moved into Mr Hidanović's house in 1996. One of the families left the house in March 2003, without causing any damage. The other family remained in the house until they were ordered to leave by a decision of OMI of an unspecified date in the end of 2002. The family in question eventually left the house on July 15, 2003, after receiving 1,500 EUR from Mr Pajo Hidanović, the brother of Mr Atif Hidanović. As witnessed by the *ERRC/HCHRRS*, upon their departure, the family members took with them literally everything that could have been taken – or torn – out of the house: all of Mr Hidanović's furniture and house equipment, water heaters, door and window frames, balcony fence, electric meter, sinks and bath tubs, and more. The tearing out of window and door frames additionally caused severe damage to house walls. The damage caused to Mr Hidanović's property is estimated to 15,000 EUR. Mr Pajo Hidanović reconstructed his house and also reported the case to Bijeljina police, who subsequently pressed charges against the former tenants.<sup>243</sup> As of January 2004, the case was before the local court in Bijeljina.

In another case, Mr Velaga Beganović, originally from Bijeljina and living in Tuzla since the war, told the *ERRC/HCHRRS* that, when he visited Bijeljina after the war, in April 1998, he found his home in Bijeljina occupied by the family of Mr Miodrag Ostojić, ethnic Serbs. Mr Beganović asked that his family be permitted to share the

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user does not vacate the apartment within the deadline stated in the Decision and the occupancy right holder fails to initiate enforcement proceedings within 30 days after expiration of the deadline for the current user to vacate, the competent authority shall ex officio evict the current user if s/he is not entitled to alternative accommodation pursuant to this Law.”

<sup>242</sup> *ERRC/HCHRRS* interview with Mr Huso Beganović, May 22, 2003, Bijeljina.

<sup>243</sup> *ERRC/HCHRRS* interview with Mr Pajo Hidanović, July 16, 2003, Bijeljina.

house, but Mr Ostojić reportedly demanded 10,000 German marks (approximately 5,300 EUR) and sent Mr Beganović away. Mr Beganović suffered a heart attack after leaving his home and was treated in a hospital in Tuzla for nineteen days. At the end of August 1999, Mr Beganović told the *ERRC/HCHRRS*, he filed a claim for the repossession of his property. The OMI issued a decision on October 12, 1999, that the occupying family should vacate the premises within ninety days. At the time of the *ERRC/HCHRRS* visit in March 2002, Mr Beganović testified, “After more than a year I managed to move into the attic of my house. It was without windows, and the walls were not plastered. I had to borrow some money from friends to fix it. Mr Ostojić still refuses to leave my house. I have learned that his house in Kovačica has been repaired, but he does not want to return to his village. [...] At the same time, he has sold some things from my house like the water heater and some furniture from my dining room. I do not understand why the OMI does not issue an order for his eviction.”<sup>244</sup> Mr Beganović finally moved into the rest of his house in September 2002. A part of his furniture was taken away by the Ostojić family, and what was left behind was demolished, apparently on purpose. Mr Beganović estimated the damage to the house to be in the value of 7,000 EUR. When he complained of the damage to the house to the OMI in September 2002, an official told him that the OMI was only responsible only for the repossession of property and nothing else. With his limited financial resources, Mr Beganović only managed to install new glass panes. “I am considering selling everything and leaving – but I don’t know where I would go,” he told the *ERRC/HCHRRS*.<sup>245</sup>

Ms Mina Muratović, a Romani woman who had been living with her family in Tuzla, told the *ERRC/HCHRRS* that her family also owns a home in Bijeljina, but that they had not been able to return to it. At the time of the *ERRC/HCHRRS* visit in March 2002, Ms Muratović stated that an ethnic Serbian family was living in her house and they refused to allow her and her children to live in a small building on her the property, as they had pigs in it. Ms Muratović testified, “Every month for more than three years I have travelled to Bijeljina to demand that the refugee family be evicted. The authorities are refusing to issue an eviction order. I cannot pay the rent in Tuzla any longer.”<sup>246</sup> The ethnic Serbian family moved out of the house in October 2002.

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<sup>244</sup> *ERRC/HCHRRS* interview with Mr Velaga Beganović, March 17, 2002, Bijeljina.

<sup>245</sup> *ERRC/HCHRRS* interview with Mr Velaga Beganović, May 22, 2003, Bijeljina.

<sup>246</sup> *ERRC/HCHRRS* interview with Ms Mina Muratović, March 27, 2002, Bijeljina.

This house also was damaged and most of the furniture and appliances taken away. Ms Muratović spent 2,000 EUR on basic refurbishing, and she estimated that she would need at least three times that amount to completely refurbish the house.<sup>247</sup>

In 1999, Mr Ekrem Hokić and his wife, Fatima, filed an application for the repossession of their two-storey home in Bijeljina. Only in January 2002 did the Hokić family receive the decision that they were, indeed, entitled to repossess their property.<sup>248</sup> Mr Hokić told the *ERRC/HCHRRS* that the decision made clear that the two families that had occupied the house did not have a right to alternative accommodation. The temporary occupants should therefore, according to the law and the decision that had been issued, have vacated the property within sixty days of the decision.<sup>249</sup>

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<sup>247</sup> *ERRC/HCHRRS* interview with Ms Mina Muratović, May 22, 2003, Bijeljina.

<sup>248</sup> Article 9 of the Republika Srpska Law on The Cessation of Application of the Law on the Use of Abandoned Property (*Official Gazette of Republika Srpska*, Nos. 38/98, 12/99, 31/99) states, “The competent authority of the Ministry of Refugees and Displaced Persons shall be obliged to issue a decision to the claimant within 30 days from the date of receipt of the claim for repossession of real property.”

<sup>249</sup> Article 11(a) of the Republika Srpska Law on The Cessation of Application of the Law on the Use of Abandoned Property (*Official Gazette of Republika Srpska*, Nos. 38/98, 12/99, 31/99) states, “The deadline for vacating the property, referred to in Article 11, Paragraph 1, Point 7 of this Law shall be 15 days from the date of delivery of the decision and the decision on entitlement to accommodation under Article 11, Paragraph 1, Point 5 of this Law shall be negative, unless the current user is a temporary user as defined in Article 1, Paragraph 3 of this Law and: 1. The temporary user is not a multiple occupant, as defined in Articles 24a and 24b of this Law; and: 2. The temporary user left his/her apartment or residential private property in the territory of Bosnia & Herzegovina between 30 April 1991 and 19 December 1998; and: (a) In the case that the apartment or residential private property s/he left is occupied, s/he or a member of his/her 1991 family household has applied to the competent administrative authority, court or the Commission for Real Property Claims of Displaced Persons and Refugees (hereafter, CRPC) for repossession of that apartment within all deadlines prescribed by law, or for repossession of that residential private property within 60 days of this provision coming into force and is awaiting a decision on that claim; or; (b) In the case that a decision on a claim for repossession or CRPC certificate has been issued with respect to the apartment or residential private property s/he left, s/he or a member of his/her 1991 family household has requested enforcement of that decision or CRPC certificate within 60 days of this provision coming into force or within 60 days of being legally entitled to seek enforcement, whichever is later; or (c) In the case that the apartment or residential private property s/he left is damaged or destroyed, s/he or a member of his/her 1991 family household has applied for return and reconstruction or is awaiting reconstruction assistance.”



According to Mr Hokić, the families did not respect the decision and only in September 2002, after he rented a flat for the first family, for which he paid six months rent in advance, did the family move out. The second family reportedly did not accept such an offer. Mr Hokić told the *ERRC/HCHRRS* that he complained to the OMI, which then issued a warning to the remaining family. At this point, the family reportedly left, but with all of the furniture belonging to the Hokić family, water and electrical installations, doors, windows and bathroom fixtures, and vandalised the house. Mr Hokić stated, “We reported all this to the police who advised us to seek compensation through the courts. We cannot afford a lawyer for the purpose of claiming compensation. Our house is now empty so we cannot live in it and we still have to rent a room for 50 EUR per month! Nobody from the municipal authorities is interested in our case. Everybody is telling us to go to court, but we know that would just mean more expenses for us, and, in the end, the court would not punish Serbs.”<sup>250</sup> Eventually, Mr Hokić did not file a complaint against the former occupants.

The problem, unfortunately, is not confined to Bijeljina. In May 2002, the *ERRC/HCHRRS* met with Mr Mesud Mujkić from Banja Luka. For the first time in four years, in 1998, Mr Mujkić returned from Italy to his property in Banja Luka and found that an ethnic Serbian refugee family had moved in. Mr Mujkić submitted a request for the repossession of his home and returned to Italy. Mr Mujkić stated that he returned every two or three months to monitor the repossession process. An eviction order was issued after much pushing by Mr Mujkić and the temporary occupant reportedly moved out in February 2002. According to Mr Mujkić, “[The temporary

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<sup>250</sup> *ERRC/HCHRRS* interview with Mr Ekrem Hokić, October 11, 2002, Bijeljina. On the state of the judicial system in Bosnia and Herzegovina, the *International Crisis Group* has written, “[...] the law does not yet rule in Bosnia & Herzegovina. What prevail instead are nationally defined politics, inconsistency in the application of law, corrupt and incompetent courts, a fragmented judicial space, half-baked or half-implemented reforms, and sheer negligence. Bosnia is, in short, a land where respect for and confidence in the law and its defenders is weak. Bosnians are unequal before the law, and they know it. Exercise of the legal rights to repossess property or to reclaim a job too often depends on an individual’s national identity – or that of the judge before whom she or he appears. Even when citizens do get justice in the courts, the chances of having decisions enforced can be slim, since the execution of court orders is often prolonged unlawfully or hedged in arbitrary conditions. Obtaining justice is also subject to geographical chance.” *International Crisis Group*. “The Courting Disaster: The Misrule of Law in Bosnia and Herzegovina.” March 2002, p. 4. Available at: [http://www.crisisweb.org/projects/balkans/bosnia/reports/A400592\\_25032002.pdf](http://www.crisisweb.org/projects/balkans/bosnia/reports/A400592_25032002.pdf).

occupant] took all my furniture, ceiling lamps, radiators, boilers, my bathtub, windows, doors, and even parts of the roof with him! The house looked as if a grenade had struck it. [...] I reported this to the authorities, but they did not do anything about it.<sup>251</sup> I have estimated the damage caused to be some 25,000 EUR. All I could do was to begin repairing the house. Once we have replaced the most basic furniture, my wife and I will return permanently.”<sup>252</sup> As of January 2004, Mr Mujkić and his family still lived in Italy.

Reports from the *HCHRRS* ascertain that it is common for temporary occupants vacating Romani property to loot the housing units in a manner similar to the homes of the Mujkić and Hokić families. According to the *HCHRRS*, “At a meeting [in September 2002], we publicly warned representatives of the Ministries in the Republika Srpska, the Federation of Bosnia and Herzegovina and OHR of this practice. Competent authorities have not done anything to prevent looting or to institute legal proceedings against the perpetrators.”<sup>253</sup> Obstructing the property law implementation process not only results in a violation of the property owners’ right to peacefully enjoy

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<sup>251</sup> Article 24 of the Republika Srpska Law on The Cessation of Application of the Law on the Use of Abandoned Property (*Official Gazette of Republika Srpska*, Nos. 38/98, 12/99, 31/99) states, “The repossession of abandoned real property or the apartment by the owner, user or occupancy right holder shall be witnessed by an official of the competent authority and interested parties. A report shall be made on the return of the real property or apartment and on the reinstatement of the owner or user into possession of the property or apartment. The report shall contain, among other things, a detailed description of the current state of the apartment and its contents. If minutes are unavailable from the time when the real property or apartment was abandoned, the competent authority shall conduct an inspection of the real property or apartment at the time the decision is made pursuant to Article 9 or 17 of this Law. The authorities are obliged, pursuant to their duties under the Criminal Code, to seek the prosecution of a current user who illegally removes property or fixtures from the real property or apartment, or who wilfully causes damage to the real property or apartment, when s/he vacates the real property or apartment either voluntarily or by eviction. The competent authority shall include a notice or warning to a current user about the aforesaid criminal sanctions for such action pursuant to Article 11, Paragraph 1, Point 8 or Article 18, Paragraph 1, Point 7 of this Law. The competent authority shall record such information in the minutes, and distribute the information recorded therein, as well as other information regarding repossessed or vacant and sealed apartments, as is defined by instruction of the Ministry of Refugees and Displaced Persons.”

<sup>252</sup> *ERRC/HCHRRS* interview with Mr Mesud Mujkić, May 16, 2002, Veseli Brijeg Romani settlement, Banja Luka.

<sup>253</sup> Mr Branko Todorović, Chairman of the *HCHRRS*, December 19, 2002, Bijeljina.

their possessions, but it is also a criminal offence under the domestic law of both entities.<sup>254</sup> Romani activists also testified to the extent of inactivity on behalf of authorities. Mr Pašaga Beganović, President of the *Association of Roma* in Bijeljina, told the *ERRC/HCHRRS* how all their efforts to ask for protection by the authorities ended in unfulfilled promises that local police would supervise the leaving of property. When Mr Beganović asked the officials of the Bijeljina OMI office to create inventories of property in houses to be soon left by temporary tenants, in order to eliminate thefts, the answer was that this was not OMI's job.<sup>255</sup> The only recourse for Roma in such cases is to seek compensation for damage through courts, which is costly and therefore not a viable option for most Roma.

In order to speed up the process of repossession of property for minorities, the Office of the High Representative established a Property Commission in Bijeljina, with the task of deciding on priorities for Bosniak and Roma returnees on January 25,

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<sup>254</sup> Article 37 of the Republika Srpska Law on The Cessation of Application of the Law on the Use of Abandoned Property (*Official Gazette of Republika Srpska*, Nos. 38/98, 12/99, 31/99) states, "The competent body shall be fined 1000 to 5000 KM for the following minor offences: if it violates Article 1 of this Law and continues to apply the Law on Use of Abandoned Property; if it fails to accept claims as set out in Article 8, or Article 15 of this Law; if it fails to take into account the presumption that persons who have left their apartments between 30 April 1991 and 19 December 1998 shall be considered to be refugees and displaced persons under Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina, as set out in Article 14, paragraphs 1 and 2 of this Law; if it fails to order in the Decision (Article 11, Paragraph 1 or Article 18, Paragraph 1 of the Law) the vacating of the real property or apartment within 15 days in accordance with Article 33 , paragraph 1 and Article 35 , paragraph 1 of the Law; if it fails to allow immediate repossession by an owner, possessor, or user of a vacant real property, as set out in Article 11, paragraph 2, or Article 18, paragraph 3 of the Law; if it fails to process an eviction request according to this Law and the Law on General Administrative Procedures; if it fails to hand over the real property or apartment in accordance with Article 24 of the Law; if it fails to take the required action against a multiple occupant, as set out in Article 24a, paragraph 3, or if it fails to issue a decision according to Article 24a, paragraph 5 of the Law. The responsible person in the competent authority shall also be fined 200 to 1000 KM for a violation of paragraph 1 of this Article. In addition to the above, a person who is a multiple occupant, as defined: in Article 24a, paragraph 4, Items 1, 2, 3, or 7 of the Law and who fails to comply with the eviction order shall be fined 500 to 5000 KM; in Article 24a, paragraph 4, Items 4 to 6 of the Law and who fails to comply with the eviction order shall be fined 250 to 1000 KM." The law on this matter in the Federation is very similar to that of the RS.

<sup>255</sup> *ERRC/HCHRRS* interview with Mr Pašaga Beganović, July 16, 2003, Bijeljina.

2000. This did not prove fruitful, and the next year Minister for Refugees and Displaced Persons of the Republika Srpska Mr Mićo Mičić promised, in both his personal capacity and on behalf of the Ministry, in November 2001, to speed up the process of return of property to Roma. A special commission, with representatives of the Romani community, should have been formed to produce weekly monitoring reports on the speed of return of property to Roma. However, as of June 2003, the Commission had only met once.

During the war, ethnic cleansing operations were not confined solely to the Serb controlled territories of Bosnia and Herzegovina and therefore property returns issues are relevant elsewhere in Bosnia and Herzegovina as well. As Mr Miralem Biberović informed the *ERRC/HCHRRS*, Romani people were expelled also from territories held by Bosniak-Croat armed forces and they are today facing similar difficulties in realising their property rights in what now constitutes the Federation. Mr Biberović lived in the village of Donje Vukovije in what is now Tuzla Canton. Roma in the village reportedly received violent threats from Bosniak refugees to move out. During October and November 1993, Mr Biberović said, all the Romani families left the village after being forced to sell their property for only a few hundred German marks. There were reportedly no sale contracts and title to the properties is still in the names of the Romani families. Approximately ten of the families settled in Živinice, where the *ERRC/HCHRRS* met Mr Biberović. Mr Biberović told the *ERRC/HCHRRS* that the Roma now want their properties back,<sup>256</sup> but the inhabitants are extremely

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<sup>256</sup> Article 2 of the Federation of Bosnia and Herzegovina Law On The Cessation of The Application of The Law On Temporary Abandoned Real Property Owned By Citizens (*Official Gazette of the Federation of Bosnia and Herzegovina*, Nos. 11/98, 29/98, 27/99, 43/99, 37/01, with incorporated amendments proclaimed by the High Representative Decision of the 4 December 2001 and published in the *Official Gazette of the Federation of Bosnia and Herzegovina*, No. 56/01 of the 21 December 2001) states, “From the day of the entry into force of this Law, the bodies and authorities of the Federation and other bodies in the Federation (hereafter: the competent authorities) shall refrain from undertaking any new actions by which real property owned by citizens is declared abandoned or placed under municipal administration. The competent authorities referred to in Paragraph 1 of this Article shall decide about the rights of owners to repossess their real property which has been declared temporarily or permanently abandoned and the rights of temporary occupants of the abandoned real property.’ Article 10 states that ‘The owner of private property has the right to claim at any time from the competent authorities the repossession of his/her property that has been declared abandoned or allocated for temporary use.’ Article 16 states that ‘If the person occupying the property fails to voluntarily comply with the decision ordering him/her to vacate the property, the competent authority

hostile. Mr Biberović stated, “On one occasion in May 2001, a cousin of mine and I tried to talk to them and make them understand that they had to move out. Several Bosniak men approached us and one of them hit my cousin three or four times. At the same time, they threatened that they will kill me if I pressed my rights to my land.”<sup>257</sup> As of June 2003, there were no Romani returnees to Donje Vukovije.

The homes of some Roma in Bosnia and Herzegovina were completely destroyed. *ERRC/HCHRRS* research has shown that homes belonging to Roma were often destroyed, in Republika Srpska in particular, subsequent to the escape of their owners, in an apparent attempt to prevent them from ever returning. Mr Arif Alimanović suffered this fate. In March 2002, Mr Alimanović testified as follows to the *ERRC/HCHRRS*: “During the war I fled to Germany. I returned to Bijeljina with my family in 1997. My house on Baje Stanišića Street was completely destroyed, and the summerhouse I also owned was badly damaged. Somehow, I managed to patch up one of the rooms enough to be able to live in it. I used whatever material was available. My eleven-member family still lives in this very same room.”<sup>258</sup> Bijeljina, located deep in the Republika Srpska territory, far from the frontline, was never the scene of armed combat during the 1992-1995 war. Nevertheless, according to the *HCHRRS*, no less than one hundred and sixty-seven houses belonging to Roma were destroyed during the war. In light of this fact, the destruction of Mr Alimanović’s home, as well as the homes of many other Roma in Bijeljina, appears to be motivated by a desire on behalf of the destroyer(s) to prevent the return of the inhabitants.

Mr Alimanović’s case is in no way exceptional. The Šeher Romani settlement in Banja Luka is another striking example. Before the war, Šeher was the home of thirty-eight Romani families. An *ERRC* visit to the area on October 21, 2002, revealed that all the houses in which the Roma that lived were completely destroyed in the war and the ruins show them to have been burnt. While it is not clear what happened here, it is known that there were no armed confrontations in this area during the war, so the destruction caused can by no means have been so-called collateral

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shall employ compulsory enforcement, in accordance with the law. The enforcement shall be carried out at the request of the owner.”

<sup>257</sup> *ERRC/HCHRRS* interview with Mr Miralem Biberović, June 6, 2002, Bare Romani settlement, Živinice.

<sup>258</sup> *ERRC/HCHRRS* interview with Mr Arif Alimanović, March 19, 2002, Bijeljina.

damage. Furthermore, other houses in the area owned by non-Roma seem not to have sustained damage. People in the neighbourhood claimed not to know what happened or were unwilling to talk about it with the *ERRC*. All of the Roma from Šeher left at some point during the early 1990s. The neighbours stated that they all went to Sweden. Not a single Romani person lives there today. This tragic story repeats itself throughout the Republika Srpska.

Mr Slobodan Nagradić, the Assistant Minister for Human Rights and Refugees, confirmed that the countrywide rate of repossession with regard to property owned by Romani persons is significantly lower than the average countrywide rate.<sup>259</sup> The *ERRC* and the *HCHRRS* are of the view that authorities throughout the Republika Srpska are pursuing a deliberate policy of seeking to limit the number of Roma returning to their homes in the Republika Srpska to a minimum.

### *10.2.2 Forced Evictions/Return to Informal Settlements*

Prior to the war, most Roma in Bosnia and Herzegovina lived in informal settlements without any clear legal title to use the land that they were occupying. In most cases, the settlements were on state-owned land. During the war, Romani settlements were frequently destroyed, in particular, in what is now Republika Srpska. When the war was over, the land fell into the hands of new authorities either less tolerant of Roma staying on the land or eager to allocate it for other uses. According to a survey conducted by the OSCE in 2002, approximately one hundred informal settlements exist in thirty municipalities in Bosnia and Herzegovina. However, it has cautioned that this is likely not an exhaustive list.<sup>260</sup> Because they lack legal title to the land upon which they lived prior to the war, many Roma are unable to benefit from the property laws. The *Centre for the Protection of Minorities' Rights* estimates some two thirds of the Roma in Bosnia and Herzegovina are not registered at a permanent address. This is a problem mainly in the Federation, which still hosts large numbers of Romani IDPs who have not been able to return to their homes in Republika Srpska.<sup>261</sup>

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<sup>259</sup> *European Roma Rights Center* interview with Mr Slobodan Nagradić, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina, February 3, 2003, Sarajevo.

<sup>260</sup> Prettitore, p. 47.

<sup>261</sup> Kukić, p. 36.

Even where Roma have been able to return to their pre-war informal settlements, they have often found them completely destroyed. As no legal title to occupy the land can be produced, no reconstruction permits can be issued in these cases. Without a reconstruction permit, it is impossible to obtain donor funding for the purpose of reconstructing houses.<sup>262</sup> Roma living in informal settlements live in highly substandard conditions and are in particularly precarious situations, as they do not have security of tenure and face the constant threat of forced eviction. Roma who have been able to return to informal settlements since the end of the 1992-1995 war in general have no security of tenure, and experience difficulties in accessing public services such as electricity, water supply and waste removal.

Informal Romani settlements are particularly under threat of evictions and demolition. One such Romani settlement, located in the Bišće Polje area of Mostar, built on state-owned land in the Bosniak dominated, eastern side of the city, was destroyed by municipal authorities on May 21, 2003. When the *ERRC/HCHRRS* visited Bišće Polje in December 2002, residents claimed to have lived in the settlement for over thirty years. The settlement was constructed during the socialist era without formal permission, but reportedly with the acquiescence of the authorities. The Municipality of Stari Grad, which now administers the land, has announced plans to demolish the settlement and lease the land to private enterprises. Mr Ramadan Haziri, President of *Roma Association Neretva* told the *ERRC/HCHRRS*, “We were shocked when the Roma at Bišće Polje were ordered off the land. The municipality has not provided any alternative place for them to stay. There are about forty children in the settlement; where will they sleep when their sheds are destroyed? We asked the municipality to cancel the decision, but they did not want to listen to us so we approached the

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<sup>262</sup> Various proposals have been put forward as to how this dilemma can be solved. For instance, informal settlements could be formalised through provisions on adverse possession. Most legal systems, including that of Bosnia and Herzegovina, have provisions for adverse possession, which allows for the acquisition of property title in cases where an individual has resided on property for a certain period of time for which he/she has no ownership right. In the case of Bosnia and Herzegovina, this period is ten years. See Article 32 of the Real Estate Act and Basic Principles, Substance and Property Owners of the Federation of Bosnia and Herzegovina (*Zakon o vlasničko-pravnim odnosima i osnovna načela, predmet i nosioci prava vlasništva, Official Gazette of the Federation of Bosnia and Herzegovina* No. 6/98) and Article 28 (2) of the Real Estate Act of Republika Srpska (*Zakon o osnovnim svojinsko-pravnim odnosima, Official Gazette of the SFRY* Nos. 6/80, 36/90 and *Official Gazette of Republika Srpska* No. 38/2003).

Ombudsman's Office."<sup>263</sup> The Deputy Ombudsman of the Federation, Mr Stjepan Prskalo, told the *ERRC/HCHRRS*, that the Ombudsman's Office proposed the idea of relocation of the Romani families, but none of the municipalities in Mostar would agree to the resettlement. The eviction of the Roma in the Bišće Polje settlement was put on hold until the Spring of 2003, but, according to Mr Prskalo, the Municipality of Stari Grad had no intention of reversing its decision.<sup>264</sup> Roma in the settlement appeared desperate the day of the *ERRC/HCHRRS* visit. Mr Mustafa Mešanović expressed the following view: "It seems as if the municipality wants to get rid of us Roma. They want us to go anywhere; as long as we never come back to this town. This is the wish of lot of people in this town."<sup>265</sup>

In May 2003, the settlement was destroyed. According to Mr Ramadan Haziri, on May 21, 2003, the officials of the Old Town municipality of Mostar demolished and burned the Romani settlement, without prior announcement or any alternative accommodation being offered to the Roma in question. An official from the Old Town Municipality informed the OSCE Regional Centre Mostar that the settlement indeed was demolished, in accordance with a February 2003 decision of the municipal council. The same source also reportedly stated that the municipality would provide accommodation to two families who were registered to live in Bišće Polje before the war and several children without parents in the Karasebes neighbourhood of Mostar, where there is already a Romani community. Mr Haziri complained that there are many more Romani families who have lived in the settlement before the war apart from the two selected by the municipality.<sup>266</sup> As of August 2003, the local authorities reportedly provided alternative accommodation to only one Romani family.<sup>267</sup>

Numerous Romani communities whose houses are not formally legalised live under threat of eviction. One hundred and fifty Roma live in the Romani settlement

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<sup>263</sup> *ERRC/HCHRRS* interview with Mr Ramadan Haziri, December 6, 2002, Mostar.

<sup>264</sup> *ERRC/HCHRRS* interview with Mr Stjepan Prskalo, December 6, 2002, Mostar .

<sup>265</sup> *ERRC/HCHRRS* interview with Mr Mustafa Mešanović, December 6, 2002, Mostar.

<sup>266</sup> Information provided by Mr Ramadan Haziri to the OSCE Regional Centre Mostar on May 23, 2003.

<sup>267</sup> *European Roma Rights Center* correspondence with Ms Lisa Kirkengen, Associate Protection Officer, UNHCR Representation in Bosnia and Herzegovina, August 20, 2003.



in the area of Butmir, Ilidža Municipality, some 20 kilometres from the centre of Sarajevo, in highly substandard conditions – in improvised huts made of plastic sheets and cardboard, without electricity or running water supply. In January 2003, the *ERRC* had the opportunity to meet with Mr Muharem Seferović, a resident of the settlement. Mr Seferović testified, “Many middle-aged people in this settlement were born here. The houses we live in are our own constructions. We built them with whatever material we could get our hands on. We cannot get things like electricity and water. We have no toilets and no baths. Once I visited the Mayor of Ilidža to ask for utilities and material to improve the structures of our houses. I was told that this is impossible because we are living on land which does not belong to us. Later, I was told that they are planning to evict us from here.”<sup>268</sup> As of May 2003, the residents had been informed by the Ilidža municipality that they would be moved, as the land on which the settlement was located was designated as a water protection zone. The municipality also offered to provide for an alternative location, so most of the Roma in the settlement had apparently agreed to resettle. However, the municipality reportedly wanted to provide assistance only to those Roma who are registered as living on the location in question, whereas many other Roma have lived there – though unregistered – for ten or more years. Also, the municipality was apparently expecting the assistance of the international community in purchasing property and building houses, and has proposed a budget that was perceived as very high.<sup>269</sup>

The Bare Romani settlement in Živinice in the Federation provides another example. Mr Osman Kadrić, a Romani man from the Bare Romani settlement, informed the *ERRC/HCHRS* that most of the 300 houses in Bare were built on swampland owned by the Živinice municipality without construction permits. This settlement is home to some 1,600 Roma, where at least 400 are children. Mr Kadrić said that before the war there were no problems, but, at the time of the *ERRC/HCHRS* visit in June 2002, things had changed. Since spring 2002, the municipality was reportedly demanding that the Roma pay for the land on which the settlement was located and

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<sup>268</sup> *European Roma Rights Center* interview with Mr Muharem Seferović, January 15, 2003, Butmir, Ilidža Municipality.

<sup>269</sup> *European Roma Rights Center* interview Mr Paul Prettitore, Legal Advisor for Human Rights Institutions, Human Rights Department, OSCE Mission to Bosnia and Herzegovina, August 1, 2003.

get construction permits for the houses. Mr Kadrić expressed the concern that most of the Roma in the settlement did not have the money to pay for this.<sup>270</sup> As of January 2004, the situation had not changed: Roma still lived in their houses, and feared possible evictions in the future.

Historical Romani settlements are also vulnerable to threats of eviction. According to an article in the wire service *Alternativna informativna mreža (AIM)* of May 9, 1998, Roma from the Sarajevo Romani settlement of Gorica faced the dangers of being moved to another area of the city. The government of the Sarajevo canton allegedly wanted to turn Gorica into an exclusive locality with residences for foreign ambassadors in Bosnia. The government's plan envisioned that the Romani population would be moved to Buća Potok and Pionirska Dolina, parts of Sarajevo which were frontlines between the conflicting sides during the 1992-1995 war, and which had not yet been cleared of landmines. At that time, there were only ten Romani families left out of the 105 families which lived in Gorica before the war. According to the *AIM* article, the Roma were not willing to leave their current neighbourhood, emphasizing that the settlement is more than one hundred years old and is the oldest Romani neighbourhood in Sarajevo. After the *Association of Sarajevo Roma* and the *Helsinki Committee for Human Rights in Bosnia and Herzegovina* filed complaints with the mayor of the city, the plan was reportedly suspended; in spring 2002, a long-announced project for building a new Romani settlement in the area finally commenced, and in summer 2003 the project was close to its ending, providing home and economic support for 30 families.<sup>271</sup> In December 2003, according to the Bosnian daily *Nezavisne Novine*, potable water supply was connected to fifteen houses comprising thirty flats in the Gorica settlement. For the moment, Gorica is one of a very few examples of resolving the housing problems of Roma in Bosnia and Herzegovina.<sup>272</sup>

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<sup>270</sup> *ERRC/HCHRS* interview Mr Osman Kadrić, June 6, 2002, Bare Romani settlement, Živinice.

<sup>271</sup> *European Roma Rights Center* interview with Mr Dervo Sejdić, former Coordinator of the *Council of Roma* and activist from the Sarajevo-based non-governmental organisation *Roma Prosperity*, July 31, 2003, Sarajevo.

<sup>272</sup> There are also instances of local authorities resolving housing problems of Roma in some localities (*European Roma Rights Center* interview with Mr Paul Prettitore, Legal Advisor for Human Rights Institutions, Human Rights Department, August 1, 2003). In Brčko, the municipal authorities first issued eviction orders to Romani families residing in the Prutače informal settlement, and later allowed the Roma to stay in Prutače and pledged to legalise the settlement (OSCE

Evictions of Roma who found shelter in apartment buildings in urban areas are also common. For instance, the local authorities in the town of Zavidovići, Zenica-Doboj Canton, evicted over thirty Roma families, comprising at least one hundred and fifty people, from a municipally-owned building referred to as “Samački dom” in August 2003. According to the statements of Roma from the Samački dom building, a female employee of the Zavidovići Municipality, accompanied by two police officers and several workers of the Public Utilities Company, visited the Samački dom building on an unspecified date in late July and told the Roma that they had to leave the building by July 31, 2003, without stating any reason for eviction or offering alternative housing.<sup>273</sup> After the municipal employee left, and apparently following her orders, the workers reportedly switched off electric and water supply in the building, and proceeded to demolish the flats, breaking glass panes, taking out window frames, etc. This activity reportedly continued throughout the day. Local Roma informed the *ERRC* that they were not presented with written eviction orders. As of August 5, 2003, the date of the *ERRC* visit, five Romani families still lived in the Samački dom building, including a significant number of children aged eighteen months to fifteen years. According to local Roma, on August 8, 2003, the municipal employee visited the remaining families again, accompanied by several police officers, and the final eviction took place. None of the Roma living in the building had legal permission to live in the Samački dom building. Many were internally displaced persons, but not officially recognised as such, and many did not have personal documents. Mr Šaban Frljanović, who lived in the building with his wife and their six children, expressed concern to the *ERRC* that the Roma were ordered out of the Samački dom building at the end of summer, with the coming of colder weather.<sup>274</sup>

Ms Ajka Bajrić, one of the evicted Roma, informed the *ERRC* that municipal authorities did not provide any of the more than thirty evicted families with alternate accommodation.<sup>275</sup> Some persons, such as Ms Munevera Tahirović, a 22-year-old

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Mission to Bosnia and Herzegovina. “OSCE BiH Mission welcomes measures to legalise Roma settlement in Brčko.” Sarajevo, May 13, 2003).

<sup>273</sup> *European Roma Rights Center* interviews with Ms Remza Aljić, Ms Ajka Bajrić, Ms Muharem Bajrić, Mr Safet Bajrić, Mr Tahir Bajrić, and Ms Munevera Tahirović, August 5, 2003, Zavidovići.

<sup>274</sup> *European Roma Rights Center* interview with Mr Šaban Frljanović, August 5, 2003, Zavidovići.

<sup>275</sup> *European Roma Rights Center* telephone interview with Ms Ajka Bajrić from Zavidovići, August 27, 2003.



Secifa Mujić, Poljice, Bosnia and Herzegovina, August 2003.

PHOTO: *ERRC/TATJANA PERIĆ*



Remza Aljić (1983) with her mother in their flat, Zadovici, Bosnia and Herzegovina, August 2003.  
PHOTO: *ERRC/TATJANA PERIĆ*

woman in an advanced stage of pregnancy, her husband Mr Muharem Bajrić and their three children, and Mr Frljanović's family, moved into small, abandoned and dilapidated shacks without water supply. Others of the evicted Roma moved to the Novo Naselje settlement of Zavidovići, where they lived as of August 25, 2003, in small and substandard pre-fabricated housing. Reportedly, many families share flats, as they cannot afford paying full rents. The most desperate of the Roma reportedly lived under tents.<sup>276</sup> Others moved to other informal settlements, such as the Rupin Dol Romani settlement of Zavidovići, which has its own share of problems. Although it has existed for over a hundred years and numerous Roma from the settlement have legal ownership of their land, the Romani houses in this area are considered illegal because local authorities have zoned it as a forest, ignoring the existence of generations of Roma living in the settlement, according to local Roma.<sup>277</sup> More Roma in Zavidovići may be forcibly evicted in the near future. According to Mr Asif Bajrić, Secretary of the *Romani Association of Zavidovići*, another building, occupied mainly by Roma and home to ten Romani families, in the Radnička Street of Zavidovići, is also under threat of eviction.<sup>278</sup> The *Romani Association of Zavidovići* suggested to the municipal authorities that the latter should arrange collective accommodation for all the evicted Roma in the Podubravlje area of the town. This idea has, however, met with strong resistance by their would-be neighbours, and non-Romani inhabitants of Podubravlje reportedly collected signatures against the coming of Roma, after which the authorities halted any progress on the initiative. On December 18, 2003, the Bosnian daily newspaper *Dnevni Avaz* reported that, with the assistance of an Austrian charity organisation, the municipality of Zavidovići intended to build 16 flats for Romani families in the town, but as of the date this report went to press, construction had not yet begun.

In another case of forced eviction, local police forcibly moved around three hundred Roma from their temporary settlement in the Dom penzionera building, an aban-

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<sup>276</sup> *European Roma Rights Center* telephone interview with Ms Hadžira Burdalić from Zavidovići, August 26, 2003.

<sup>277</sup> *European Roma Rights Center* interview with Mr Kemal Bajrić, August 5, 2003, Zavidovići.

<sup>278</sup> *European Roma Rights Center* interview with Mr Asif Bajrić, Secretary of the *Romani Association of Zavidovići*, August 5, 2003, Zavidovići. Previous evictions of Roma in Zavidovići took place in April 2002, which caused peaceful demonstrations of local Roma in the end of that month (Information from the Sarajevo-based daily newspaper *Dnevni avaz*, May 3, 2002).

doned pensioners' home, in the Nedžarići neighbourhood of Sarajevo on September 23, 2002. *ERRC/HCHRRS* field investigation revealed that most of the Roma, who had been living in the building for around two years, were internally displaced persons from the Republika Srpska and the District of Brčko. On October 15, 2002, Mr Mustafa Ćorić, Assistant Minister for Social Policy, Labour, Refugees and Displaced Persons in the Sarajevo Canton, told the *ERRC/HCHRRS*, "The eviction took place without incident. We have provided good accommodation for the evicted families. Most of the Roma from Republika Srpska and the Brčko district were given free accommodation for six months in apartments in the Gladno Polje locality in the Municipality of Ilidža in three buildings owned by cantonal authorities. Private houses have been rented for the remainder. They only have to pay for water, electricity and heating and the families that obey the building regulations may be able to prolong their stay. Refugees from the Republika Srpska again have the opportunity to regulate their status."<sup>279</sup> *ERRC/HCHRRS* field investigation revealed that some of the Romani families from the Federation were provided with transportation to their pre-war residences. Apparently, the eviction took place one month after cantonal authorities held a meeting with the local authorities at which the latter complained of the "noise and disorder" that the Roma allegedly created. According to the newspaper, the removal was carried out by the police force, officials of the Social Work Centre of the Sarajevo Canton and representatives of the Cantonal Ministry for Social Policy, Labour, Refugees and Displaced Persons. On October 16, 2002, the *ERRC/HCHRRS* met with Roma who had been moved to Gladno Polje locality at Rakovica from the pensioners' home, about fifteen minutes drive from Sarajevo. Mr Hazim Mujić, a 26-year-old Romani man stated that although the accommodation in Gladno Polje was better than the pensioner's home, "Since we arrived here, we have not received any aid from municipal or cantonal authorities. We were told that we would get food and clothing, but nothing has arrived."<sup>280</sup> Ms Zurijeta Osmanović, a 44-year-old Romani woman stated, "The apartment is good, but many of us live in it. My husband, four children and I live here with five members of my sister's family. None of us work. I want to work, but nobody wants to employ Gypsies, and we still haven't received any social aid."<sup>281</sup> On January 7, 2003, Mr Safet Osmanović, one of the Roma ac-

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<sup>279</sup> *ERRC/HCHRRS* interview with Mr Mustafa Ćorić, Assistant Minister for Social Policy, Labour, Refugees and Displaced Persons in the Sarajevo Canton, October 15, 2002, Sarajevo.

<sup>280</sup> *ERRC/HCHRRS* interview with Mr Hazim Mujić, October 16, 2002, Gladno Polje.

<sup>281</sup> *ERRC/HCHRRS* interview with Ms Zurijeta Osmanović, October 16, 2002, Gladno Polje.

commodated in Gladno Polje at Rakovica, told the *ERRC* that they might be facing a second removal, within an operation to be possibly undertaken by the Ilidža municipality.<sup>282</sup> As of November 1, 2002, the homes of the Roma returned to their pre-war residences in Bosnia and Herzegovina were unavailable – most of them destroyed, and the leftover occupied by ethnic Serbian families – so Roma brought to “pre-war homes” were in fact staying with family and friends, as no alternative accommodation had been provided, according to *ERRC/HCHRRS* research. Prior to being evicted, the inhabitants of the settlement had also been subject to an abusive police raid several months earlier.

Many urban Romani communities fear future evictions. Over twenty families living in the Željeznička 16 building in the Blatuša area of Zenica, are there without legal permits. The building used to belong to the Zenica Steel Works, and is now the property of the Zenica Municipality. The Musić family told the *ERRC* that they received eviction orders on January 21, 2003, and also later in April 2003. Under the latter, they were supposed to leave by April 30, 2003.<sup>283</sup> The family was not evicted in April, but their appeals to the municipality met no response, and when the *ERRC* met them in August 2003 the family feared that they could be evicted at any point. Though only the family of Ms Alija Seferović reportedly also got written eviction orders, the rest of the tenants in the building fear the same fate.<sup>284</sup> The living conditions in the building are substandard; the power supply company reportedly cut off electricity supply to any family owing them more than 100 Bosnian convertible marks (approximately 50 EUR). The police allegedly often come to the building as non-Romani tenants from neighbouring buildings file numerous complaints on account of the Roma. The *ERRC* was told that non-Romani neighbours in Blatuša filed a petition with the Blatuša Local Community in July 2003, asking that the Roma be moved out of the area.<sup>285</sup> According to the local Romani association *Romano Lil*, there are

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<sup>282</sup> *European Roma Rights Center* interview with Mr Safet Osmanović, January 7, 2003, Rakovica.

<sup>283</sup> *European Roma Rights Center* interview with Ms Nermina Hećimović, wife of Mr Musić, August 3, 2003, Zenica.

<sup>284</sup> Local Roma informed the *ERRC* that Roma living in a very similar building in the same area of Zenica also do not have legal permits to live there and might face evictions soon too. According to local activists, there are 45 Romani families in the Blatuša neighbourhood.

<sup>285</sup> *European Roma Rights Center* interview with Ms Omer Šuvalić, Secretary of the Romani association *Romano Lil*, August 3, 2003, Zenica.



foreign donors willing to financially support construction of new housing facilities for Roma, and *Romano Lil* notified the municipal and cantonal authorities in summer 2002 on the need to find a suitable location and arrange for building permits.<sup>286</sup> As of August 2003, the association was still waiting for a reply from the authorities. “The authorities are stringing us along,” Mr Omer Šuvalić from *Romano Lil* told the *ERRC*, “but we don’t have much time as international donors are increasingly leaving Bosnia. By the time the local authorities make up their mind, the donors will have left.”

It often happens that Romani communities are vulnerable to multiple evictions. In Bukinje, the suburb of Tuzla, at least six Romani families faced eviction from a private house as of August 2003.<sup>287</sup> The group in question previously found shelter in a damaged building in Bankerova Street, in the centre of Tuzla, but were evicted in 1998 as the building had to be demolished in order to build a new business centre. Prior to the demolition, the municipal authorities moved some of the Romani families to the nearby predominantly Romani village of Kiseljak, while 6 families were brought to Bukinje, to a private house abandoned by its owners.<sup>288</sup> As the owners are now requesting the return of their property, the municipality has told Roma to move out. The Romani families in question have twice already received eviction orders, however they are deeply impoverished and have no housing alternative. One of the families reportedly has ten children.<sup>289</sup> The municipality reportedly insists that Roma have to move out, after which the local Social Work Centre should take care of their housing, while the latter institution is reportedly without funds for this purpose. As of August 28, 2003, the families in question still lived in Bukinje, and a local Romani organisation was trying to find a solution for their situation.

In the village of Banlozi, approximately seven kilometres away from Zenica, central Bosnia, the *ERRC* met a Romani community that was once evicted in 1999 and

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<sup>286</sup> Information from the Sarajevo-based daily newspaper *Dnevni avaz*, July 26, 2002.

<sup>287</sup> *European Roma Rights Center* correspondence with Mr Samir Arnaut, Human Rights Officer in the Regional Centre Tuzla of the OSCE Mission to Bosnia and Herzegovina, August 19, 2003.

<sup>288</sup> According to local Romani activists, this group also included an unspecified number of Roma from Sapna, for whom no accommodation was found, and who lived outdoors in the fields after the eviction. (*European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo)

<sup>289</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

that feared eviction again. The twelve Romani families in question previously lived in the Radakovo part of Zenica, in a building referred to as “Kasina”, a two-storey low-standard apartment building where the workers of a local construction company used to be temporarily accommodated. The international charity *Pax Christi* bought the building from the Zenica Municipality in September 1999, with the aim of reconstructing the building so that it could accommodate Bosniak returnees from Germany. In return, on September 17, 1999, the municipality issued written eviction orders to Roma living in Kasina, giving them three days to leave the property, without offering any alternate accommodation. Apparently a municipal official told the local Roma that if they would not move out, they would be moved out forcibly with assistance from the local police force, so the Roma moved out on their own yet under pressure. Having no place to go, the families – including a three-day-old baby – moved to a park in front of Kasina, and stayed there for two days. At that point, the charity organisation *Pax Christi* promised to provide Roma with accommodation, and twelve of the Kasina families moved to Banlozi. They stayed in an abandoned shack in Banlozi, until a new building was finished in November 2000.<sup>290</sup> The building was built with *Pax Christi* funding but is owned by the municipality. On November 2, 2000, the families moving into the new building received from the municipality documents giving them permission to use the flats temporarily. In the following years, the local Roma apparently asked the municipality to either give them new temporary permits, or allow them to stay there permanently, to which the municipality reportedly did not reply. In August 2003, Roma in Banlozi told the *ERRC* that they were not happy with their unclear situation, and that they feared the municipality could again evict them at any point.<sup>291</sup>

According to UNHCR, evictions of Roma from collective centre accommodation for displaced persons and refugees have also taken place, on account of the claims by authorities that Roma allegedly “destroy the facilities and have problematic relations with other residents.”<sup>292</sup> In such cases, the authorities offer rent subsidies to evicted persons, but many Roma trying to find new accommodation on their own face dis-

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<sup>290</sup> Information from the Sarajevo-based daily newspaper *Oslobodjenje*, November 18, 2000.

<sup>291</sup> *European Roma Rights Center* interview with Mr Jasmin Šuvalić, August 2, 2003, Banlozi.

<sup>292</sup> *European Roma Rights Center* correspondence with Ms Lisa Kirkengen, Associate Protection Officer, UNHCR Representation in Bosnia and Herzegovina, August 20, 2003.

crimination by prospective landlords. Other Roma interviewed by the *ERRC* also alleged discrimination by landlords. On November 28, 2002, the *ERRC* met with seven Romani families who had been living in makeshift homes on private property in Sarajevo owned by a non-Romani woman since their repatriation to Bosnia and Herzegovina in 1997. Mr and Ms Bajramović, a Romani couple from Prijedor, told the *ERRC* that their house had been destroyed in the war. Five of the other families had reportedly lived in informal settlements to which they could not return after the war and, even if they could, they would still be squatters.<sup>293</sup> Two families were to be evicted on December 10, 2002, and the rest on December 16, 2002, in accordance with an eviction warrant issued by the Housing Department. The shacks were to be bulldozed on December 16, 2002, by order of the Construction Inspection.<sup>294</sup> According to Mr Bajramović, the Cantonal Ministry for Refugees and Displaced Persons reportedly acknowledged the difficult situation that the Romani families were in and offered to pay rental fees for them, for flats that the families were to find on their own, in an apparent effort to ensure that they would not be homeless. As of November 28, 2002, less than two weeks before the first eviction was scheduled, each of the seven families told the *ERRC* that they had approached between ten and twenty landlords. According to Mr Sejdić, a Romani man from the settlement, not a single landlord in Sarajevo was willing to rent to the families. One landlord reportedly stated that he “would never let dirty Gypsies on his property.”

In general, international law requirements mitigate strongly in favour of recognition by state authorities of informal settlements, and in particular swift resolution of the problem of insecurity of tenure for their residents. Adherence with the international standards set out below is necessary to ensure that Roma living in such conditions are accorded an adequate standard of living.<sup>295</sup> The International Covenant on Economic,

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<sup>293</sup> *European Roma Rights Center* interview with Mr and Ms Bajramović, November 28, 2002, Sarajevo.

<sup>294</sup> *European Roma Rights Center* interview with Mr Sejdić, November 28, 2002, Sarajevo.

<sup>295</sup> See Section 9.3 of this report for an overview of these standards. In the course of the field research in Bosnia and Herzegovina, the *ERRC* was informed on only one initiative aimed at legalising Romani settlements, and that was a non-governmental project, to be implemented by the *Council of Roma*. Each *Council of Roma* member organisation is supposed to prepare a report on no more than 15 informal Romani settlements in their area, and after completing the research the *Council of Roma* would look for legal means that would allow for the legalisation of settlements. As of August 2003, funding was still pending; Romani activists involved in this

Social, and Cultural Rights (ICESRC) states at Article 11(1) that, “The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.” European human rights instruments also provide guarantees in the field of housing.<sup>296</sup> The UN Committee on Economic, Social and Cultural Rights has made clear that in order for shelter to be considered “adequate housing”, a number of considerations must be taken into account, including legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.<sup>297</sup>

Furthermore, forced evictions are *prima facie* incompatible with the requirements of the ICESCR. The term “forced evictions” refers to the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without provision of, or access to, appropriate forms of legal or other protection. In most cases, forced evictions can directly or indirectly be attributed to specific decisions, legislation and/or policies of States, or to their failure to intervene to prevent evictions by third parties. Forced evictions can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.<sup>298</sup> A number of declarations and resolutions

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initiative hoped that the project could be implemented by the end of 2003, as in 2004 reportedly a new and stricter legislation could be passed, where the chances for the legalisation of Romani settlements would be decreased (*European Roma Rights Center* interviews with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, and Mr Dervo Sejdić, former Coordinator of the *Council of Roma* and activist from the Sarajevo-based non-governmental organisation *Roma Prosperity*, July 31, 2003, Sarajevo).

<sup>296</sup> Article 31 of the Revised Social Charter guarantees the right to housing. Article 8(1) of the European Convention on Human Rights states: “Everyone has the right to respect for his private and family life, his home and his correspondence.” Article 1 of Protocol 1 of the ECHR states: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. [...]”

<sup>297</sup> See “General Comment No. 4 (1991), The Right to Adequate Housing (Art 11(1) of the Covenant)”, adopted by the UN Committee on Economic, Social and Cultural Rights on 12 December 1991, U.N. doc. E/CN.4/1991/(4)1991.

<sup>298</sup> In its General Comment No. 4 (1991), the Committee on Economic, Social and Cultural Rights concluded that forced evictions are *prima facie* incompatible with the requirements of the

aiming to provide further substance to clarifying procedural and other standards with respect to forced evictions in the context of the right to housing have been adopted at an international level, including:

- ◆ General Comment No. 4 on the right to adequate housing under Article 11 (1) of the ICESCR,<sup>299</sup>

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Covenant. In its General Comment No. 7 (1998) at paragraph 8, the Committee observed that “in essence, the obligations of States parties to the Covenant in relation to forced evictions are based on article 11.1, read in conjunction with other relevant provisions. In particular, article 2.1 obliges States to use “all appropriate means” to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference in article 2.1 to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in paragraph 3 above). Moreover, this approach is reinforced by article 17.1 of the International Covenant on Civil and Political Rights, which complements the right not to be forcefully evicted without adequate protection. That provision recognises, *inter alia*, the right to be protected against “arbitrary or unlawful interference” with one’s home. It is to be noted that the State’s obligation to ensure respect for that right is not qualified by considerations relating to its available resources.” At paragraph 10 it went on to say that “Women, children, youth, older persons, indigenous people, ethnic and other minorities, and other vulnerable individuals and groups all suffer disproportionately from the practice of forced eviction. The non-discrimination provisions of articles 2.2 and 3 of the Covenant impose an additional obligation upon Governments to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved.” The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) bans racial discrimination in the exercise of the right to housing. ICERD Article 5(e)(iii) states, “[...] States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] the right to housing.”

<sup>299</sup> General Comment No. 4 states *inter alia*: “The right to adequate housing cannot be viewed in isolation from other human rights contained in the two International Covenants and other applicable international instruments.” With respect to the justiciability of housing rights, the Committee views ‘*many component elements of the right to adequate housing*’ as engaging domestic legal remedies. General Comment No. 4 states: “[d]epending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the

- ◆ General Comment No. 7 on forced evictions under Article 11 (1) of the ICESCR;<sup>300</sup>
- ◆ The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 22-26, 1997;<sup>301</sup>
- ◆ The Practice of Forced Evictions: Comprehensive Human Rights Guidelines On Development-Based Displacement, adopted by the Expert Seminar on the Practice of Forced Evictions Geneva, 11-13 June 1997;<sup>302</sup>
- ◆ UN Commission on Human Rights Resolution 1993/77 on forced evictions.<sup>303</sup>

The *ERRC* registered complaints that in cases of evictions of non-Roma, local authorities regularly make efforts to find accommodation for persons evicted, while

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allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class action suits in situations involving significantly increased levels of homelessness.”

<sup>300</sup> General Comment No. 7 states, *inter alia*: “Owing to the interrelationship and interdependency which exist among all human rights, forced evictions frequently violate other human rights” Any limitations on the right to housing, and hence any forced evictions imposed, must be “determined by law only insofar as this may be compatible with the nature of these [i.e. economic, social and cultural] rights and solely for the purpose of promoting the general welfare in a democratic society.” (See General Comment No. 7 (1997), The Right to Adequate Housing (Art 11(1) of the Covenant: Forced Evictions, adopted by the UN Committee on Economic, Social and Cultural Rights on 20 May 1997, contained in U.N. document E/1998/22, annex IV).

<sup>301</sup> These state, *inter alia*: “All victims of violations of economic, social and cultural rights are entitled to adequate reparation, which may take the form of restitution, compensation, rehabilitation and satisfaction or guarantees of non-repetition.” The full text of the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (‘Maastricht Guidelines’) elaborate the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (‘Limburg Principles’). The Maastricht Guidelines are available at: [http://www1.umn.edu/humanrts/instree/Maastrichtguidelines\\_.html](http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html). The Limburg Principles are available at: <http://shr.aas.org/thesaurus/instrument.php?insid=94>.

<sup>302</sup> Text available at: <http://www1.umn.edu/humanrts/instree/forcedevictions.htm>.

<sup>303</sup> UN Resolution 1993/77 states: “All Governments [should] provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups.”

with Roma this is mostly not the case.<sup>304</sup> An UNHCR official told the *ERRC* that, with regards to the general eviction process related to current property laws, evictions are carried out all over Bosnia and Herzegovina and without regard to the ethnicity of persons to be evicted, however “[t]he problems of Roma mostly occur at the next stage, with the provision of alternative accommodation. It is much easier for non-Roma to get accommodation; it is easier when one can prove that they had a house before the war and that, for example, it was destroyed in the war. However, the lack of documentation regarding the Roma legal entitlement to property was a systematic problem even before the war, and in the war additionally many records disappeared. If it is not outright discrimination of Roma, then at least it has a negative effect for Roma.” Romani activists also told the *ERRC* that, in the attempts to solve the housing situation of Roma, the authorities often discuss creating new Romani settlements, without realising that this could lead to the creation of Romani ghettos.<sup>305</sup> One such example was the aforementioned eviction of Roma from the Bankerova Street in Tuzla, where most of the Roma were sent to a predominantly Romani village approximately fifteen kilometres away, which some Romani activists saw as an attempt at segregation.<sup>306</sup> Omer Šuvalić, a Romani activist in Zenica, also testified that the local authorities want to “send Roma to the forests, just to separate us from non-Roma, and how will we be able to send our children to schools then?”<sup>307</sup>

### *10.2.3 Repossession of Social Housing*

In the SFRY, most Roma belonged to the underprivileged. Roma who were employed seldom reached positions in which they would be provided with occupancy

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<sup>304</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo. *European Roma Rights Center* interview with Ms Lisa Kirkengen, Assistant Protection Officer, UNHCR Representation in Bosnia and Herzegovina, August 1, 2003, Sarajevo.

<sup>305</sup> *European Roma Rights Center* interview with Mr Elvis Mujić, Coordinator of the *Council of Roma* and President of the Tuzla-based non-governmental organisation *Young Roma Activists*, August 4, 2003, Tuzla.

<sup>306</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo.

<sup>307</sup> *European Roma Rights Center* interview with Mr Omer Šuvalić, Secretary of the Romani association *Romano Lil*, August 3, 2003, Zenica.

rights from their employers. The socialist system in the SFRY, nevertheless, was relatively successful in providing impoverished people with social housing. Property laws passed after the war do not recognise social housing as a form of tenure to which one might claim repossession rights. The result is that only those who had legal title to their property and those who had positions through which they gained occupancy rights are indeed able to enjoy the right to return to their homes. A large number of Roma who do not fall into either of these categories have been left without a means of exercising their right to return to their pre-war homes.<sup>308</sup> The Constitutional Court has, nevertheless, begun to explore a possible avenue for challenging this apparent injustice. The complainant in the case was a man who, before the war, had been allocated a flat by his employer. However, since no formal contract was entered into, the authorities and the lower courts held that the claimant did not have an occupancy right and hence could not claim repossession of the flat. The Constitutional Court noted at paragraph 21 of the judgement, that “[...] the appellant was in factual possession of the apartment at issue and that he had legal grounds for his initial entry into, and his subsequent life in the apartment which he clearly regarded as his home.” Also, it was noted that it was “an indisputable fact that the appellant spent 4 years in the apartment from the moment of entry to 30 April 1991, during which period nobody contested his right to use the apartment. The Constitutional Court notes that the apartment in question is to be regarded as the appellant’s home within the meaning of Article 8 of the European Convention.” Moreover, the court acknowledged at paragraph 30 “[...] that the general goal expressed in Annex 7 to the GFAP and Article II/5 BiH Constitution to enable and encourage the return of refugees and displaced persons supports the application of Article 1 Protocol No. 1 in all cases where people had to leave their homes due to the war, regardless of their specific legal status.” On this basis, the Court found that despite lacking a formal contract, the flat which had been allocated was indeed the home of the claimant. Additionally, there are claims that non-Roma who lived in social housing before the war have been able to move in and repossess their homes, although this is not in accordance with the law.<sup>309</sup> It also

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<sup>308</sup> Constitutional Court of Bosnia and Herzegovina, Ruling in Case U 14/00, published in the *Official Gazette of Bosnia and Herzegovina* No. 1/02, January 30, 2002. In the light of the provisions of Annex 7 of the Dayton Agreement, the court also held that the flat did constitute a possession within Article 1 of Protocol 1 of the ECHR.

<sup>309</sup> *European Roma Rights Center* correspondence with Mr Paul Prettitore, Legal Advisor for Human Rights Institutions, Human Rights Department, OSCE Mission to Bosnia and Herzegovina, May 26, 2003.



appears that the state is allocating very limited resources to social welfare programmes; in March 2003, the international community reminded the relevant authorities of Bosnia and Herzegovina of the need to take measures necessary for the provision of social welfare housing.<sup>310</sup>

In one case, Mr Bajro Šestić and his family lived in social housing in the Veseli Brijeg Romani settlement in Banja Luka prior to the war. Mr Šestić told the *ERRC/HCHRRS* that many Roma occupied the building in which his family lived. At the beginning of the war, the residents were reportedly evicted and told that the flats were “municipal buildings, not Gypsy houses”. Mr Šestić and his family now live with his sister’s family, eleven people in total, in a small house without electricity or water.<sup>311</sup>

### **10.3 Extremely Substandard Housing**

In almost all of the Romani communities visited by the *ERRC* in Bosnia and Herzegovina, the local municipality did not collect the waste accumulated, causing

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<sup>310</sup> “On 20 March 2003, OHR, OSCE and UNHCR sent a letter to Ministers of both Entities competent for social welfare, urban planning, displaced persons and refugees issues urging them to adequately plan for a fully functioning social welfare system. [...] There are several categories of people currently housed in alternative accommodation whose homes were completely destroyed and who have been unable to find reconstruction assistance. Others had never possessed any property or had benefited from the social welfare system before the war. In all cases of people who have no prospect of being able to provide for their own housing needs, alternative accommodation under the property repossession laws is not an appropriate long-term solution. OHR, OSCE and UNHCR also called upon the competent ministries to provide social support to the growing number of people who are not legally entitled to temporary accommodation under the property and displaced person laws, but remain without resources to house themselves. OHR, OSCE and UNHCR urged the competent Ministers to anticipate these issues and begin instituting measures that would ensure a seamless transition from provision of alternative accommodation under the property repossession laws to effective long-term social policies. Such measures should include both a review of the current legal framework regarding social welfare and a realistic assessment of the resources necessary to meet anticipated needs.” (UNHCR Representation in Bosnia and Herzegovina. “OHR, OSCE and UNHCR Reminding Local Authorities of the Need to Plan for Social Welfare Housing.” Sarajevo, March 27, 2003, available at: <http://www.unhcr.ba/press/2003pr/270303.htm>.)

<sup>311</sup> *ERRC/HCHRRS* interview with Mr Bajro Šestić, May 16, 2002, Veseli Brijeg Romani settlement, Banja Luka.

large refuse heaps scattered around the outskirts of many settlements. In some cases, Roma reported to the *ERRC* that the lack of garbage removal services had caused illness in their communities.<sup>312</sup> Furthermore, *ERRC* field research revealed that many Romani communities lack a safe and reliable source of heating and many do not have electricity. Many Romani communities visited by the *ERRC* also lacked access to uncontaminated water. Few of the settlements were served by a functioning sewage system, which also effected the overall health situation of the Roma. Some Romani settlements, on the other hand, were threatened by malfunctioning sewage systems. In the town of Kalesija, for example, the main sewage pools are located on the outskirts of the Romani settlement Olanovica. The lids of the pools are missing, so sewage often spills out to the settlements. The Roma of Olanovica feared that this would expose them to diseases, and in January 2003 the local Romani association informed the local authorities of the problem. The president of the local community in charge of Olanovica allegedly promised that this problem would be solved, however no changes had taken place as of January 2004.<sup>313</sup>

In the Varda Romani settlement in Kakanj in the Federation, about one thousand seven hundred Roma live in approximately one hundred and twenty houses. Most of the houses were in an extreme state of ill-repair and had been constructed of scrap materials at the time of an *ERRC* visit in January 2003. Many of the houses did not have a roof aside from sheets of blue plastic or nylon provided by the UNHCR. The settlement is situated on an old garbage dump. When the *ERRC* visited the settlement in January 2003, the snow was beginning to melt. The whole settlement had therefore been transformed into a field of mud littered with decomposed garbage. Most Roma in the community walked around in mud up to their ankles. The municipality owns the land on which the settlement is situated and the houses were constructed without legal permits. None of the houses in the settlement had running water or sanitary facilities. Roma in the community had erected small sheds at the outskirts of the settlement to

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<sup>312</sup> *European Roma Rights Center* interviews with Mr Rašid Beganović, January 19, 2003, Zvornik, and Mr Avdo Alimanović, January 22, 2003, Kakanj. Additionally, Mr Šaćir Osmanović, a 42-year-old Romani man from Banja Luka, complained that the municipality never organised garbage removal from the Veseli Brijeg Romani settlement, where he lived, and feared that the local children would contract diseases in consequence (as quoted by the SRNA News Agency, April 7, 2003).

<sup>313</sup> *ERRC/HCHRRS* interview with Mr Kasim Jusić, Vice-President of the *Roma Association of Kalesija*, May 19, 2003, Kalesija.

serve as toilettes, but they were not connected to the sewage system, producing a foul odour and a dangerous living environment. Most houses in the settlement did not have electricity. However, some residents received electricity through a connection to the home of a nearby Bosniak family. Mr Avdo Alimanović, a Romani man from the Varda Romani settlement told the *ERRC* that when the soil is wet, many of the houses in the settlement sink, since they do not have proper foundations. Humanitarian assistance to the community reportedly stopped long ago. Mr Alimanović also told the *ERRC* that representatives of the community asked Mr Mensur Jašarspahić, a representative of the municipality, for water and electric supplies in the community, but Mr Jašarspahić reportedly told them, “there is no way that you can have water and electricity.”<sup>314</sup>

The *ERRC* also visited an informal Romani settlement about two kilometres outside of Zvornik, in Republika Srpska, on the road from Sarajevo, in January 2003. The houses of the settlement were unsolid constructions made of scrap material and were in a very poor state of repair. Some of the houses in the settlement were held together by sheets of blue plastic or nylon provided by the UNHCR. None of the homes appeared to have a source of electricity, potable water or sanitary facilities. The home of Mr Rašid Beganović was made of brick but there were many holes in the outside walls. The house had a dirt floor, with cardboard and plywood used as insulators on the ground. There were no windows in the home and pieces of cardboard covered the openings. Mr Beganović told the *ERRC* that he heated his home by burning whatever he could find, including plastic. According to Mr Beganović, “no one wants to help us.”<sup>315</sup> An article in the Belgrade daily *Euro-Blic* of November 6, 2003 noted that in one settlement in Bijeljina, “Between well-built concrete houses, there are little houses made of mud – huts covered by nylon and old blankets. Bare-foot, dirty children are running around. There are piles of garbage and old iron waste.”

The Svatovac Romani settlement in the Lukavac municipality was home to 36 families at the time of an *ERRC* visit in August 2003. The closest village, Poljice, is three kilometres away. The settlement is connected to a nearby road with a gravel road the condition of which does not allow for any cars to enter or leave the settlement when

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<sup>314</sup> *European Roma Rights Center* interview with Mr Avdo Alimanović, January 22, 2003, Varda Romani settlement, Kakanj.

<sup>315</sup> *European Roma Rights Center* interview with Mr Rašid Beganović, January 19, 2003, Zvornik.

there is snow; the gravel road is in fact an improvement from several years ago, much better in comparison to a very steep road that existed before. The improvement took place with funding from the municipality, only after local Roma “did a little voting in favour of a certain political party”, as members of the community confessed to the *ERRC*. The settlement gained access to running water only in summer 2002, through the efforts of *Save the Children UK* and *USAID*.<sup>316</sup> There is no sewage system in the settlement. None of the houses were built with a building permit. Local Roma say that the settlement is old and that their ancestors settled there when no building permits existed. Only several houses are of good quality, whereas the rest are what is called *šeperuša* in Bosnian – small substandard houses with timber construction and walls made of soil and mud. There is electric power supply in the settlement, but in fact only 12 houses have legal access to it. Reportedly, to obtain legal access to electric power, the Roma would have to pay 800 Bosnian convertible marks (approximately 410 EUR) for every new electricity meter, as required by the local power supply company. As this sum is out of reach for most Roma, they borrow electricity from those neighbours that have it, in a manner that is actually dangerous, as fires could break out easily.<sup>317</sup>

Some Romani communities the *ERRC* visited have no access to electricity because they cannot afford to pay outstanding electricity bills, and also owe increasing interest on the debts. In Banlozi near Zenica, twelve Romani families living in a building owned by the municipality allegedly owed 7,500 Bosnian convertible marks (approximately 3,833 EUR) for electricity bills as of August 2003, and for this reason their power supply was cut off in spring 2001 and never reintroduced again. The families in question nevertheless continue receiving new – and increasing – bills every month.<sup>318</sup>

Many Roma from areas now in Republika Srpska, who spent the war years in Western Europe and were returned to the Federation of Bosnia and Herzegovina after the war, live in very substandard conditions in new locations. One such settlement is in the village of Pasi, near Tuzla, where a small community of at least eight

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<sup>316</sup> Save the Children UK. “Unapredjivanje pristupa obrazovanju djece Roma.” Sarajevo, May 2003.

<sup>317</sup> *European Roma Rights Center* interview with Mr Alija Arapović, August 5, 2003, Poljice.

<sup>318</sup> *European Roma Rights Center* interview with Mr Muharem Šuvalić, August 2, 2003, Banlozi.

families settled in mostly improvised homes, without electricity, sewage or running water. The families in question are Romani returnees, originally from Republika Srpska, who fled to Western Europe during the 1992-1995 war and have returned to Bosnia and Herzegovina since 1996, though notably not the areas they came from. As the inhabitants of this settlement have no legal entitlements to the land they live on, they also are excluded from reconstruction schemes aimed at assisting returnees.<sup>319</sup>

In extreme cases, inadequate living conditions have led to death or injury in impoverished Romani communities. The shack of the Sulejmanović Romani family was completely burnt down in a fire that broke out after 10:00 PM on March 30, 2003, in a Romani settlement in Butmir, near Sarajevo.<sup>320</sup> Sixty-seven-year-old Mr Mehmed Sulejmanović, who was in his shack at the time of the fire, was saved by his son Mr Ratko Sulejmanović, who lives in the same settlement. Some Roma from the settlement called the fire brigade, but they only arrived after half an hour, when the shack was already completely destroyed by fire. No other shacks were damaged. Mr Mehmed Sulejmanović was transferred to the Sarajevo Centre for Urgent Medicine where he was given first aid and then he was taken to the Plastic Surgery Department for further treatment. The hospital established that Mr Sulejmanović suffered serious burns to 12 percent of his body. The fire was reportedly caused by a burning candle, which set the mattress on which Mr Sulejmanović was sleeping on fire. *ERRC* research, conducted in the Romani settlement at Butmir in January 2003, established that there is no electric supply in the settlement, so the Romani inhabitants are forced to use candles for lighting. Additionally, there is no water supply in the settlement. Local Roma complained to *Oslobodjenje* that if there had been running water in the settlement, they could have likely extinguished the fire themselves. They also expressed their dissatisfaction with the attitude of the Municipality of Ilidža, to which the settlement belongs administratively, and alleged that the authorities have done nothing to assist the Romani community.

On January 29, 2001, Mejra Mujić, a 3-month-old Romani girl, died in Sarajevo as a result of the highly substandard conditions in which her family was living.<sup>321</sup>

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<sup>319</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women's non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

<sup>320</sup> Information from the Sarajevo-based national daily newspaper *Oslobodjenje* of April 1, 2003.

<sup>321</sup> Information from the Sarajevo-based daily newspaper *Dnevni avaz*, January 31, 2001.

The Mujić family, internally displaced from Dobož, was reportedly living in an abandoned high-rise apartment building that was badly damaged during the war. According to the report, there was no glass on the windows in the building and, along with around sixty other displaced Roma, the Mujić family lived without electricity or heating. An autopsy, conducted at the request of the investigating judge of the Sarajevo Cantonal Court, reportedly established the cause of Mejra's death to have been severe pneumonia due to cold as a result of poor living conditions.

Finally, some efforts at resolving the housing situation of Roma in Bosnia and Herzegovina give rise to concerns about racial segregation. For example, according to *ERRC/HCHRRS* investigation in December 2003, municipal authorities in Prijedor have offered Roma from the town land in the settlement of Kozarusa, approximately 10 kilometres from Prijedor, reportedly to due to widespread opposition locally among non-Roma to settlement by Roma in Prijedor proper. Non-Romani inhabitants of Kozarusa similarly oppose the settlement of Roma in the municipality. Mr Redžep Hatić, President of the Roma Association of Prijedor, told the *ERRC/HCHRRS*:

Local non-Roma would be most happy if all Roma from this area would move as far away as possible. Of course, neither local authorities, nor the inhabitants want to admit that openly. They are making out different reasons, which have no arguments. We had our houses in town in Rudnicka Street. This Romani settlement was built 40 years ago. We lived there without problems until the beginning of the war in Bosnia and Herzegovina. However during the war, when we were expelled, all those houses were destroyed. Only three houses are left and three families live in them. As this is an attractive location right now, authorities are planning to build some businesses and apartment buildings there. We own that land. As we lived there for forty years authorities promised to give us other location where we could build houses. It was planned that the government of Republika Srpska would help us build "Roma House", a building with nine flats, as well as the premises for the work of the association. The municipality was obliged to provide the location and necessary construction permits. We agreed on that. We believed that Roma House would be located in town or at least in the suburbs. However one month ago we were informed by the authorities that they will give us a plot in the Kozarusa settlement, near Kozarac, which is 10 kilometres away from Prijedor. As we had no other choice, we agreed to that offer.

On the first and second of December, we went to take possession of the plot so we could begin with construction work. The plot provided used to be a school yard of the four-grade elementary school in Kozarusa. However the school has been closed for ten years. It is old and it can not be used. The yard itself is also old and is covered with grass. When we came to take over the location some local Bosniaks and Serbs from Kozarusa were waiting for us. They did not allow us to take possession of the plot. They told us that it was school land and that they wanted school to start again and to have the land as a playground for the pupils. The local dug a ditch in front of the yard in order to prevent trucks to bring construction material on the site. We have informed authorities in Prijedor about it, but to date nothing has been done to begin construction of “Roma House”. We think that the main reason for these problems is because citizens of Kozarusa don’t want to have Roma settled in nearby.<sup>322</sup>

More than 300 citizens of Kozarusa subsequently organized a protest meeting demanding to permanently stop the construction of “Roma House” in the school yard. At the December 2003 meeting, locals reportedly agreed to file legal action against the Prijedor municipality.

#### **10.4 Desecration of Sacred Grounds**

A frequently occurring expression of resentment and disrespect for Roma in Bosnia and Herzegovina is the dumping of waste by non-Roma on burial grounds in Romani settlements. Most Roma from the village of Biberovići, near Sapna, Tuzla Canton, left their homes at the beginning of the 1992-1995 war. Upon their return to the area, the Romani inhabitants of Biberovići found their homes and the infrastructure in the settlement destroyed. The separate cemetery used by the Roma on the outskirts of the village has, since their departure, been used by their Bosniak neighbours who remained in the village as a waste disposal site. Cleanup would require the use of a bulldozer to remove the rubbish that had been piled up on the site and a lorry to

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<sup>322</sup> *European Roma Rights Center/Helsinki Committee for Human Rights Republika Srpska* interview with Mr Redžep Hatić, December 9, 2003, Prijedor.

transport the trash to a designed civic amenity point.<sup>323</sup> Since their return, Roma from Biberovići have approached the municipality several times for assistance to clean up the graveyard, but their requests have been refused every time, with the authorities claiming to have no funds for such activities.

A similar case occurred in the Veseli Brijeg Romani settlement in Banja Luka, where the Romani burial ground, which was much larger than that in Biberovići, was used as a waste disposal site by not only individuals, but reportedly by the municipality as well. Many of the graves and gravestones in the cemetery have been destroyed, making it difficult to tell who is buried where.

Cases of deliberate violent or malicious desecration of tombstones were also recorded: *Radio 021*, a radio station based in Novi Sad, Serbia, reported on May 28, 2001, that five gravestones were demolished in the Muslim graveyard in the town of Bijeljina, north-eastern Bosnia and Herzegovina, on the previous night. Four Bosniak gravestones and one Romani gravestone were destroyed. The Bijeljina police reportedly opened an investigation into the incident, but as of February 3, 2004, had not identified the perpetrators of the crime.

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<sup>323</sup> Tuzla Canton Law on Waste (Articles 53 to 59) defines the duties and responsibilities of Communal inspectors. It provides that a duty of the communal inspector would be to charge those who dumped the waste to a location which was not allocated for this purpose. In the concrete case, the situation is even worse because the location is the graveyard. Furthermore Federal Law on Special Planning (*Zakon o prostornom uređenju*), Article 24, generally defines local graveyards. The last paragraph of the article says that the maintenance and usage of local graveyards is to be regulated by a special law or decision of Municipal Councils. The head of the respective department of Sapna stated that such a law and the decision have not been issued so far.



## 11. OTHER SOCIAL AND ECONOMIC RIGHTS

Bosnia and Herzegovina is obliged to ensure that all people on its territory enjoy an adequate standard of living, as well as a range of other social and economic rights,<sup>324</sup> including the right to work, the right to social assistance and benefits, the right to the highest attainable standard of health, and the right to equal education. Not only is the state under an obligation to ensure the realisation of the rights in question using all means available to it;<sup>325</sup> the law also calls for the state to guarantee that these rights are exercised without discrimination of any kind.<sup>326</sup> The non-discrimination principle is reinforced by a number of other treaties to which Bosnia and Herzegovina is a party, as well as by the Dayton Agreement itself. Social and economic rights must therefore be accorded to all Roma in Bosnia and Herzegovina. Additionally, Article 26 of the ICCPR regarding non-discrimination is recognised by the UN Human Rights Committee to be an autonomous right. The Committee has established, through its case law in *Broeks v. the Netherlands*<sup>327</sup> and *Zwaan de Vries v. the Netherlands*<sup>328</sup> that discrimination in the enjoyment of social and economic rights constitutes a *prima facie* violation of Article 26 of the ICCPR. Both cases concerned discrimination in connection with the right to receive social security benefits and, in both cases, the Committee held that the Article 26 ban on discrimination covered issues beyond the rights secured under the ICCPR.

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<sup>324</sup> The Universal Declaration of Human Rights establishes at Article 22 that “[e]veryone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.”

<sup>325</sup> Article 2(1) of the ICESCR.

<sup>326</sup> Article 2(2) of the ICESCR.

<sup>327</sup> United Nations Human Rights Committee. *Broeks v. the Netherlands*, communication No. 172/1984, Views adopted on 9 April 1987.

<sup>328</sup> United Nations Human Rights Committee. *Zwaan de Vries v. the Netherlands*, communication No. 182/1984, Views adopted on 9 April 1987.

In addition to its obligations with respect to economic and social rights arising under international law, the constitutional law of Bosnia and Herzegovina establishes an elaborate framework for such rights. Several commentators on post-war Bosnia and Herzegovina have noted the very ambitious human rights clauses incorporated into the Constitutions of the State and Entities.<sup>329</sup> The Constitution of the Republika Srpska is the most generous in this regard. The single largest section of the Constitution, consisting of 40 articles, is dedicated to enumerating the rights and freedoms of the citizens of the Republika Srpska which, if substantively realised, would make Republika Srpska not just as exemplary liberal democracy but also a fully-fledged welfare state.<sup>330</sup>

### **11.1 Access to Employment**

Bosnia and Herzegovina recognises the right of everyone to have an opportunity to gain his or her living by work he or she freely chooses. The multilateral treaties to which Bosnia and Herzegovina is party place an obligation on signatories to take a number of steps with a view of achieving full realisation of the right to work.<sup>331</sup>

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<sup>329</sup> See for example Hayden, Robert. *Blueprint for a House Divided: the Constitutional Logic of the Yugoslav Conflicts*. Ann Arbor: The University of Michigan Press, 1999, p. 133; Chandler, David. *Bosnia: Faking Democracy after Dayton*. London, Sterling VA: Pluto Press, 1999, pp. 91-92.

<sup>330</sup> Bose, Sumantra. *Bosnia after Dayton: Nationalist Partition and International Intervention*. London: Hurst and Co., June 2002, p. 69.

<sup>331</sup> The right to work is recognised in a number of international human rights instruments. Article 23(1) of the Universal Declaration of Human Rights states, "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment." Article 6 of the ICESCR binds States Parties to the implementation of the right to work. Article 1 of the Revised European Social Charter similarly guarantees the right to work. Article 11 of the International Convention on the Elimination of Discrimination against Women and Article 5(e)(i) of the ICERD ban gender and racial discrimination in the implementation of the right to work. The International Labour Organisation (ILO) Convention (No. 111) on Discrimination (Employment and Occupation) elaborates the right to freedom from discrimination in access to employment. Article 1(a) of the ILO Convention defines discrimination "as any distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction or social origin (or any other motive determined by the State concerned) which has the effect of nullifying or impairing equality of opportunity or treatment in employment or

These facts notwithstanding, Roma face severe obstacles to the realisation of the right to work, at least in part because of entrenched racial discrimination on the job market. During the war, many Roma were denied employment explicitly because they were of a different ethnicity to their employers or because they followed a different political movement. In most cases, however, while discrimination on conflict-related grounds is suspected, either no reason was given or pretexts were used in respect of the measure in question. Roma have also experienced a significant number of dismissals, demotions, denials of promotion and denials of access to employment since the war, and discrimination in these procedures is frequently alleged.

The labour laws of both Entities guarantee persons the right to be reinstated to their pre-war position or, in the event that it is not practically possible, to be appropriately compensated.<sup>332</sup> To facilitate this, the laws provide for commissions to be established for the purpose of processing claims under the law. However, there are serious problems with the functioning of this arrangement. In many parts of the country, commissions have not been established and individuals arbitrarily deprived of work during the conflict remain without compensation. Additionally, many potential claimants are unclear as to whether they can pursue their claims through the ordinary courts.

In January 2003, the *ERRC* met with Ms Mensura Zahirović, a Romani woman from the Gorica part of Sarajevo. Ms Zahirović told the *ERRC* that she was employed in a state-owned bicycle factory before the war. When the war broke out, Ms Zahirović was dismissed and had reportedly been trying to get her job back since the war ended. According to Ms Zahirović, “I applied to be reinstated in my position

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occupation.” The scope of the Convention covers, according to Article 1(3), access to vocational training, access to employment and to particular occupations, and terms and conditions of employment. Article (1)(1) of ILO Convention calls for a national policy to eliminate discrimination in access to employment, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and to promote equality of opportunity and treatment. Article 2 of the ILO Convention assigns to each State which ratifies it the fundamental aim of promoting equality of opportunity and treatment by declaring and pursuing a national policy aimed at eliminating all forms of discrimination in respect of employment and occupation. Bosnia and Herzegovina ratified the ILO Convention 111 on June 2, 1993. See: <http://www.ilo.org/public/english/bureau/inf/pkits/c111.htm>.

<sup>332</sup> Article 143 of the Labour Law of the Federation of Bosnia and Herzegovina; Article 152 of the Labour Law of the Republika Srpska.

with the factory but I have not gotten a response. I have been told that I can take the matter to court but then of course I would have to pay a lawyer and I have no money for that. Anyway, now the company is privatised and it is not easy for a Romani person to get a job in a privatised company. I have given up.”<sup>333</sup>

During the socialist era the unemployment rate among Roma was relatively low. Most Roma were employed in the industrial and construction sectors.<sup>334</sup> After the 1992-1995 war, unemployment affected Roma to a much larger extent than even that of the general population, where the unemployment rate is very high.<sup>335</sup> In the Kiseljak Romani settlement, Tuzla Canton, almost all of the eligible Romani men had state jobs before the war, while today only several Romani men have jobs with the Public Utilities Company in Tuzla.<sup>336</sup> Similarly, an elderly Romani woman from Poljice testified to the *ERRC* that before war, more than 20 Romani men had state jobs; in 2003, the number was reduced to three – two employed with the Public Utility Company in nearby Lukavac, and the third person, a disabled man, was a formal employee of the Sodium Factory in Lukavac, but had reportedly been placed by his employers on long-term unpaid leave.<sup>337</sup> In the post-war Bosnia and Herzegovina, Roma were frequently the first to be fired, regardless of their skills.<sup>338</sup> There is no official data on

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<sup>333</sup> *European Roma Rights Center* interview with Ms Mensura Zahirović, January 15 2003, Gorica, Sarajevo.

<sup>334</sup> Mihok, Brigitte. *Zurück nach Nirgendwo: Bosnische Roma-Flüchtlinge in Berlin*. Berlin: Metropol, 2001, p. 20-23.

<sup>335</sup> At the time of writing, the official unemployment rate in Bosnia and Herzegovina was 36.2 percent. The official unemployment rate in the Republika Srpska was considerably higher at 41.4 percent, compared to the rate in the Federation, which was estimated to be 31.9 percent. There is nonetheless a high level of unofficial employment. Some estimates indicate that the real unemployment rate in the country could be as low as 16.4 percent (16.9 percent in the Federation and 15.8 percent in the Republika Srpska). Although such statistics are difficult to confirm, it is clear that the unofficial sector of Bosnia and Herzegovina is making a significant contribution to the economy of the country (Office of the Bosnia and Herzegovina Co-ordinator for the Poverty Reduction Strategy Paper. *Poverty Reduction Strategy Paper*. Sarajevo: Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina, October 2002).

<sup>336</sup> *European Roma Rights Center* interview with Mr Ahmet Mujić, President of the Tuzla Canton Roma association *Roma Dream*, August 4, 2003, Tuzla.

<sup>337</sup> *European Roma Rights Center* interview with Ms Šerifa Mujić, August 5, 2003, Poljice.

<sup>338</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

the numbers of Roma employed in Bosnia and Herzegovina, yet researchers of the *HCHRRS* estimate that not more than 1.5 percent of eligible Roma are employed. *HCHRRS* estimates the employment situation to be slightly better in the Federation, whereas in all of Republika Srpska, probably no more than 50 Romani persons total have jobs. In Bijeljina, for example, only four Romani persons have jobs, according to *ERRC/HCHRRS* research. In the Zenica-Doboj Canton, out of the Romani population of 9,800 Roma, only 6 persons had jobs as of April 2003, as reported by the Romani activist Nurudin Sejdić from Zenica.<sup>339</sup>

Generally, *ERRC/HCHRRS* research has revealed that there are many Romani communities in Bosnia and Herzegovina in which the unemployment rate is, or is close to, 100 percent. Among the few employed Roma, most are manual workers.<sup>340</sup> The dire unemployment situation among Roma in Bosnia and Herzegovina is particularly acute among Romani women. During all of its field research in Bosnia and Herzegovina, the *ERRC* has heard of only two Romani woman employed – one with regular state employment and working as a nurse in a Tuzla hospital, and another employed in the administration in Sarajevo. In the informal sector, field research again showed that men represent an overwhelming majority of those Romani who are engaged in the labor market. While the exceptionally high unemployment rate among Roma is in part a result of discrimination in the labour market, it is also a result of discrimination against Roma in access to education, even at the primary level.<sup>341</sup> “Because we are not educated, there are very few jobs that we are eligible for, and in any case Roma are the last ones to get any job, even if they are educated,” Mr Omer Šuvalić from Zenica told the *ERRC*.<sup>342</sup>

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<sup>339</sup> Information from the Sarajevo-based national daily newspaper *Dnevni avaz*. “Samo šest Roma zaposleno u ZDK.” April 13, 2003.

<sup>340</sup> Some Romani activists claim that those Roma who are highly educated refuse to publicly declare themselves Romani (*European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla).

<sup>341</sup> For more information on Roma and the right to education in Bosnia and Herzegovina, see Section 11.4. of this report.

<sup>342</sup> *European Roma Rights Center* interview with Mr Omer Šuvalić, Secretary of the Romani association *Romano Lil*, August 3, 2003, Zenica.

Many Roma in Bosnia and Herzegovina related experiences to the *ERRC* which hint strongly at racial discrimination in the hiring process. In one case, Mr Hasan Musić from Zenica applied for a job as a night guard at a local music school on an unspecified date in 2001. Over the telephone, a school official told Mr Musić to come for an interview, yet when Mr Musić arrived he was told that the ad was “only symbolic” and that someone else had been given the job.<sup>343</sup> Mr Muradif Biberović, a Romani man from the Bare Romani settlement in Živinice in the Federation, told the *ERRC/HCHRRS* that most Roma in the approximately 1600-person community cannot find work. Mr Biberović stated, “We know that there are vacancies in some companies, but when we go there and they see that we are Roma, they immediately say that there are no jobs available [...] This was not the case before all the companies were privatised, as many Roma used to work for those companies back then. A Romani person will never get a job in a private company.” According to Mr Biberović, Roma who worked for the municipal Public Utility Company and the Yugoslav Rail before the war subsequently sought employment with their former employers, but were told that there were no job openings. Only three Romani men from the Bare Romani settlement have jobs with the Public Utility Company; there are also fourteen Romani pensioners, and fourteen Romani families receive state social assistance equivalent to 17 EUR per month. Mr Biberović told the *ERRC/HCHRRS* that like most Romani families in the community, his family survives on the money they earn collecting scrap metal and other materials. However, these earnings are only sufficient for the purchase of the necessary bread, flour, oil and salt, according to Mr Biberović. The Romani families reportedly had to collect scraps of food which have been thrown away in the markets to have enough food to eat, and they could not pay their electricity bills. Mr Biberović told the *ERRC/HCHRRS* that Roma from the community have approached the Municipality of Živinice for assistance on numerous occasions, but when they approach the building, guards reportedly shout at them and chase them away, telling them that no one is in the office. After one such experience, members of the community reportedly approached the UNHCR, which set up an appointment with the mayor in November 2001, but after ten minutes the mayor reportedly ended the meeting and did not offer to provide them with any assistance in overcoming barriers to employment and local infrastructure problems.<sup>344</sup>

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<sup>343</sup> *European Roma Rights Center* interview with Mr Hasan Musić, August 3, 2003, Zenica.

<sup>344</sup> *ERRC/HCHRRS* interview Mr Muradif Biberović, June 6, 2002, Bare Romani settlement, Živinice.

*ERRC* field research has revealed that Roma attempting to start their own enterprises also often meet with a range of arbitrary obstacles. Mr Hamdija Husi, a Romani man from Bijeljina in the Republika Srpska, testified to the *ERRC* that only three Roma in Bijeljina have legal employment. As such, many Roma in the town would reportedly like to start their own businesses, but are unable to do so. According to Mr Husi, “Many of us would be able to start our own enterprises but we are all unable to get the permissions that are necessary. For a long while I have wanted to start a grill restaurant in this neighbourhood and I have applied for the licence many times, but the authorities give all kinds of excuses as to why I cannot start the restaurant.” According to Mr Husi, Roma dare not start a business without all the legal permits because the “the police would tear the place down in no time.” Mr Husi was of the opinion that the only way for Roma to make a living would be to go abroad.

The discrimination met by Roma when applying for jobs or attempting to start their own enterprises in Bosnia and Herzegovina leads many to engage in informal trade, such as collecting scrap materials for recycling or selling goods on the street and in markets. Many Roma with whom the *ERRC* met reported that even in such informal sectors, they continue to face discrimination. Approximately one half – two hundred – of the vendors at the Otoka market in Sarajevo are Romani. Mr Kadrus Hasani, one of the Romani vendors, informed the *ERRC* that almost every vendor in the market operates without a legal permit. However, according to Mr Hasani, police patrolling the market target Romani vendors when checking permits. Mr Hasani reported that only Roma are checked, and when they are unable to produce papers, they are either removed from the street or fined anywhere from 500 to 2000 Bosnian convertible marks (approximately 255 to 1,020 EUR). According to Mr Hasani, Roma, who are in most cases unable to pay such fines, are detained in police custody, often for months at a time. By comparison, Mr Hasani told the *ERRC* that the police do not check the permits of Bosniak vendors, and in many cases, have friendly visits with them.<sup>345</sup> In Zenica, practically none of the Roma selling goods at the central city market have permission to do so – reportedly, the permits are hard to get and expensive, which does not serve as an incentive. Similar to the situation in Sarajevo, here as well the *ERRC* heard reports of the police confiscating goods sold by Romani vendors who do not have permits.<sup>346</sup>

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<sup>345</sup> *European Roma Rights Center* interview with Mr Kadrus Hasani, January 5, 2003, Otoka market, Sarajevo.

<sup>346</sup> *European Roma Rights Center* interview with Ms Nermina Hećimović, August 3, 2003, Zenica.



Mirela Suvalić – the only Romani high-school student from the Blatusa settlement, Zenica, Bosnia and Herzegovina, August 2003.

PHOTO: *ERRC/TATJANA PERIĆ*





Hasan Musić and his family, Zenica, Bosnia and Herzegovina, August 2003.

PHOTO: *ERRC/TATJANA PERIĆ*

Similarly, according to the Bosnian weekly magazine *Dani*, Mr Pašaga Beganović, President of the *Association of Roma in Bijeljina*, stated that one of the main problems facing Roma in Bijeljina was a lack of access to employment, coupled with the fact that Roma were faced with obstacles to pursuing other avenues of employment. According to Mr Beganović, the police in Bijeljina did not allow Roma to sell goods on the street, but at the same time allowed Serb refugees to engage in such activities.<sup>347</sup>

Mr Muharem Seferović, a Romani man from the area of Butmir, in the Municipality of Ilidža in the Federation, told the *ERRC* that almost all of the Roma in Butmir earn a living by collecting scrap metal for recycling. However, according to Mr Seferović, local police “cause problems” for them because the land that the Roma in Butmir live on is municipally owned and, as such, the police say that they cannot pile “trash” on the land. Mr Seferović reported, however, that what the police call “trash” is in fact various goods that they have collected which await sorting for recycling.<sup>348</sup>

In the Svatovac Romani settlement near Poljice, at the time of an *ERRC* visit, most men and boys were earning a living by collecting scrap metal. Mr Refik Mujić from the settlement explained to the *ERRC* that this “dirty job” was done every day, from morning until late afternoon, until enough material was collected by going from house to house in nearby villages. For one kilogram of aluminium, for example, waste recycling companies paid 1 Bosnian convertible mark (approximately one half EUR), while for a ton of scrap iron – mostly collected by the efforts of the entire community – the price is 50 Bosnian convertible marks (approximately 26 EUR). The most money that can be realistically made this way in a day is 10 Bosnian convertible marks (approximately 5 EUR). While collecting goods in non-Romani villages, the Roma often experience verbal abuse and accusations of theft.<sup>349</sup>

Public unemployment offices in Bosnia and Herzegovina are reportedly very bureaucratic and so discourage many Roma from registering with them. Roma who do register with the unemployment offices, in almost all cases do not gain employment, according to *ERRC* research. Many Roma testified to never having been offered employment by the

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<sup>347</sup> Information from the Bosnian weekly magazine *Dani*, “*There is no Life for Roma Here*”, December 6, 2002, Sarajevo.

<sup>348</sup> *European Roma Rights Center* interview with Mr Muharem Seferović, January 15, 2003, Butmir.

<sup>349</sup> *European Roma Rights Center* interview with Mr Refik Mujić, August 5, 2003, Poljice.

office in question, despite being registered as unemployed with such offices for long periods of time. For example, Mr Enes Beganović from Poljice was reportedly registered with the local office since 1983, and was never offered a job.<sup>350</sup> Mr Hasan Musić, a Romani man from Zenica, registered with the local unemployment office since 1987, told the *ERRC* that he has also never received a job offer: “No one ever gets a job through the unemployment office.”<sup>351</sup> Similarly, Mr Adem Grgić, a Romani man from Gradiška in the Republika Srpska, told the *ERRC/HCHRRS* that he and his family returned to Bosnia and Herzegovina from Germany in 1999. Mr Grgić told the *ERRC* that he is a qualified mechanic and after he returned to Gradiška, he registered with the unemployment office. Mr Grgić also began searching for employment in private companies immediately. However, at the time of the *ERRC/HCHRRS* visit in December 2002, he had not been able to find employment. Mr Grgić expressed the belief that this was solely attributed to his ethnicity.<sup>352</sup> Mr Grgić regularly visits the unemployment office, but the office staff there always tell him that there are no jobs. The office never sent Mr Grgić invitations for interviews, nor was he ever offered a job. Sometimes the staff of unemployment office express anti-Romani views: for example, an official of the unemployment office in Lukavac reportedly told a Romani man that “Roma are too lazy to work.”<sup>353</sup>

In the Tuzla Canton, persons registered with unemployment offices have to report with them every two months. As these offices offer no jobs, this bi-monthly report is a formality which many unemployed Roma in fact cannot afford, particularly as they often live in marginalized communities away from urban centres.<sup>354</sup> Practically the only benefit resulting from being registered as unemployed is state-provided health insurance for such persons. This, however, does not cover all health-related expenses: Roma from the Tuzla canton testified to the *ERRC* that they had to pay 8 Bosnian convertible marks (approximately 4 EUR) every six months as a fee for the insurance. In addition, they also have to cover partial costs of prescribed medicines obtained from state pharmacies, while in private pharmacies costs have to be covered in full.<sup>355</sup>

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<sup>350</sup> *European Roma Rights Center* interview with Mr Enes Beganović, August 5, 2003, Poljice.

<sup>351</sup> *European Roma Rights Center* interview with Mr Hasan Musić, August 3, 2003, Zenica.

<sup>352</sup> *ERRC/HCHRRS* interview with Mr Adem Grgić, December 17, 2002 Gradiška.

<sup>353</sup> *European Roma Rights Center* interview with Mr Fahrudin Beganović, August 5, 2003, Poljice.

<sup>354</sup> *European Roma Rights Center* interview with Ms Jasminka Mehić, August 5, 2003, Poljice.

<sup>355</sup> *European Roma Rights Center* interview with Mr Enes Beganović, August 5, 2003, Poljice.

High unemployment rates among Roma in Bosnia and Herzegovina eventually result in very few Romani pensioners. Mr Osman Musić, a pensioner himself, could not list more than four other Romani pensioners in the city of Zenica. Mr Musić receives a pension of 140 Bosnian convertible marks (approximately 70 EUR), which was the only means of subsistence for his family: Mr Musić and his wife lived in a small flat of 21m<sup>2</sup>, together with their three adult unemployed sons, daughter-in-law and grandson.<sup>356</sup>

Addressing situations such as that of many unemployed Roma was one purpose behind General Comment No. 27 on Discrimination against Roma<sup>357</sup> of the United Nations Committee on the Elimination of Racial Discrimination, in which it recommended that States Parties:

- ◆ Adopt or make more effective legislation prohibiting discrimination in employment and all discriminatory practices in the labour market affecting members of Roma communities, and to protect them against such practices;
- ◆ Take special measures to promote the employment of Roma in the public administration and institutions, as well as in private companies;
- ◆ Adopt and implement, whenever possible, at the central or local level, special measures in favour of Roma in public employment such as public contracting and other activities undertaken or funded by the Government, or training Roma in various skills and professions.

In order to address the problem of employment discrimination, in October 2001, a number of intergovernmental organisations in Bosnia and Herzegovina issued a Fair Employment Practices Strategy. This strategy, however, does not envisage any special measures to be undertaken with regards to the discrimination of Roma in their access to employment.<sup>358</sup> As of August 2003, the *ERRC* was aware of only one

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<sup>356</sup> *European Roma Rights Center* interview with Mr Osman Musić, August 3, 2003, Zenica.

<sup>357</sup> *Discrimination Against Roma*, 16/08/2000, CERD General recommendation 27. (General Comment). Available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/11f3d6d130ab8e09c125694a0054932b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/11f3d6d130ab8e09c125694a0054932b?Opendocument).

<sup>358</sup> OSCE Mission to Bosnia and Herzegovina, Office of the High Representative, OHCHR and UNHCR. "Prevention and Elimination of Discrimination of Employment: Fair Employment Practices Strategy. Revised Policy Paper." Sarajevo, October 2001.

initiative aimed at the employment of Roma – forming the Eko Sekund company, run by Sarajevo Roma and providing services related to recycling and environment protection. This project was initiated by the non-governmental sector, and not by the relevant state authorities.<sup>359</sup>

## 11.2 Access to Social Security

Article 9 of the ICESCR states, “States Parties to the present Covenant recognise the right of everyone to social security, including social insurance.”<sup>360</sup> In the Federation, social policy falls within the so-called joint competencies of the Federation and the Cantons as prescribed by the Constitution of the Federation.<sup>361</sup> Consequently, there is a law at the Federation level which regulates social welfare matters and prescribes minimum guarantees. The Cantons may then prescribe additional rights but cannot go below the minimum standards set out in the law of the Federation.<sup>362</sup> Taken together, the laws in both the Federation and the Republika Srpska<sup>363</sup> make up a network of social protection laws under which a number of categories of people are entitled to social assistance.

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<sup>359</sup> In July 2003, the company workers cleaned the bed of the Miljacka River for the city of Sarajevo. The company was set up with the support of non-governmental organisations *World Vision* and *Prosperitet Roma* (Information from the Sarajevo-based daily newspaper *Oslobodjenje*. “Posao za Rome.” July 16, 2003).

<sup>360</sup> The right to social security must be realised free from racial discrimination. For example, Article 5(e)(iv) of the ICERD binds States Parties to “prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (iv) The right of public health, medical care, social security and social services.”

<sup>361</sup> Article III(2) of the Constitution of the Federation.

<sup>362</sup> Law on the Basis of Social Welfare, Protection of Civilian Victims of War and Protection of Families with Children (*Official Gazette of the Federation of Bosnia and Herzegovina* No. 36/99); Law on Displaced-Expelled Persons and Repatriates in the Federation of Bosnia and Herzegovina (*Official Gazette of the Federation of Bosnia and Herzegovina* Nos. 19/00, 56/01).

<sup>363</sup> Republika Srpska Law on Social Care, (*Official Gazette of Republika Srpska* Nos. 5/93, 15/96); Law on Displaced Persons, Refugees and Returnees to Republika Srpska (*Official Gazette of Republika Srpska* Nos. 33/99, 65/01); Law on the Rights of War Veterans, Invalids of War and the Families of Fallen Soldiers (*Official Gazette of Republika Srpska* No. 35/99).

Article 11 of the Federation Law on the Basis of Social Welfare, Protection of Civilian Victims of War and Protection of Families with Children, defines social need as the “[...] permanent or temporary condition of a citizen or a family caused by war, natural disasters and emergencies, general economic crisis, psychological-physical state of and individual or by other causes which may not be remedied without the assistance of another person.”<sup>364</sup> Article 12 set out that the beneficiaries of social aid should include orphans, neglected children, disabled persons, persons without financial means and unable to work, elderly persons without family care, persons with socially negative behaviour, and also persons and families with social needs who, because of certain circumstances, needs a particular form of social protection. According to Article 18, persons and families in special circumstances requiring social care are defined as: “A person or a family in social need who, due to the special circumstances, needs an adequate form of social protection, in the sense of article 12, section 1, item 9 of this law, shall be considered a person or a family in social need due to being affected by migration, repatriation, natural disaster, death of one or more family members, discharge from medical treatment, being released from serving a sentence of imprisonment or an educational measure.” In Republika Srpska, the Law on Social Care which contains similar provisions regulates social assistance. Roma deprived of access to employment and who lack sufficient means to support themselves clearly fall within the category of people who are entitled to assistance. Article 19 of the law in the Federation and Article 20 of the law in the Republika Srpska provide for a range of entitlements of social assistance recipients, including financial and material aid, training for improvement of working abilities and living in general, accommodation and other social services. In the Federation, the Cantons prescribe exactly what each recipient shall be entitled to, as well as the conditions and procedures for obtaining social aid.<sup>365</sup> The laws of the Federation on social welfare do not

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<sup>364</sup> Unclarities in the original Bosnian version of the text of the law have been retained: “[...] Socijalnom potrebom, glede stavka 1. ovog članka, smatra se trajno ili privremeno stanje u kome se nalazi građanin ili obitelj, prouzrokovano ratnim događajima, elementarnim nesrećama, općom gospodarskom krizom, psihofizičkim stanjem pojedinaca ili drugih razloga, koje se ne mogu otkloniti bez pomoći druge osobe. [...]”

<sup>365</sup> Article 25 of the law in the Federation nevertheless sets the threshold: “Permanent financial support shall be determined in a monthly amount as the difference between the income of all household members and the amount of the lowest income considered to be sufficient for the support with regard to Article 27 of this Law.” This law does not set out the lowest income, but leaves it to the cantonal authorities.

provide a right to social welfare housing *per se*. However, such rights may be guaranteed under the Cantonal laws.<sup>366</sup> The Federation social welfare law also provides an anti-discrimination clause: “In the course of their activities, [the social welfare] institutions cannot put any limitations regarding territorial, ethnic, religious, political or any other affiliation of the beneficiaries of the institutions’ services (race, skin colour, sex, social origins, etc.)”<sup>367</sup> The Republika Srpska Law on Social Care does not include any anti-discrimination provisions.

The impressive appearance of the legal framework is, unfortunately, only that – an appearance. *ERRC* field research has shown that there appears to be an almost unbridgeable gap between the theory and practice in the allocation of social aid. To begin with, the procedures for obtaining social support are often of such a character that, for many Roma in need, social aid is not accessible. In the Federation, the procedure for the allocation of social assistance is regulated at the Cantonal level and the procedures vary from Canton to Canton. In the Republika Srpska, social assistance is regulated at the Entity level. However, the difficulties faced by Roma are no less prevalent in Republika Srpska than they are in the Federation.

In the Sarajevo Canton, for example, applications for social assistance are to be addressed to the social work offices in the municipality in which the applicants are registered as residing. Only persons registered as permanent residents in the Canton, and who have been such for at least one year immediately preceding the application, are entitled to assistance.<sup>368</sup> The law in Republika Srpska is slightly less restrictive, in

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<sup>366</sup> For example, the Law on Social Welfare, Protection of Civilian Victims of War and Protection of Families with Children of Canton Sarajevo (*Official Gazette of Sarajevo Canton* No. 16/02) provides, at Article 16: “Persons who according to this Law have A right to permanent financial assistance or financial assistance for the care and assistance of another person and persons who have binaural loss of hearing from 95-100% according to the Fowler Sabine Method, have the right to have their housing situation resolved in accordance with the regulations and criteria which shall be proposed by the cantonal Government and approved by the Cantonal Assembly.”

<sup>367</sup> Article 50 of the Federation Law on the Basis of Social Welfare, Protection of Civilian Victims of War and Protection of Families with Children (*Official Gazette of the Federation of Bosnia and Herzegovina* No. 36/99).

<sup>368</sup> In the Sarajevo Canton, exceptionally, persons who had residence in the area of the Sarajevo Canton on April 30, 1992, but who have status of the returnee may obtain support from the social welfare centre.

that it demands simply that the applicant is registered as a permanent resident in the municipality in which he or she is applying for assistance at the time of the application. Many Roma in Bosnia and Herzegovina experience problems in accessing social assistance because they are unable to register at a permanent address due either to a lack of the required personal documents or because they do not have a formal, permanent place to live.

There is also evidence that social workers in some cases discourage Roma from applying, under the pretence that they are not eligible: “I was told by social workers that only the sick, the elderly and the disabled can apply for social aid,” a Romani man from Poljice, in the Lukavac municipality, told the *ERRC*.<sup>369</sup> In this village, estimated to have 150-200 Romani inhabitants, only three Romani persons are employed and only two Romani persons receive social assistance. Ms Begzada Tahirović is a single 40-year-old Romani woman who has been registered with the unemployment office and has never received a job offer. Ms Tahirović applied for social welfare with the Lukavac social work centre and was rejected on May 26, 2003, with the explanation that Ms Tahirović “does not need assistance and care of another person for fulfilling her basic needs,” thus not fulfilling conditions listed in both federal and cantonal legislation.<sup>370</sup> Ms Tahirović could appeal this decision, but she does not believe it would have any positive results. “I have been rejected before, and I have appealed before, and it never made a difference,” Ms Tahirović told the *ERRC*.<sup>371</sup> Mr Huraga Husić, a Romani man from a Romani settlement about two kilometres outside Zvornik on the road from Sarajevo, similarly told the *ERRC* that most of the people in the settlement are unable to access social assistance. Mr Husić said that in order to survive, Roma from the settlement are forced to collect discarded food past its expiry date from a civic amenity point near Zvornik and exchange labour for food or money with private individuals in the area.<sup>372</sup>

Many Roma with whom the *ERRC* spoke considered social welfare to be completely out of their reach, and the procedures and institutions related to it obscure and

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<sup>369</sup> *European Roma Rights Center* interview with Mr Fahrudin Beganović, August 5, 2003, Poljice.

<sup>370</sup> Article 2b of the Federal Law and Article 19 of the Tuzla Canton Law on Social Care.

<sup>371</sup> *European Roma Rights Center* interview with Ms Begzada Tahirović, August 5, 2003, Poljice.

<sup>372</sup> *European Roma Rights Center* interview with Mr Huraga Husić, January 19, 2003, Zvornik.



bureaucratic. Mr Jasmin Šuvalić from Banlozi near Zenica, an unemployed father of four young children, told the *ERRC* that he applied for social aid with the local social work centre in January 2003, but without success: “They ask you for many documents, and it takes a lot of running around and taxes to be paid to get all this. So finally you submit your documents, and a week or two later – you get a refusal letter. One can appeal, and I did indeed send an appeal to the Ministry of Social Affairs in Sarajevo, but I was refused again. They never tell us why.”<sup>373</sup>

In the same settlement, the *ERRC* met Mr Muharem Šuvalić, who is a disabled Romani man. Mr Šuvalić has bronchitis, night blindness and is severely myopic. In 2001, Mr Šuvalić was fired from his job with the Public Utility Company when it was privatised and could no longer pass the medical examination necessary for his employment. Since then, Mr Šuvalić has not been able to secure any employment, and could not access social benefits either. He is a father of five children aged 2 to 12, and his wife is also unemployed. Mr Šuvalić applied for social aid on April 16, 2003, with the Zenica Social Work Centre and was refused on July 1, 2003. Mr Šuvalić only received one-time social assistance from the state in February 2003, after he left hospital where he was treated for kidney problems. According to Mr Šuvalić, he received 70 Bosnian convertible marks (approximately 35 EUR) of state assistance, where a medical examination that he had to pass in order to apply for this assistance cost him 45 Bosnian convertible marks (approximately 23 EUR).<sup>374</sup>

Romani activists from Kalesija told the *ERRC/HCHRRS* that their appeals for assistance to individuals living under particularly harsh conditions were left unanswered by the local social work centre. One such person was Mr Musto Alimanović, a disabled Romani man, father of four children. He had lost one leg as a result of a failed suicide attempt. The *Roma Association of Kalesija* filed a request for social assistance for Mr Alimanović with the local social work centre in late 2002, but as of May 2003 they have received no response. The association also suggested that the social workers visit Mr Biber Hrustić, an 80-year old Romani man who is blind, living with a daughter who is also disabled, but the visit never took place.<sup>375</sup>

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<sup>373</sup> *European Roma Rights Center* interview with Mr Jasmin Šuvalić, August 2, 2003, Banlozi.

<sup>374</sup> *European Roma Rights Center* interview with Mr Muharem Šuvalić, August 2, 2003, Banlozi.

<sup>375</sup> *ERRC/HCHRRS* interview with Mr Kasim Jusić, Vice-President of *Roma Association of Kalesija*, May 19, 2003, Kalesija.

The Bosnian daily *Dnevni Avaz* reported on November 7, 2003 that the oldest woman in Bijeljina – a 97-year-old Romani woman named Sefkija Rahimić – begged daily on the streets of the town due to her poverty.

The *ERRC* also registered complaints from Roma who were reportedly disabled in the 1992-1995 war, and whose later requests for state support were not treated adequately. Mr Asif Bajrić from Zavidovići, in the Zenica-Doboj Canton, filed his request to be recognised as a person disabled in the war, and thus entitled to state assistance, with the Office for the Administration of Affairs Related to War Veterans, Displaced Persons and Refugees of the Zavidovići Municipality on November 29, 2002. Prior to filing his request, Mr Bajrić paid a visit to the Military Medical Commission in his hometown, only to find one male doctor there, who reportedly only saw Mr Bajrić and did not examine him, and whose report was later forwarded to the aforementioned office. Six months later, the war veterans' office sent Mr Bajrić a refusal letter, stating that this claim was unfounded, as he was, according to their information, not disabled. As he believed that the medical examination procedure he underwent was inadequate, Mr Bajrić appealed against this decision complaining of the incorrect and incomplete establishment of facts, incorrect application of legislation and procedural violations on June 24, 2003.<sup>376</sup> At the end of November 2003, Mr Bajrić received a second refusal of the Military Medical Commission rejecting the recognition of his disability. On December 24, 2003, Mr Bajrić submitted an appeal against the decision to the Supreme Court of Bosnia and Herzegovina.

It also appears that today Roma have limited or no access whatsoever to state loans provided to war veterans and families of soldiers killed in the 1992-1995 war. In the Tuzla Canton, for example, the authorities gave such loans from the funds obtained through the privatisation of formerly state-owned businesses. No Romani persons benefited from this programme, though at least 30 percent of eligible local Romani men in the region served in the Army of Bosnia and Herzegovina during the war.<sup>377</sup>

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<sup>376</sup> *European Roma Rights Center* interview with Mr Asif Bajrić, Secretary of the *Romani Association of Zavidovići*, August 5, 2003, Zavidovići.

<sup>377</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo.

Similarly, no Romani war veterans in the Zenica-Doboj Canton received state loans either, according to Romani activist Mr Nurudin Sejdić.<sup>378</sup>

In some cases, Roma claimed that local social workers showed disrespect for them and verbally abused them. According to local Roma, a female social worker in the Zavidovići social work centre is known “to push Roma out of her office, and swear at them.”<sup>379</sup>

A small number of Roma who are recipients of social welfare told the *ERRC* of the inadequacy of the amounts awarded. Ms Dijana Fafulić, a young Romani mother of five from Banlozi, received 95 Bosnian convertible marks (approximately 50 EUR) of social welfare per month. Three of her children were eligible to attend school, but they did not, as Ms Fafulić could not afford it. In the Romani settlement where she lived, out of eighteen families, sixteen families neither had any members employed, nor received social welfare.<sup>380</sup>

Mr Slobodan Nagradić of the Ministry of Human Rights and Refugees told the *ERRC* that his office was aware that many Roma in the country live in a precarious situation and need social protection but are unable to access social services. However, according to Mr Nagradić, procedures are in place to regulate the allocation of aid that must be followed because, as he stated, “resources are limited and the number of people in need appears to be limitless. We cannot just dish out money to whomever comes and asks for it.”<sup>381</sup>

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<sup>378</sup> Information from the Sarajevo-based daily newspaper *Dnevni avaz*, July 1, 2003, as well from *European Roma Rights Center/Helsinki Committee for Human Rights Republika Srpska* interview with Mr Nurudin Sejdić, December 22, 2003, Zenica and *European Roma Rights Center/Helsinki Committee for Human Rights Republika Srpska* interview with Mr Mehmed Sisić, December 22, 2003, Zenica.

<sup>379</sup> *European Roma Rights Center* interview with Mr Asif Bajrić, Secretary of the *Romani Association of Zavidovići*, August 5, 2003, Zavidovići.

<sup>380</sup> *European Roma Rights Center* interview with Ms Dijana Fafulić, August 2, 2003, Banlozi.

<sup>381</sup> *European Roma Rights Center* interview with Mr Slobodan Nagradić, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina, February 3, 2003, Sarajevo.

### 11.3 Access to Health Care

Bosnia and Herzegovina is obliged by international law to guarantee “[...] the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”<sup>382</sup> There exists no national health care system for the whole of Bosnia and Herzegovina; the responsibility for establishing and maintaining a health care system rests with the Entities.<sup>383</sup> Both Entities are obliged by their respective constitutions to secure access to health care for all people within their respective territories.<sup>384</sup> The two entities and the District of Brčko operate their own systems. The legal frameworks of the systems are quite similar and consist of the Laws on Health Insurance and the Laws on Health Care.<sup>385</sup> The laws of both Entities and the District of Brčko provide that persons with health insurance have the right to health care and to com-

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<sup>382</sup> Article 12 of the ICESCR. The right to health is also recognised under the Revised European Social Charter, at Article 11. Additionally, the right to freedom from discrimination in access to health is recognised, *inter alia*, in Article 5(e)(iv) of the International Convention on the Elimination of All Forms of Racial Discrimination, in Articles 11(1)(f) and 12 of the Convention on the Elimination of All Forms of Discrimination against Women, and in Article 24 of the Convention on the Rights of the Child. The United Nations Committee on Economic, Social and Cultural Rights has noted that States have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (Article 2(2)) and that States have an obligation to take steps (Article 2(1)) towards the full realization of the right to the highest attainable standard of health (See “General Comment No. 14 (1991), The Right to the Highest Attainable Standard of Health (Art 12 of the Covenant)”, adopted by the UN Committee on Economic, Social and Cultural Rights on 11 August 2000, U.N. doc. E/C.12/2000/4). Additionally, the United Nations Committee on the Elimination of Racial Discrimination has, in its General Comment No. 27, recommended States Parties to “ensure Roma equal access to health care and social security services and to eliminate any discriminatory practices against them in this field.” (See *Discrimination Against Roma*, 16/08/2000, CERD General recommendation 27. (General Comment). Available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/11f3d6d130ab8e09c125694a0054932b?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/11f3d6d130ab8e09c125694a0054932b?Opendocument)).

<sup>383</sup> Article III(1) of the Constitution of Bosnia and Herzegovina sets out the competencies of the institutions of Bosnia and Herzegovina, and health care is not included in the list.

<sup>384</sup> Article II(A)(2)(o) of the Constitution of the Federation of Bosnia and Herzegovina; Article 37 of the Constitution of the Republika Srpska .

<sup>385</sup> *Official Gazette of the Federation of Bosnia and Herzegovina* Nos. 30/97 and 29/97, respectively, *Official Gazette of Republika Srpska* Nos. 29/97 and 18/99, respectively, and the *Official Gazette of the Brčko District of Bosnia and Herzegovina* Nos. 2/01 and 1/02, 7/02, respectively.

pensation of salary and assistance in accordance with the law. A person will be insured through his or her employer or through the unemployment office if the person in question is unemployed. Unemployed persons are entitled to health insurance if they “register with the employment office after termination of labour relationship, or cessation of occupation, or after stopping to receive the compensation of salary.”<sup>386</sup> Persons wishing to register with the unemployment office must first present an ID card. As many Roma in Bosnia and Herzegovina are unable to secure such a document, such persons are *de facto* excluded from obtaining health coverage. Close to 90 percent of the Romani population in Bosnia and Herzegovina was estimated not to have health insurance in 2003.<sup>387</sup> A patient without health insurance is liable for the full cost of medical treatment. Roma in Bosnia and Herzegovina living in destitution are clearly unable to pay for that. In 2002, the Council of Europe concluded that the vast majority of Roma in the Tuzla Canton were “totally excluded from access to the health care service”.<sup>388</sup> This is, in fact, characteristic of other parts of Bosnia and Herzegovina as well.

The lack of possibility to access health care in a timely manner sometimes had fatal consequences for Roma in Bosnia and Herzegovina. Mr Esad Ibralić from the Lipovica village in the Tuzla Canton testified to the *ERRC/HCHRRS* how he had lost his son in the long struggle with the bureaucratic health care system. When Mr Ibralić returned to his native Lipovica in 2000, after refuge in Switzerland, he registered at the local unemployment office but was told that he and his family members did not have the right to state-supported health care. This was also the time when Mr Ibralić’s 18-year-old son Asmir started complaining about having headaches very often. With the assistance of friends, Mr Ibralić managed to have Asmir checked by a doctor and

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<sup>386</sup> Article 10(6) of the Republika Srpska Law on Health Insurance and Article 19 of the Federation Law on Health Insurance. The latter also requires that the person in question registers within 30 days. This means that in the Federation (where most Roma live), if a person, after becoming unemployed, waits longer than one month to register with the unemployment bureau, that person becomes ineligible for the health insurance that he or she would have received had the registration been completed in time.

<sup>387</sup> Mr Šaban Mujić, President of the Advisory Board on Roma and President of the non-governmental organisation *Sae Roma*, as quoted by the Sarajevo-based national daily newspaper *Oslobodjenje*, May 16, 2003.

<sup>388</sup> Council of Europe. “Access of Roma to Education and Health Care Services in Tuzla Canton, Federation of Bosnia and Herzegovina.” December 2001-January 2002, p. 7.

it was established that he had a brain tumour. In late 2002, Asmir had to undergo surgery, where – again with the assistance of friends – his father had to cover only the basic expenses. After the surgery, Mr Ibralić applied with the Kalesija Social Work Centre, asking for health care for Asmir, so that he could receive adequate post-surgery assistance. The officials in charge told Mr Ibralić that he would need to wait for a reply for 2-3 months, but as he pleaded with them, they promised that they would inform him over telephone as soon as the decision was made. As he received no reply for more than a month, Mr Ibralić paid another visit to the Kalesija Social Work Centre where the officials told him that his case was under review by the cantonal social work authorities in Tuzla. In Tuzla, however, Mr Ibralić was told that they had never received any information on his case. In the meanwhile, Asmir's health was rapidly deteriorating, as he did not have access to adequate medicine and treatment, since his family could not afford these. From mid-February 2003, Asmir was unable to walk. At that time, still without any information on his application, Mr Ibralić carried his son to the Kalesija Social Work Centre to urge them to decide on the application status, and was told that he should apply with a medical commission in Tuzla. Mr Ibralić took his son to Tuzla immediately, and the commission found out that Asmir Ibralić should receive social assistance and have state-provided health coverage. Several days later, Mr Ibralić received a health-care booklet, which is proof that a person is insured and can seek free assistance at state institutions. However, in the first checks afterwards, the doctors could only establish that the tumour spread to other parts of the body as well. Asmir Ibralić died on March 12, 2003.<sup>389</sup>

The *ERRC* was also told of a case of a Romani woman who was temporarily without her ID, as it was kept in a Tuzla hospital as a voucher that she would pay her hospital bill. Ms Sanela Tahirović, a 20-year-old Romani woman, underwent a neck surgery in March 2003. As she was not covered with a health insurance scheme, the hospital authorities reportedly requested that Ms Tahirović pay around 1000 Bosnian convertible marks (approximately 510 EUR) for her two-week hospital treatment. Eventually the hospital dismissed Ms Tahirović, but kept her ID as a guarantee that some day she would pay the debt. Both Ms Tahirović and her husband were unemployed and could not cover the treatment cost, and Ms Tahirović was still without personal documents in August 2003.<sup>390</sup>

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<sup>389</sup> *ERRC/HCHRRS* interview with Mr Esad Ibralić, May 19, 2003, Lipovica.

<sup>390</sup> *European Roma Rights Center* interview with Ms Almaza Tahirović, mother-in-law of Ms Sanela Tahirović, August 5, 2003, Poljice.

According to *ERRC* field investigation, even Roma who have been able to register with the unemployment office are not, in every case, able to access medical care. Ms Remzija Husić and Mr Sulejman Sejdić, Roma from Kakanj in the Federation, told the *ERRC* that they had a 1-year-old son who was born with a defective kidney. At the time of the *ERRC* visit in January 2003, Mr Sejdić said that he was registered with the unemployment office and, until a few months earlier, had health coverage through the office which covered his son. However, Mr Sejdić told the *ERRC*, a representative of the Kakanj Unemployment Office told him that there was no more money to pay for his health insurance, so the coverage for his family had been terminated. Mr Sejdić reported that his son's condition had deteriorated in this time and his functioning kidney was becoming inadequate. Mr Sejdić stated that he was worried about his son because he could not pay for the expensive medication or the examinations that his son required.<sup>391</sup>

Similarly, Mr Hasan Musić from Zenica told the *ERRC* that his three-years-old son Amar had to stay at the Cantonal Hospital Zenica from April 24 to May 15, 2003, in order to undergo treatment for anaemia and bronchitis. Both Mr Musić and his wife are unemployed and registered with the local unemployment office, which theoretically gives them right to state-provided health care. However, the parents had to pay additional costs for Amar's stay, of 25 Bosnian convertible marks (approximately 13 EUR) per day of stay at the hospital.<sup>392</sup>

The *ERRC* also registered complaints that medical teams do not come to Romani settlements even when their mandatory duties, such as vaccination of children, are at stake. "Many officials appear to believe that unlike non-Roma, Romani children do not need to be vaccinated," one Romani activist told the *ERRC*. In Sapna, Tuzla Canton, a 12-year-old Romani girl was infected with jaundice and consequently sent to the Tuzla Hospital; the Medical Centre Sapna reportedly made no efforts to provide prevention measures and inoculate other children from the settlement.<sup>393</sup>

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<sup>391</sup> *European Roma Rights Center* interview with Mr Sulejman Sejdić, January 5, 2003, Kakanj.

<sup>392</sup> *European Roma Rights Center* interview with Mr Hasan Musić, August 3, 2003, Zenica.

<sup>393</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo.

The inability of many Roma to register for medical care combined with the sub-standard conditions in which they live has a profound effect on the overall health situation of Roma. Mr Saša Matić, a Romani activist from Gradiška, told the *ERRC/HCHRRS*, “I can see where I live that the mortality rate among Roma is higher than among other people. Roma die without anyone knowing why. We have no health insurance and, because of that, hospital treatment and medication is much too expensive for us. We have no money for those things. The result is that people, and especially children, die of diseases which could have been treated.”<sup>394</sup>

#### 11.4 Access to Education

All people on the territory of Bosnia and Herzegovina have the right to education. Article 2 of Protocol 1 of the ECHR proclaims two rights: The right to education and the right of parents to ensure that the education and teaching of their children is in conformity with their own religious and philosophical convictions.<sup>395</sup> The International Convention on the Rights of the Child (CRC), to which Bosnia and Herzegovina is a signatory, states, “States Parties recognise the right of the child to education on the basis of equal opportunity [...]”<sup>396</sup> The International Covenant on Economic,

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<sup>394</sup> *ERRC/HCHRRS* interview with Mr Saša Matić, President of the *Association of Roma in Gradiška*, December 16, 2002, Gradiška.

<sup>395</sup> This should be read in the light of the non-discrimination provisions of Article 14 of the ECHR.

<sup>396</sup> Article 28(1). The convention goes on to say the states shall “in particular: (a) Make primary education compulsory and available free to all; (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need; (c) Make higher education accessible to all on the basis of capacity by every appropriate means; (d) Make educational and vocational information and guidance available and accessible to all children; (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.” Subsection 2 goes on to say that “States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.” Article 2(1) of the CRC also prohibits discrimination in the access to education: “States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.”



Social and Cultural Rights binds state parties, at Article 13, to recognizing “the right of everyone to education”. Other multilateral treaties relevant to the right to education, to which Bosnia and Herzegovina is a party, include *inter alia* the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),<sup>397</sup> and the UNESCO Convention against Discrimination in Education. In addition, the Framework Convention for the Protection of National Minorities addresses particular issues relating to the education of minorities.<sup>398</sup> Annex 6 of the Dayton Accords also provides that the right to education should be secured throughout the country without discrimination “on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Many powers of governance and responsibilities in the field of education in Bosnia and Herzegovina reside with the Entities. In the Federation, powers and responsibilities with regards to access to education reside with the Cantons, whereas in Republika Srpska, responsibility is centralised at the Entity level. The District of Brčko assembly oversees the competency in education within the District. The Constitution of Bosnia and Herzegovina does not place any obligation on the state to maintain an educational framework at state level. Only on June 30, 2003, a state-level Framework Law on Primary and Secondary Education was adopted. The new law promotes respect for human rights and equal opportunities for education as general principles of education.<sup>399</sup> In defining the right of a child to education, the Framework Law emphasizes

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<sup>397</sup> ICERD commits States Parties, at Article 5(e)(v), to eliminate racial discrimination in the enjoyment of the right to education and training. Additionally, at Article 3, the ICERD states: “States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.”

<sup>398</sup> Articles 12, 13 and 14 of the Framework Convention for the Protection of National Minorities list obligations of states in the field of education. These include providing of possibilities for training of lecturers and access to text books; the right to found and manage private educational and training institutions; the recognition of national minorities’ rights to learn their native languages; and equal possibilities of access to each educational levels.

<sup>399</sup> According to Article 3, general objectives of education are, *inter alia*, “promoting respect for human rights and liberties”, and “ensuring equal possibilities for education and the possibility to choose in all levels of education, regardless of gender, race, nationality, social and cultural background and status, family status, religion, psycho-physical and other personal characteristics.” Framework Law on Primary and Secondary Education in Bosnia and Herzegovina, available at: <http://www.oscebih.org>.

that “[e]very child has a right of access and equal possibility to participate in appropriate educational processes, without discrimination on any grounds.”<sup>400</sup> According to the new law, one of the roles and obligations of schools is that they “cannot discriminate in children’s access to education or their participation in educational process on the basis of race, colour, gender, language, religion, political and other belief, national or social origin, on the basis of special needs status, or on any other basis.”<sup>401</sup>

Roma are on the margins of the educational system in Bosnia and Herzegovina, primarily as a result of their lack of access to formal schooling.<sup>402</sup> School attendance

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<sup>400</sup> Framework Law, Article 4.

<sup>401</sup> Framework Law, Article 35. The Federation Law on Primary School (*Official Gazette of the Federation of Bosnia and Herzegovina* Nos. 30/90, 3/93, 24/93 and 13/94) and the Republika Srpska Law on Primary School (*Official Gazette of Republika Srpska* No. 4/93) include no anti-discrimination provisions. Application of the Framework Law is pending on the harmonisation of other laws: according to Article 59 of the Law, “All State, Entity, Cantonal and District of Brčko laws, as well as other relevant regulations in the field of education, shall be harmonized with the provisions of this Law within six (6) months at the latest as of the date of entering of this law into force.” With regards to the protection of rights, in its Article 57 the Law allows for lodging reports on violation of its principles to competent educational institutions and Ministries.

<sup>402</sup> At the end of the war, most educational institutions in Bosnia and Herzegovina were ethnically homogeneous, and similarly schools would have no other pupils than children of the majority group. With the beginning of returns, and due to still strong ethnic tensions, it was impossible for returnee children to attend the existing schools - returnees often built their own schools instead. This led to initiation of local agreements on the location of two schools on the same premises. Through the policy of “two schools under one roof,” segregation has, therefore, been practised in areas of the Federation with high numbers of returnees and with high concentrations of ethnically mixed populations. According to the OSCE Mission to Bosnia and Herzegovina, the segregation of Bosniak and Croat students along ethnic lines within the so-called “two schools under one roof” policy was practised in 52 schools in the Federation of Bosnia and Herzegovina as of June 2003. (See OSCE Mission to Bosnia and Herzegovina. “Overview of Education Access and Non-Discrimination in Bosnia and Herzegovina.” Sarajevo, June, 2003) Legal and administrative unification of such schools is one of priorities of the Education Reform Strategy from November 2002. While it is unclear what exactly the impact of the above mentioned policy has been on the education of Romani children, it is clear that little, if any, attention has been paid to the education of Roma. According to *Save the Children UK*, “Particularly during the last 10 years, the ruling parties have focused their attention on the interpretation and representation of the interests of their ‘own’ people. Consequently, the concern for ethnic minorities, including Roma has been considerably reduced. [...] This is compounded by the marginalisation of Roma from mainstream communities [...]” (See *Save the Children UK*, p. 28)

rates in SFRY were very high. Up to 98 percent of children are thought to have attended primary school in the 1980s.<sup>403</sup> Precise statistics regarding the rates of school attendance by Romani children today are not available, nor are accurate data on the numbers of Romani children out of the school system in Bosnia and Herzegovina.<sup>404</sup> The preliminary statistics related to the Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children,<sup>405</sup> released in May 2003, offered some fragmentary data by ethnicity, where in primary and secondary schools in Bosnia and Herzegovina there were

- ◆ 90 Romani students in the Una-Sana Canton, 4 in the Posavina Canton, 301 in the Tuzla Canton, 3 in the Zenica-Doboj Canton, 91 in the Central Bosnia Canton, 59 in the Herzegovina-Neretva Canton, 346 in the Sarajevo Canton, and 65 in Republika Srpska (total: 959).<sup>406</sup>
- ◆ 15 Romani returnee students in the Una-Sana Canton, 55 in the Tuzla Canton, 41 in the Central Bosnia Canton, 34 in the Herzegovina-Neretva Canton, 64 in the Sarajevo Canton, and 46 in Republika Srpska (total: 255).

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<sup>403</sup> United Nations Development Program, *Human Development Report: Bosnia and Herzegovina*, 1999, Chapter VII.

<sup>404</sup> In Article 96, the Republika Srpska Law on Primary School specifies that “[t]he Municipality shall keep records of illiterate persons and persons without completed education.” In practice and with regards to Roma, this rule is not applied. The Federation Law on Primary Schools contains no such provision.

<sup>405</sup> The Interim Agreement on Accommodation of Specific Needs and Rights of Returnee Children was signed on March 5, 2002, by entity education ministers, and it was followed by the signing of the Implementation Plan for the Interim Agreement, signed by entity and cantonal education ministers on November 13, 2002. The aim of the agreement was to provide conditions that would result in increased numbers of returnee children in the schools of Bosnia and Herzegovina.

<sup>406</sup> Regarding some of the listed regions, OSCE reported that 23 Romani children were enrolled in the Primary School Vaso Čubrilović in Gradiška, Republika Srpska. (See OSCE Mission to Bosnia and Herzegovina. “Overview of Education Access and Non-Discrimination in Bosnia and Herzegovina.” Sarajevo, June 2003). Another survey conducted by UNHCR and *American Refugee Committee* registered that, out of 71 Romani families in Mostar, more than 50 percent of children interviewed did not attend school at all, or that in Modriča (Republika Srpska) out of 116 returnee Romani children only 1 boy went to school in school year 2001/2002 (See UNHCR. “Returnee Monitoring Survey: Education for Returnee Children in Bosnia and Herzegovina.” Sarajevo, March 2003).

According to this research, there was also one Romani school board member in Republika Srpska.<sup>407</sup> This research was not completed in the Brčko District, but a Brčko District education official independently stated in April 2003 that in the District's 15 primary schools there were 80 Romani pupils, and 10 Romani students attended high-schools. The same official estimated that 150 Romani children of school age did not attend school.<sup>408</sup>

In April 2003, the Banja Luka offices of the non-governmental organisations *Save the Children* and *Zdravo da ste* conducted research among Romani communities in the Modriča municipality. Among 59 children of school age from 41 families, 49 children had never been enrolled in school. Most parents interviewed stated that displacement was a major obstacle to their children's education.<sup>409</sup> Similarly, the Bosnian daily *Oslobodjenje* reported on December 14, 2003, that out of approximately 30 Romani children in the Karasebes settlement in Mostar, none were currently attending school, primarily as a result of very extreme living conditions. Generally, children's rights groups have reported that attendance among Romani children is considerably lower than for other ethnic groups in the country.<sup>410</sup> The Ombudsman's Office in the Federation has reported that significant proportions of those children who are not enrolled in primary school are Romani children with an unknown permanent residence.<sup>411</sup> Some experts interviewed by the *ERRC* considered that at least 50 percent of eligible Romani children do not regularly attend school, or do not attend school at all.<sup>412</sup> Assistant Minister

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<sup>407</sup> Coordination Board for the Implementation of the March 5<sup>th</sup> 2002 Interim Agreement on Returnee Children. "Preliminary Statistics on the Implementation of the Interim Agreement on Accommodation of Special Needs and Rights of Returnee Children." Sarajevo, May 19, 2003.

<sup>408</sup> Information from the Sarajevo-based national daily newspaper *Dnevni avaz*. "Students Competed in Writing, Painting and Singing." April 10, 2003. *ERRC/HCHRRS* field research in 2002 indicated that some 560 Roma lived in the town of Brčko; the *Dnevni avaz* article states that there was a total of around 800 Roma in all of the Brčko District.

<sup>409</sup> According to the same source, 15 percent of children did not have birth certificates, and only 10 percent of families received social aid. (Save the Children UK Banja Luka Office and *Zdravo da ste*. "Rezultati procjene situacije obrazovnog statusa djece Roma u opštini Modriča, RS." April 2003)

<sup>410</sup> Save the Children UK, p. 30.

<sup>411</sup> *Ibid.*

<sup>412</sup> *European Roma Rights Center* interview with Ms Jo-Anne Bishop, Advisor for Non-discrimination and Access, Education Department, OSCE Mission to Bosnia and Herzegovina, August 1, 2003, Sarajevo.

for Human Rights and Refugees in Bosnia and Herzegovina Mr Slobodan Nagradić told the *ERRC*, “We do not know how many Roma children there are in this country who do not go to school; all we know is that there are far too many.”<sup>413</sup>

The *ERRC* field research has established that the educational situation is much better in case of Romani communities where there are active Romani non-governmental organisations.<sup>414</sup> For example, in the academic year 1996/97, there were no Romani children enrolled at the primary school in Sapna, Tuzla Canton, whereas in 2002/2003 – thanks to the efforts of local non-governmental Romani associations – 30 Romani children were reportedly enrolled in and attending school.<sup>415</sup> However, there are currently few communities with active Romani organisations. On the other hand, the *ERRC* has also noted that in impoverished Romani settlements, where there are no active associations, and which in fact present a majority, the educational situation of parents was actually better than that of their children. Many Romani parents with whom the *ERRC* spoke, who had attended school for various lengths of time at different points before the 1992-1995 war, told the *ERRC* that they could not afford to send their children to school because of their deteriorating economic position. One such example is the family of Mr Jasmin Šuvalić: “I have two children who should go to school, my brother has two – none of them go to school. We went to school when we were children, and our family could afford it as my mother was a social welfare recipient. Now it is not possible. I have no money to send my children to school. Things got worse.”<sup>416</sup>

Furthermore, the lack of access to education more acutely affects Romani girls than boys: there appear to be many more Romani boys in schools and particularly

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<sup>413</sup> *European Roma Rights Center* interview with Mr Slobodan Nagradić, Assistant Minister for Human Rights and Refugees in Bosnia and Herzegovina, February 3, 2003, Sarajevo.

<sup>414</sup> UNHCR has come to the same conclusions: “In Vukosavlje, for example, out of 47 Roma returnees of school age, 22 attend school. Other high enrolment examples of which UNHCR is aware include Teslić, and Dobož in the RS, as well as Travnik (Donja Krčevina) and Kiseljak (Hrastovi) in FBiH. This seems to be the case when the Roma communities are well-organised or when they have better and more permanent housing situations.” (See UNHCR. “Returnee Monitoring Survey: Education for Returnee Children in Bosnia and Herzegovina.” Sarajevo, March 2003)

<sup>415</sup> *European Roma Rights Center* interview with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo.

<sup>416</sup> *European Roma Rights Center* interview with Mr Jasmin Šuvalić, August 2, 2003, Banlozi.

completing schools than there are Romani girls who complete even primary schooling. Romani activists with whom the *ERRC* spoke also confirmed that the percentage of Romani boys attending schools was much higher than that of the girls.<sup>417</sup> Traditionally patriarchal Romani families appear to give more attention to their male children, and especially with limited financial resources, they tend to send boys to school, while girls remain at home. One such case was the family of 14-year-old Hanka Šuvalić, from Zenica, who at the time of an *ERRC* interview in August 2003 had never attended school, while her three brothers were enrolled and attending.<sup>418</sup> Many parents of girls who are indeed enrolled to schools will reportedly only allow them to finish first grades of primary school, in order to learn to read and write.<sup>419</sup> Lack of education among girls is later reflected in their meagre employment prospects. The *ERRC* is not aware of the inclusion of a gender component in any projects currently implemented in Bosnia and Herzegovina aimed at enrolling Romani children in schools.

Additionally, it is estimated that relevant bodies in the entities of Bosnia and Herzegovina in a vast number of cases do not exercise their duty to remind parents of their obligation to send children to primary schools, with the excuse of having special understanding for the situation of the Romani community.<sup>420</sup> *ERRC/HCHRRS* research

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<sup>417</sup> *European Roma Rights Center* interviews with Ms Indira Bajramović, President of the Romani women's non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla, and Mr Dervo Sejdić, former Coordinator of the *Council of Roma* and activist from the Sarajevo-based non-governmental organisation *Roma Prosperity*, August 1, 2003, Sarajevo.

<sup>418</sup> *European Roma Rights Center* interview with Ms Hanka Šuvalić, August 2, 2003, Banlozi.

<sup>419</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women's non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

<sup>420</sup> According to Article 27 of the Framework Law, “[p]arents are obliged to ensure regular attendance of their children in school during the period of obligatory education. In case of negligence and irresponsible behaviour to this obligation, parents are subject to legal sanctions.” Article 37 of the Republika Srpska Law on Primary School (*Official Gazette of Republika Srpska* No. 4/93) declares parents responsible for the children's enrolment in school and regular attendance; according to the same article, relevant municipal offices have to press misdemeanour charges against parents whose children are not enrolled or drop school. The Law on Primary School in the Federation BiH (*Official Gazette of the Federation of Bosnia and Herzegovina* Nos. 30/90, 3/93, 24/93 and 13/94) makes parents or guardians responsible for the children's enrolment and attendance (Article 42) and envisages fines for parents who violate the Law (Article 92, later annulled, with the closure of the public fund for education).

registered only one recent exception in Bijeljina, where in early April 2003 the Municipal Department for Trade and Social Affairs prepared twelve requests for pressing misdemeanour charges against Romani parents who failed to send their children to school in the school year 2002/2003.<sup>421</sup> Some Romani activists in Bosnia and Herzegovina were of the opinion that measures should be applied against those Romani parents who purposefully neglect their children's education for unjustifiable reasons, and that taking legal steps would lead to the improvement of the enrolment rate.<sup>422</sup> Most parents, however, appear not unwilling, but rather unable to support their children's education, and would require support from the authorities. Such cases should be addressed by offering appropriate support to the families, rather than penalising them. In this respect, it is a notable improvement that the new Framework Law on Primary and Secondary Education not only obliges parents under threat of legal sanction to ensure regular attendance of their children during obligatory education. It also introduces the obligation of governmental bodies "to take necessary measures in order to ensure conditions for free access and participation in education to all students, especially in the regard of ensuring access to free textbooks, handbooks and other didactic material."<sup>423</sup>

*ERRC* field research in Bosnia and Herzegovina revealed that the most commonly cited reason for the exclusion, both in terms of Romani children who never enrolled in school and those who left it before completion, was the lack of financial resources to secure clothing, supplies, books, and tuition.<sup>424</sup> For example, as many as 110 Romani children left schools in the school year 2002/2003 in the Tuzla Canton, mostly because of financial obstacles faced by their families.<sup>425</sup> During the research on which

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<sup>421</sup> Information from the Bijeljina-based weekly newspaper *Semblerske novine*. April 15, 2003. According to the *ERRC/HCHRRS* information, as of August 18, 2003, misdemeanour courts in Bijeljina have not dealt with any of these cases, as they are reportedly overloaded with other cases from previous years.

<sup>422</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women's non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

<sup>423</sup> Framework Law, Article 18.

<sup>424</sup> There are no tuition fees for primary education in Bosnia and Herzegovina, but persons seeking to complete an education interrupted or for some reason unfinished must pay significant enrollment fees for classes aimed at requalification or catch-up.

<sup>425</sup> Information from the Banja Luka-based daily newspaper *Nezavisne novine*. "110 Roma napustilo školu." July 8, 2003.

this report is based, the *ERRC* did not visit a single Romani family which was not experiencing problems with covering the expenses of sending their children to school. Mr Alimanović, a Romani man from the Varda Romani settlement at Kakanj in the Federation, told the *ERRC*, “Do you not see that it is impossible to send a child to a school from a place like this. We cannot send our children to school dirty, with torn clothes and without even a pencil!”<sup>426</sup> Extremely poor conditions prevail in Varda Romani settlement: Roma in the community live in makeshift shacks, garbage litters the settlement, there are no sanitary facilities and there is no source of water or electricity in the settlement.<sup>427</sup> Similarly, Ms Ajka Bajrić from Zavidovići told the *ERRC* that she cannot send her children to school if they are dirty, and the building in which the family lived housed over 30 families with access to only four bathrooms.<sup>428</sup>

In most cases, financial barriers were, indeed, the main reported cause for not sending children to school. Romani children living in marginalised communities on the periphery of towns and cities experience great difficulties in accessing schools as they must commute long distances and, in many cases, are unable to do so.<sup>429</sup> Such is the case of children in the Romani settlement usually referred to as “Svatovac” outside the Poljice village in Lukavac Municipality. Out of 36 families with around 150-200 members, only 20 children go to primary school. The nearest school, in Poljice, is an hour’s walk away, which children have to undertake in any weather. Local buses reportedly do not stop, as the drivers “know that Romani children don’t have money to pay for tickets,” according to Ms Jasminka Mehić from the settlement.<sup>430</sup> Ms Mehić told the *ERRC* that many eligible children in the settlement did not enrol in school. Those attending school suffered from their economic status: “Non-Romani children are well-dressed and clean, and our children are in rags, ashamed of themselves. My eleven-year-old son, who will now go to Grade 4, complains that his

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<sup>426</sup> *European Roma Rights Center* interview with Mr Avdo Alimanović, January 22, 2003, Varda Romani settlement, Kakanj.

<sup>427</sup> *European Roma Rights Center* visit to the Varda settlement at Kakanj, January 22, 2003.

<sup>428</sup> *European Roma Rights Center* interview with Ms Ajka Bajrić, August 5, 2003, Zavidovići.

<sup>429</sup> In Bosnia and Herzegovina, the state is not responsible for organising transportation to school for children. Transportation is provided by commercial bus companies, where pupils can have a certain discount.

<sup>430</sup> *European Roma Rights Center* interview with Ms Jasminka Mehić, August 5, 2003, Poljice.



clothes are not good enough for school.” These pupils also need to have a small daily allowance for food, which their mostly unemployed parents cannot afford. A Romani man from Poljice told the *ERRC* that some children would break into tears at school because, unlike their non-Romani counterparts, they had nothing to eat.<sup>431</sup>

Similarly, Mr Bajro Šestić, a Romani man from the Veseli Brijeg Romani settlement in Banja Luka in the Republika Srpska, told the *ERRC/HCHRS* that although he had three children of school age, none were attending school. According to Mr Šestić, he did not send his children to school because he could not afford to. Mr Šestić stated that he could not buy decent clothes and shoes for his children, nor could he buy schoolbooks and other necessities. Mr Šestić told the *ERRC/HCHRS* that he knew that without an education, his children were destined to a life like his. The ten-member Šestić family was living in a shack with no water, electricity or heating at the time of the *ERRC/HCHRS* visit. Mr Šestić had reportedly not worked since being demobilised from the Serb military at the end of the war, although he had applied for many jobs.<sup>432</sup>

Poverty takes various tolls: in some Romani families, children are actually breadwinners, as they collect money through begging. An unemployed Romani mother from the settlement confessed at a parent-teacher meeting at her 9-year-old daughter’s school that her daughter sometimes missed classes because she had to go begging, the family’s only means of survival.<sup>433</sup> Some Romani activists estimate that around 25-30 percent of Romani children in urban centres miss school because they engage in begging.<sup>434</sup>

For children whose education was interrupted, and who should be going back to grades where they would be years older from their classmates, there is a technical possibility to take catch-up exams and eventually to graduate from both primary and

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<sup>431</sup> *European Roma Rights Center* interview with Mr Fahrudin Beganović, August 5, 2003, Poljice.

<sup>432</sup> *ERRC/HCHRS* interview with Mr Bajro Šestić, May 16, 2002, Veseli Brijeg Romani settlement, Banja Luka.

<sup>433</sup> *European Roma Rights Center* interview with Ms Zineta Hasanović, August 5, 2003, Poljice.

<sup>434</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

secondary school. The costs of these exams are, however, very high: at a primary school in Tuzla, for example, students reportedly have to pay over 400 Bosnian convertible marks (approximately 210 EUR) for each belated grade exam in school year 2002/2003.<sup>435</sup>

Many Romani children are impeded from attending school in Bosnia and Herzegovina because, together with their families, they have suffered forced eviction on one or more occasions, or for other reasons related to a lack of legal security of tenure. In January 2003, the *ERRC* met with Mr Safet Osmanović, a Romani man living in Rakovica near Sarajevo. He and his family, which includes four school-age children, moved to Rakovica in October 2002 after being evicted from the Dom penzionera building, an abandoned pensioner's home in Sarajevo, on September 23, 2002.<sup>436</sup> Mr Osmanović told the *ERRC* that his family had been given temporary accommodation in Rakovica following the eviction because they had no money and nowhere to go. Mr Osmanović told the *ERRC* that there was no way for his children to attend school because they were constantly moving.<sup>437</sup> In Zavidovići, a 9-year-old daughter of Mr Šaban Frljanović had just finished grade one of primary school when her family was evicted from the municipality-owned Samački dom building in which they lived, in August 2003. Mr Frljanović told the *ERRC* that his daughter's future school attendance depended mostly on the resolution of their housing situation.<sup>438</sup> Ms Hadžira Burdalić was also evicted from Samački dom and had to rent a small house out of her meagre resources; her 7-year-old daughter should have begun attending school in September 2003, however Ms Bajramović told the *ERRC* that, after paying their rent, she could not afford to pay for schoolbooks for her child.<sup>439</sup>

Recent years have witnessed a rise in the number of preparatory classes for Romani children, organised mainly by non-governmental organisations. Such preparatory

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<sup>435</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women's non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

<sup>436</sup> See Section 10.2.2. of this report for information on this eviction.

<sup>437</sup> *European Roma Rights Center* interview with Mr Safet Osmanović, January 7, 2003, Rakovica.

<sup>438</sup> *European Roma Rights Center* interview with Mr Šaban Frljanović, August 5, 2003, Zavidovići. For more information on this eviction case, see Section 10.2.2. of this report.

<sup>439</sup> *European Roma Rights Center* telephone interview with Ms Hadžira Burdalić from Zavidovići, August 26, 2003.

classes serve to prepare children for entry into the formal schooling system, including attempting to ensure that Romani children have the language skills required for primary school education. The involvement of local authorities in organising preparatory classes is in a nascent state – in summer 2003, 50 Romani children attended summer school in Modriča, where as many as 39 signed up for the coming school year.<sup>440</sup> Preparatory classes were also organised in six locations in the Tuzla Canton, including Lukavac, Živinice, and the village of Čubrić, Banovići municipality, where classes were organised for 23 Romani children.<sup>441</sup> These efforts are a result of cooperation of local organisations with the OSCE, the cantonal Ministry for Education, and the Pedagogical Institute. Similarly, the German non-governmental organisation *Südost* organised two preparatory summer schools for Romani children in 2002 and 2003.<sup>442</sup> It is important to note, however, that the majority of such initiatives are supported and/or implemented by non-governmental organisations. In the words of a Romani activist, “Lately the authorities co-operate with [the non-governmental sector], but the problem is that we end up doing their work.”<sup>443</sup> The *ERRC* is unaware of any such programs initiated and supported by the Government of Bosnia and Herzegovina.

Discrimination and verbal harassment are also cited as educational concerns sometimes faced by Romani children, creating an environment that is by no means conducive to learning. Activists of non-governmental organisations told the *ERRC* that they heard complaints from both Romani children and parents that teachers sometimes pulled children’s hair or committed similar abusive acts. An eleven-year-old Romani boy from a village near Zenica, attending second grade at a local primary school, complained to the *ERRC* that his teacher threw pieces of chalk at him and hit him on the head, after which the boy did not want to attend school any longer. When the boy’s father wrote a complaint to the teacher, the teacher reportedly tore the letter

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<sup>440</sup> OSCE Mission to Bosnia and Herzegovina press statement of July 17, 2003, available at: [http://www.oscebih.org/news/press\\_statements/17-07-03-eng.htm](http://www.oscebih.org/news/press_statements/17-07-03-eng.htm).

<sup>441</sup> OSCE Mission to Bosnia and Herzegovina. “First day of school for Roma children.” Sarajevo, August 7, 2003, available at: <http://www.oscebih.org/ppi/field/story.asp?nr=453>.

<sup>442</sup> United Nations High Commissioner for Refugees. “Summer School for Roma Children Opens in Bijeljina”. Sarajevo, July 18, 2002, available at: <http://www.unhcr.ba/press/2002pr/180702.htm>. Information from the Sarajevo-based daily newspaper *Oslobodjenje*, August 30, 2003.

<sup>443</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

into pieces.<sup>444</sup> One Romani mother from Zenica told the *ERRC* that when her son was at primary school, “other children would, for example, break a window and then blame my son, so the teacher would send *me* a note of reprimand.”<sup>445</sup> Her son additionally testified that he was regularly slapped by a male teacher in primary school.<sup>446</sup> Reportedly, teachers often order Romani children to sit in the last row. Non-Romani peers sometimes verbally attack Romani children on racial grounds; verbal insults reportedly target children from mixed marriages as well.<sup>447</sup> Racist and prejudicial attitudes towards Roma held by teachers, school administrators, non-Romani students and their parents are often very discouraging for Romani children attending school: “Our children are nothing but ‘little Gypsies’ to non-Roma,” a Romani parent complained to the *ERRC*.<sup>448</sup> A 17-year-old Romani teenager from Zenica left school after grade three for similar reasons: “I wanted to finish school, but as I was called and treated as a ‘Gypsy’ all the time, I left. I complained to my parents, but what could they do?”<sup>449</sup> Similarly, 14-year-old Edin Fafulić, also from Zenica, left primary school after grade three because non-Romani children in his class either teased him or stayed away from him.<sup>450</sup> When Edin’s family moved to another part of town, school authorities reportedly refused to issue him a certificate that would enable him to enrol in another school, in Edin’s opinion for no other reason than his ethnic background. “Now I don’t even try to look for education,” Edin told the *ERRC* in August 2003. Very often, there are only one or two Romani children in a class, which makes them additionally vulnerable to peer harrassment and lack of support.<sup>451</sup>

The problem of discrimination against Romani children exists outside the formal education system as well. In the village of Banlozi, Romani families live in the vicinity

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<sup>444</sup> *European Roma Rights Center* interview with Mr Mirsad Šuvalić, August 2, 2003, Banlozi.

<sup>445</sup> *European Roma Rights Center* interview with Ms Rahima Musić, August 3, 2003, Zenica.

<sup>446</sup> *European Roma Rights Center* interview with Mr Zajko Musić, August 3, 2003, Zenica.

<sup>447</sup> *European Roma Rights Center* interview with Ms Nermina Hećimović, August 3, 2003, Zenica.

<sup>448</sup> *European Roma Rights Center* interview with Mr Sulejman Šuvalić, August 2, 2003, Banlozi.

<sup>449</sup> *European Roma Rights Center* interview with Mr Sead Mehmetović, August 2, 2003, Banlozi.

<sup>450</sup> *European Roma Rights Center* interview with Mr Edin Fafulić, August 2, 2003, Banlozi.

<sup>451</sup> *European Roma Rights Center* interviews with Mr Mirsad Šuvalić and Ms Hanka Šuvalić, August 2, 2003, Banlozi.

of a camp for Bosniak internally displaced persons. A German non-governmental organisation reportedly organised workshops for children on the camp's premises in spring 2003, and the activities were apparently open to all children. Nevertheless, according to statements by Romani parents provided to the *ERRC* in August 2003, the non-Romani parents objected to attendance by Romani children. Eight-year-old Mirnesa Šuvalić was one of the Romani girls attending the workshops, but when her father heard of the attitude of non-Romani parents, and that non-Romani children beat Romani children, he decided that he would no longer allow his daughter to attend.<sup>452</sup>

According to Romani representatives, Romani pupils have also been required to attend religious education lessons. Mr Kasim Jusić, Vice-President of the Roma Association of Kalesija, told the *ERRC/HCHRRS* that some Romani children have been ordered to attend Islamic religious education classes at the local primary school.<sup>453</sup> Some of the parents complained that children are confused by this obligation, as they had never had such classes in the course of their previous education in Germany. The local Roma suggested that religious education should be voluntary and take place at religious institutions, but the response of the school authorities was that religious instructions are compulsory for all pupils – which was, in fact, contrary to existing legislation.<sup>454</sup>

There have been instances in Bosnia and Herzegovina in which Roma have been denied access to education apparently on the basis of their ethnicity. On August 29, 2000, six hundred and twenty Romani refugees from Kosovo accommodated in the Smrekovica refugee centre in the Municipality of Breza, launched a strike, according to the Sarajevo-based daily newspaper *Oslobodjenje*. They did so to protest against the decision of local authorities that Romani children from the camp could not attend

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<sup>452</sup> *European Roma Rights Center* interview with Mr Muharem Šuvalić, August 2, 2003, Banlozi.

<sup>453</sup> *ERRC/HCHRRS* interview with Mr Kasim Jusić, May 19, 2003, Kalesija.

<sup>454</sup> The Tuzla Canton Law on Primary School (*Službene novine Tuzlansko-podrinjskog kantona 4/97, 9/97*) includes no regulations making religious education mandatory in primary schools. Moreover, Article 9 of the new Framework Law states, “Having in mind diversities of beliefs/convictions within BiH, pupils shall attend religious classes only if latter match their beliefs or beliefs of their parents. [...] Students who do not wish to attend religious education classes shall not in any way be disadvantaged compared to other students.” As of the end of 2003, all education-related legislation will have to be harmonised with the Framework Law.

the local primary school. The headmaster of the school, the Sarajevo office of the UNHCR and the Ministry of Human Rights and Refugees of Bosnia and Herzegovina had arranged for sixty Romani children from the camp to enrol at the Enver Čolaković Primary School. However, the local mayor reportedly intervened to prevent the children from enrolling, justifying his decision with the argument that there was a lack of space at the school. The article quoted the president of the refugee association in the Smrekovica camp, Mr Senad Džemali, who accused the mayor of stating that he would not allow the Romani pupils to mix with non-Roma. Mr Džemali also noted that any local mishap was generally blamed on the Roma from the camp, and that, in his opinion, the Roma were unwanted by the locals. During the strike, the refugees refused to accept food deliveries and banned access to the camp. All of the involved parties met on September 5, 2000, and decided that two rooms within the camp facilities would be refurbished and equipped for classes for the Romani children, taught by two non-Romani teachers. Some Romani parents reportedly welcomed this solution as it saved the children from a several kilometres long walk to the local school. However, *Oslobodjenje* quoted others who found this solution unacceptable and demanded their children should be treated equally and be allowed to attend the local school.<sup>455</sup>

During an *ERRC* visit to the Smrekovica camp in January 2003, Ms Fakira Osmani, a Kosovo Romani refugee living in the camp, stated, “Only the people who speak Albanian and want their children to speak Albanian are happy with the school here. Their children do not speak the local language so their children could not go to school in Breza anyway. [...] It is better for my children to go to ordinary schools. If they say that they went to a school in a refugee camp with only Roma no one will take them seriously.”<sup>456</sup> Despite opposition, the Romani children in the camp were still attending the provisory school in the camp at the time of an *ERRC/HCHRRS* visit in August 2003.

While conducting field research, the *ERRC/HCHRRS* met with Romani returnees who reported that their children have problems because the education they received while they were abroad during the war had not been recognised by Bosnian authorities upon return. In addition, the children of many Romani returnees began school abroad and learned in foreign languages and therefore do not understand adequately

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<sup>455</sup> Information from the Sarajevo-based daily newspaper, *Oslobodjenje*, September 6, 2000.

<sup>456</sup> *European Roma Rights Center* interview with Ms Fakira Osmani, January 7, 2003, Breza.

the language of instruction in schools in Bosnia and Herzegovina. Mr Adem Grgić, a Romani man from Gradiška in the Republika Srpska, explained that after his family returned from Germany, his son had problems in school. Although, according to Mr Grgić, his son had certificates which stated that he had completed grade seven in Germany, he was not permitted to enrol in the eighth grade in Gradiška. Mr Grgić said that the school administrators alleged that his son did not speak Serbian nor read Cyrillic, so he was enrolled in the fifth grade.<sup>457</sup>

For all of the reasons detailed above, it is therefore hardly surprising that only a very small number of Romani pupils proceed to secondary school. A 19-year-old Romani man from Poljice explained to the *ERRC* his reasons for not continuing to secondary school: “I graduated one year ago, as the only child in my family who successfully completed primary school. I wanted to go to secondary school but I could not. I would need a monthly bus ticket to Lukavac, and that would be 35-40 Bosnian convertible marks (approximately 18-20 EUR) per month, in addition to more money for the food and for my clothes.”<sup>458</sup> In this young man’s six-member family, his father was the only person with a job. Those Romani students who make it to high school very often face most unsuitable conditions at home. Sixteen-year-old Ms Mirela Šuvalić, a high school student in Zenica and the only Romani student at her school, told the *ERRC* that she and six other members of her family lived without a legal permit in a flat of mere 15m<sup>2</sup>, owned by the municipality. There is one common toilet for thirteen families living in the same building, and there are no bathrooms. While four of the family’s children attended school, the family survived on their mother’s social welfare checks alone. “It is hard for me to study; I don’t have my own room,” Ms Šuvalić told the *ERRC*, “I could have been a better student if my living conditions were better.”<sup>459</sup> At the university level, there are very few Roma, and the *ERRC* heard of no more than five university students of Romani background in all of Bosnia and Herzegovina.

Roma-related topics are absent from the current educational programs in Bosnia and Herzegovina: with the exception of a brief mention of Romani victims in the World

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<sup>457</sup> *ERRC/HCHRRS* interview with Mr Adem Grgić, December 17, 2002, Gradiška.

<sup>458</sup> *European Roma Rights Center* interview with Mr Asim Mujić, August 5, 2003, Poljice.

<sup>459</sup> *European Roma Rights Center* interview with Ms Mirela Šuvalić, August 3, 2003, Zenica.

War II, there is nothing in the current educational programme in Bosnia and Herzegovina that would teach students about the history or culture of Roma or the positive contributions Roma have made to Bosnian and other societies.<sup>460</sup>

Finally, Romani-language education in Bosnia and Herzegovina is also currently inadequately provided.<sup>461</sup> Research has indicated that the number of Roma who speak

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<sup>460</sup> *European Roma Rights Center* interviews with Ms Sanela Bešić, July 31, 2003, Sarajevo and with Ms Jo-Anne Bishop, Advisor for Non-discrimination and Access, Education Department, OSCE Mission to Bosnia and Herzegovina, August 1, 2003, Sarajevo.

<sup>461</sup> Article 27 of the ICCPR is the most widely accepted legally binding provision on the rights of minorities. It confers on persons belonging to minorities the right to national, ethnic, religious or linguistic identity, or a combination thereof, and to preserve the characteristics which they wish to maintain and develop. Article 27 is applicable to all minorities, and its application is not contingent on official recognition of a minority by a State. Article 27 obliges States that have ratified the Covenant to ensure that all individuals in their jurisdiction enjoy their rights; this may require specific action to correct inequalities to which minorities are subjected. It states: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." Some States have interpreted this to mean that they do not have an obligation to take positive action in the promotion of minority rights. However, in Article 6.1 of its General Comment 23, the UN Human Rights Committee (HRC) found that "Although article 27 is expressed in negative terms, that article, nevertheless, does recognize the existence of a 'right' and requires that it shall not be denied. Consequently, a State party is under an obligation to ensure that the existence and the exercise of this right are protected against their denial or violation. Positive measures of protection are, therefore, required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party." (UN Human Rights Committee, *The rights of minorities* (Art. 27): 08/04/94. CCPR General comment 23", Fiftieth session, 1994, Article 6.1 available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/fb7fb12c2fb8bb21c12563ed004df111?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/fb7fb12c2fb8bb21c12563ed004df111?Opendocument)).

In Europe, minority rights to native language education and other specific measures to preserve and promote minority cultures have been significantly elaborate. Article 5(1) of the Council of Europe's Framework Convention on the Protection of National Minorities further provides, "The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage." Article 12 (1) of the Framework Convention states, "Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their



the Romani language in Bosnia and Herzegovina decreases with age.<sup>462</sup> In younger generations, few Roma speak the Romani language. Some parents admitted that they did not teach their children Romani because they feared it would negatively influence their knowledge of Bosnian and consequently threaten the children's success at school.<sup>463</sup> A Romani high-school student from Zenica had a pragmatic approach, declaring that she would rather "learn English than Romani."<sup>464</sup> Some Romani activists were of the opinion that there were other, basic issues – such as the purchase of books or clothes for school children – that needed to be resolved as a higher priority before the Romani language came to the agenda.<sup>465</sup> However, the reservation of Romani culture and language was clearly a high priority for many: For example, Mr Saša Matić, a Romani activist from Gradiška, explained to the *ERRC/HCHRS*, "We are unable to offer our children any education whatsoever, because we are too poor. We would also like our children to be educated in Romani language and culture. That is the only way in which we could save our culture and tradition."<sup>466</sup> For a plethora of reasons, the survival of the Romani language, an important aspect of the

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national minorities and of the majority." Article 12(2) states: "In this context the Parties shall *inter alia* provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities." Finally, "the Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities." Article 6(1) states, "The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media."

<sup>462</sup> *European Roma Rights Center* interviews with Ms Sanela Bečić, July 31, 2003, Sarajevo and with Ms Jo-Anne Bishop, Advisor for Non-discrimination and Access, Education Department, OSCE Mission to Bosnia and Herzegovina, August 1, 2003, Sarajevo.

<sup>463</sup> *European Roma Rights Center* interview with Ms Rahima Musić, August 3, 2003, Zenica.

<sup>464</sup> *European Roma Rights Center* interview with Ms Mirela Šuvalić, August 3, 2003, Zenica.

<sup>465</sup> *European Roma Rights Center* interview with Mr Omer Šuvalić, Secretary of the Romani association *Romano Lil*, August 3, 2003, Zenica.

<sup>466</sup> *ERRC/HCHRS* interview with Mr Saša Matić, President of the *Association of Roma in Gradiška*, December 16, 2002, Gradiška. On Mr Matić's initiative, the *Association of Roma in Gradiška* organised classes in Romani language in the summer of 2002, to ensure that Romani children in Gradiška received some training in the language. The Association has also formed a cultural section that seeks to preserve and appreciate traditional Romani dances, songs, and dresses.



Muharen Suvačić with his sons Mirsad (center) and Muharem, Banlozi, Bosnia and Herzegovina, August 2003.

PHOTO: *ERRC/TATJANA PERIĆ*



Mirnesa Suvačić, Banlozi, Bosnia and Herzegovina, August 2003.

PHOTO: TATJANA PERIĆ

Romani existence in Bosnia and Herzegovina, is threatened.<sup>467</sup> While a new Law on the Protection of the Rights of the Members of National Minorities promotes the respect and accommodation of the language and culture of minorities,<sup>468</sup> Article 4 in both the Federation and Republika Srpska Law on Primary School specify that mother tongue classes for minority children can be organised only if the number of such children at a school is at least 20. With the low attendance rates of Romani children, it is very difficult to reach this number and exercise the given right. Very few schools had Romani language courses as of the time of writing this report: For example, in the school year 2002/2003, Romani language classes were organised in the Silvije Strahimir Kranjčević Primary School in Sarajevo.<sup>469</sup> Similarly, in Kiseljak near Tuzla there were also Romani language classes, given by a Romani teacher.<sup>470</sup>

There has been a perceived need for educational reform among a broad range of stakeholders in Bosnia and Herzegovina for a number of reasons. Among other things, the educational system to date has not been child-centred and is outdated in many ways; the use of information technology was absent from educational programs; pedagogy has been focused excessively on rote memorisation; and – most importantly for the purposes of this report – it allowed for segregation of children along ethnic lines. In an attempt to address these needs, the ministries of education of the two Entities and the Ministry of Human Rights and Refugees presented an

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<sup>467</sup> The *Centre for the Protection of Minorities Rights* writes, “There are ever-frequent warnings that the current system of education [constitutes] a great danger for the national and cultural identity of Bosnia-Herzegovina Roma. [...] there is no space in the current systems of education for national minorities to manifest themselves in linguistic and cultural terms. On the contrary, pedagogical and other requirements in these systems have been reduced to the needs of their [the constituent peoples’] nation, their culture, their history and so on. In this context, there is a real danger of possible cancellation of the Romani language, Romani culture and history, Romani identity in all its forms [...]” (Kukić, p. 29-30).

<sup>468</sup> Article 8 of the Law states: “The language and culture of any significant minority in BiH shall be respected and accommodated within the school to the greatest extent practicable, in accordance with the Framework Convention for Protection of National Minorities.”

<sup>469</sup> OSCE Mission to Bosnia and Herzegovina. “OSCE Praises Students for their Plans to Reform Education.” Sarajevo, April 23, 2003, available at: <http://www.oscebih.org/ppi/field/story.asp?story=25-04-03>.

<sup>470</sup> *European Roma Rights Center* interview with Mr Ahmet Mujić, President of the Tuzla Canton Roma association *Roma Dream*, August 4, 2003, Tuzla.

Education Reform Agenda on November 21, 2002. Six Education Working Groups were formed, with local experts, representatives of international organisations and other stakeholders, including a working group on education access and non-discrimination. The main document of the campaign, the Education Reform Strategy, includes a pledge that:

“[All] children [will] have access to quality education, in integrated multicultural schools, that is free from political, religious, cultural and other bias and discrimination and which respects the rights of all children. We will accomplish this by:

- ◆ Providing returnee children with ready access to education, in integrated multicultural schools in their area of return, that is free from political, religious and cultural bias and discrimination.
- ◆ Ensuring that all children who are members of national minorities (particularly Roma children) are appropriately included in the education system throughout the country.
- ◆ Ensuring that all children have the opportunity to complete primary education.
- ◆ Including children with special needs at all levels of the education system.”<sup>471</sup>

The strategy further elaborates on the ways of accomplishing the inclusion of minority children, with special emphasis on Roma:

“Ensure that the national minorities, and especially Roma, are enabled to define their own needs and support them in assessing what is necessary for successful education (March 2003).

“Establish a flexible, BiH-wide implementation plan to include all children belonging to national minorities (in particular Roma children) within the educational

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<sup>471</sup> “Education Reform Strategy. A Message to the People of Bosnia and Herzegovina: Education Reform.” Sarajevo, November 21, 2002, p. 9, available at: [http://www.oscebih.org/education/download/final\\_reform\\_strategy.pdf](http://www.oscebih.org/education/download/final_reform_strategy.pdf).

system, addressing the problems of access, financing of textbooks and transportation (August 2003).”<sup>472</sup>

According to *ERRC* findings, the initial needs assessment was indeed conducted in time to meet the set deadline, in March 2003, while the implementation plan for minority children was re-scheduled for October 2003. Though it is still too early to comment on the success of the Education Reform Agenda, some results are evident. For example, in May 2003, a country-wide campaign, conducted in co-operation with the OSCE and aimed at increasing the enrolment of Romani children into schools, took place in Bosnia and Herzegovina. Primary schools organised “Days of Open School” – one such example was the Vuk Stefanović Karadžić Primary School in Doboj, where there were only 6 Romani pupils and the school staff estimated that there were hundreds of Romani children in their area who did not attend school.<sup>473</sup> In some places, this action yielded results: for example, an increased enrollment of Romani children was noted in the Branko Radičević Primary School in Banja Luka. After a meeting with Romani parents where the director of this school explained the enrollment procedure, the school agreed with the municipality of Banja Luka that Romani parents would not need to pay fees for the children’s medical examinations required for enrollment.<sup>474</sup> Some Bosnian schools initiated individual action before the reform was formalised. Such is the case of the Džemaludin Čaušević Primary School in the Švrakino Selo local community of Sarajevo, which prided itself in having sixty-four Romani pupils enrolled as of April 2003. With the assistance of the *Open Society Fund* and other non-governmental organisations, the school introduced free instruction for Romani pupils who missed some classes, support with homework, and special exams for Romani youth over 15.<sup>475</sup> Non-governmental organisations in Bosnia and Herzegovina also initiated programs promoting Romani children’s access to education.<sup>476</sup> An OSCE task force on education for Roma and

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<sup>472</sup> “Education Reform Strategy”, p. 10. Dates in brackets are the set implementation deadlines.

<sup>473</sup> Information from the Sarajevo-based national daily newspaper *Dnevni avaz*. May 5, 2003.

<sup>474</sup> The numbers of enrolled Romani children were not specified. Office of the High Representative. “Transcripts of the International Agency’s Joint Press Conference at CPIC”. Sarajevo, May 20, 2003, available at: [http://www.ohr.int/ohr-dept/presso/pressb/default.asp?content\\_id=29939](http://www.ohr.int/ohr-dept/presso/pressb/default.asp?content_id=29939).

<sup>475</sup> Information from the Sarajevo-based daily newspaper *Oslobodjenje*. “Mali Romi sve više u djačkim klupama.” April 9, 2003.

<sup>476</sup> *Save the Children UK* and the European Union financed the “Promotion of Romani Children’s Access to Education” program, implemented in spring and summer 2003 by local partner organisations *Budi moj prijatelj*, *Zdravo da ste* and *Zemlja djece* in Tuzla and Sarajevo cantons.

especially focussing on the problem of school abandonment and other non-schooling had its first meeting on August 12, 2003. The board of directors of the task force consists of Romani and other activists, school authorities and the OSCE,<sup>477</sup>

### 11.5 Access to Public Places and Services

Cases of denial or attempt of denial of Roma access to public places have been documented in Bosnia and Herzegovina recently. On July 22, 2003, owners of the “Orlando” swimming pools open to the public in Živinice, Tuzla Canton, denied a group of Romani children the right to swim in the same pool as others, and instructed them to swim in a separate pool, apparently for no other reason than their skin colour. The children in question were participants of a summer camp for Roma from former Yugoslavia, located in the nearby village of Kiseljak and organised by the Tuzla-based association *Sae Roma*. The children went by bus to visit the town of Živinice as a part of their activities on July 22, 2003. After the group leader bought the tickets and the children entered the pools, the staff on duty asked the children with dark skin to use a separate, smaller pool. Protesting this act of discrimination, the whole group left the pools. *Sae Roma* conducted investigation into the case, and the pool owners reportedly confirmed that the incident took place but refused to disclose reasons for refusing to allow the Romani children to swim with non-Roma. *Sae Roma* consequently informed local and international authorities about the case.<sup>478</sup> Municipal authorities in Živinice immediately condemned the incident and sent a letter to the swimming pool owners requesting them “to refrain from such conduct in future, reminding them that they were obliged to provide equal access to the premises and that they might be subject to penalties.”<sup>479</sup> *Sae Roma*, however, considered this reaction inadequate, as in their opinion this act of blatant discrimination deserved more severe sanction. The organisation also did not receive any response or apology from the pool owners.

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<sup>477</sup> *European Roma Rights Center* interview with Ms Jo-Anne Bishop, Advisor for Non-discrimination and Access, Education Department, OSCE Mission to Bosnia and Herzegovina, August 1, 2003, Sarajevo.

<sup>478</sup> *ERRC/HCHRRS* interview with Mr Šaban Mujić, President of the Advisory Board on Roma and President of the non-governmental organisation *Sae Roma*, Tuzla, July 29, 2003.

<sup>479</sup> OSCE Mission to Bosnia and Herzegovina press statement of July 31, 2003, available at: [http://www.oscebih.org/news/press\\_statements/31-07-03-eng.htm](http://www.oscebih.org/news/press_statements/31-07-03-eng.htm).

In the same month, local authorities in the village of Kiseljak, Tuzla Canton, attempted to ban Roma from using local buses, according to *ERRC/HCHRRS* field research. On an unspecified date in early July 2003, representatives of local authorities discussed the possibility of not allowing Roma to use public transport, reportedly because Roma – and particularly Romani children – did not buy bus tickets, and also because Roma allegedly did not take care of personal hygiene and boarded buses with cumbersome luggage. *Sae Roma* reacted to this discriminatory initiative with a letter to the cantonal authorities, who further ordered the local community not to take the steps planned.<sup>480</sup> In the same canton, Roma of the village Poljice complained that a local driver from a private company ordered a Romani woman named Ajša to leave the bus, on an unspecified date in summer 2003, as her bags with goods she intended to sell in the market “smelled bad” to the driver.<sup>481</sup>

Roma in Bosnia and Herzegovina sometimes experience other forms of humiliating treatment in other public places. A Romani teenage newsletter based in Tuzla published anecdotal evidence of a case from a Tuzla shop, taking place on an unspecified date in 2002, in which the shop attendant reportedly sprayed scent after a Romani woman with a baby on her back left the shop, and explained to the reportedly approving non-Romani customers that “she had to decontaminate the room.”<sup>482</sup>

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<sup>480</sup> *ERRC/HCHRRS* interview with Mr Šaban Mujić, President of the Advisory Board on Roma and President of the non-governmental organisation *Sae Roma*, Tuzla, July 29, 2003.

<sup>481</sup> *European Roma Rights Center* interview with Mr Alija Arapović, August 5, 2003, Poljice.

<sup>482</sup> Association of Romani Women Bolja Budućnost. *Terne Roma*, No. 1, Tuzla, 2002.



## 12. GOVERNMENT EFFORTS TO DATE TO ADDRESS THE SITUATION OF ROMA AND OTHER WEAK GROUPS

In the face of the very seriously problematic human rights situation of Roma in Bosnia and Herzegovina, authorities have been very slow to respond, and their efforts to date have been weak. Nevertheless, some actions have been undertaken, both directly with respect to Roma, and generally in the area of minority rights.

In May 1999, a first meeting of the Roma Coordination Group took place. The meeting was attended by representatives of the international community and Romani and non-Romani local organisations. The OSCE Mission to Bosnia and Herzegovina in particular has organised several Roma-related campaigns. In October 2001, the OSCE Mission to Bosnia and Herzegovina organised a discussion on “Improving Access of Roma to Ombudsmen Institutions”, including representatives of the Romani community, entity and state-level ombudsman institutions, and the Ministry of Human Rights and Refugees. At the same time, the position of OSCE Roma Officer was created. Furthermore, a campaign encouraging Roma to vote was carried on throughout 2002, including the visits of two teams of Romani activists to Romani communities with the aim of informing the latter on the election registration process.<sup>483</sup> In July 2003, two Romani activists joined the OSCE staff, as Roma National Monitor and the Assistant to Roma Projects, respectively.

Major developments in the process of the empowerment of the Romani community in Bosnia and Herzegovina are the creation of the Council of Roma (*Vijeće Roma*) in Bosnia and Herzegovina, and the Advisory Board on Roma (*Savjetodavni odbor za romska pitanja*) within the Council of Ministers of Bosnia and Herzegovina. The Council of Roma, a 9-member body elected by twenty-two Romani associations

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<sup>483</sup> The teams also discovered that the majority of Roma could not vote due to the lack of personal documents. (Office of the High Representative. “Transcript of the International Agency’s Joint Press Conference in CPIC.” Sarajevo, July 3, 2002) The presence of Romani activists as monitors in the election process was also considered very helpful, as there were reports of previous manipulations of Romani votes by political parties (*European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla).

from throughout the country, was founded at a conference entitled “Opening Doors: Strengthening Roma Capacity and Ensuring Access to Government,” organised by the OSCE Mission to Bosnia and Herzegovina near Sarajevo on November 9-12, 2001. At the conference, twenty-two representatives of local Romani organisations developed a National Platform for Roma in Bosnia and Herzegovina, addressing the issues of political participation, education, housing, social and health care and the situation of Romani refugees, displaced persons and returnees. The Bosnian Romani activists present at the conference also selected members of the Council of Roma, envisaged to serve as a partner for the Bosnia and Herzegovina Romani community in cooperation with the government.

At a meeting following the conference, on November 12, 2001, Bosnian Romani activists met representatives of the international community in Bosnia and Herzegovina, together with the state Ministry of Human Rights and Refugees and several other ministries from the Republika Srpska and the Federation of Bosnia and Herzegovina. The Ministry of Human Rights and Refugees committed itself to establishing the Advisory Board on Roma within the Council of Ministers of Bosnia and Herzegovina, which was eventually done on June 24, 2002. This advisory board consists of members of relevant ministries, members of the Council of Roma in Bosnia and Herzegovina, and representatives of the international community. In October 2002, the Advisory Board on Roma adopted its first draft of its Working Plan and Programme for 2002-2006. According to this draft plan, the Board planned to undertake activities in the following areas in the period 2002-2006: personal documents, education, health care, employment and social benefits, and refugees and displaced persons and property return.<sup>484</sup> The Plan also included tentative deadlines and actors that would be involved in the eventual implementation of the plans. Some months later, on December 27, 2002, the Roma Board adopted an expanded Working Plan and Programme for 2002-2006, where seven fields of priority activities were set: birth records; education in the Romani language; health insurance, employment and social care; facilitating the return of pre-war property to refugees and displaced persons; housing issues; the establishment of Romani media; and possibilities for being informed in the Romani language.<sup>485</sup> Further elaboration

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<sup>484</sup> Savjet ministara Bosne i Hercegovine – Odbor za Rome pri Savjetu ministara Bosne i Hercegovine. “Okvirni plan i program Odbora za Rome pri Savjetu ministara Bosne i Hercegovine za period 2002.-2006. godine.” Sarajevo, October 2002.

<sup>485</sup> Ministry of Human Rights and Refugees. “Document No. 08/1-1/6/.” Sarajevo, December 27, 2002.

of the issues listed was planned for 2003. At a Board's meeting on May 12, 2003, it was decided that they would soon launch a campaign focusing on employment and health care issues.<sup>486</sup>

Also in May 2003, Mr Slobodan Nagradić of the Ministry of Human Rights and Refugees announced that the country's authorities "at all levels, along with the international organizations, will work in the next four years on resolving priority problems of Romanies – education, housing and employment. [...] From the next year all authorities must earmark part of the budget for this. We must continue to lobby international and humanitarian organizations to ensure support for the solution to the Romanies' problems," Nagradić said.<sup>487</sup> An encouraging step was taken in December 2003, when, according to the Bosnian daily *Dnevni Avaz*, the municipality of Zenica established, with the assistance of the European Commission and a German charity, Bosnia's first municipal office for Romani affairs.

Government efforts to address the situation of Roma and other weak groups have also comprised lawmaking in some areas. For example, the Law on the Rights of National Minorities, debated by the legislature in Bosnia and Herzegovina for a considerable time, was passed by the Parliamentary Assembly of Bosnia and Herzegovina on April 1, 2003, and came into effect in May 2003.<sup>488</sup> In its Article 3, the law officially recognises Roma as a minority group. The law bans discrimination of minority group members and their forced assimilation.<sup>489</sup> Under the law, the rights of Roma,

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<sup>486</sup> Information from the Sarajevo-based national daily newspaper *Oslobodjenje*. May 16, 2003.

<sup>487</sup> Information from the Bijeljina-based *SRNA News Agency*, May 22, 2003.

<sup>488</sup> The full name of the law is Law on the Protection of the Rights of the Members of National Minorities (*Zakon o zaštiti prava pripadnika nacionalnih manjina*). *Official Gazette of Bosnia and Herzegovina*, May 6, 2003. Previously, the House of Representatives adopted the Draft Law on Minorities in June 2002. This version was then sent to the House of Peoples for approval, which however, refused to debate the bill because the House of Peoples had one year previous adopted a different version of the Law on Minorities. In accordance with the Rules of Procedure of Parliament, a Joint Commission was formed for the purpose of harmonising the two versions of the Law on Minorities that were adopted. According to the Sarajevo-based *ONASA News Agency*, "[t]he adoption of the law represent[ed] one of the post-admission obligations of [Bosnia and Herzegovina] towards the Council of Europe, and a condition for the approval of certain funds for the field of protection of rights of national minorities." (*ONASA News Agency*, April 1, 2003)

<sup>489</sup> Law on the Rights of National Minorities, Article 4.

and all other national minorities, to preserve and develop their ethnic, cultural, linguistic and religious identity, are protected. National minorities have the right to use their language both publicly and privately.<sup>490</sup> Under the law, national minorities have the right to set up their own private educational institutions, as well as have the right to receive educational materials and teaching in their own language in public schools, if they so request.<sup>491</sup> They also have the right to be represented in public authority bodies and in all levels of the civil service.<sup>492</sup>

Many Romani activists with whom the *ERRC* spoke emphasized that they believed authorities had not undertaken sufficient consultation with Roma in the process leading to the law's adoption. The Tuzla-based organisation *Sae Roma* organised a roundtable on the "Constitutional and Legal Status of Roma in Bosnia and Herzegovina" on March 21-22, 2003, where the participants established a commission with the task of creating proposals on the draft Law on the Rights of National Minorities. Members of this commission were Romani activists Mr Nijaz Biberović, Mr Elvis Mujić and Mr Hasan Suljić. The commission submitted its proposals shortly afterwards. However, the Law was adopted only several days later, on April 1, 2003. The opinion of the Romani community was evidently not taken into account.<sup>493</sup> Additionally, in its current form, the law reserves recognition of minority rights under the Law only to citizens of Bosnia and Herzegovina. Restricting the protection of minority rights to citizens is contrary to the prevailing interpretation of the concept of minorities, which holds that citizenship is not a requirement of belonging to a minority.<sup>494</sup> In this respect, it appears that Bosnia and Herzegovina is failing to live up to its obligations in the field of minority rights. It was subsequently reported that the House of Peoples of Bosnia and Herzegovina would soon launch a procedure for the law's modification, because of its shortcomings.<sup>495</sup>

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<sup>490</sup> Law on the Rights of National Minorities , Article 11.

<sup>491</sup> Law on the Rights of National Minorities , Articles 13 and 14.

<sup>492</sup> Law on the Rights of National Minorities , Article 19.

<sup>493</sup> *European Roma Rights Center* interviews with Mr Nijaz Biberović, President of the Romani youth association *Kate Acha*, July 31, 2003, Sarajevo, and Mr Elvis Mujić, Coordinator of the *Council of Roma* and President of the Tuzla-based non-governmental organisation *Young Roma Activists*, August 4, 2003, Tuzla.

<sup>494</sup> See for example United Nations Human Rights Committee General Comment 23, Articles 5.1 and 5.2.

<sup>495</sup> Information from the Sarajevo-based *ONASA News Agency*, April 1, 2003.

*ERRC* field research also revealed that many Roma in Bosnia and Herzegovina knew nothing or at best very little about the new law and the minority status of the Romani community. Apparently, everyday efforts to survive ranked much higher on their priority list. Some activists were of the opinion that a part of the problems of Roma lay in their lack of knowledge of their rights.<sup>496</sup>

In other areas of lawmaking – ones with potentially much more far-reaching implications for the situation of Roma in Bosnia and Herzegovina – government efforts to date have been thoroughly inadequate. This is particularly true with respect to comprehensive anti-discrimination law – required under current European standards<sup>497</sup> – where to date the government has failed to act. Thus, in Bosnia and Herzegovina, the Constitutional guarantee that individuals are protected from arbitrary treatment on grounds of race and/or other arbitrary factors remains to date largely unelaborated by procedures which individuals might use simply and effectively if and when they believe they have suffered the very serious harm of racial discrimination, or other forms of discrimination. This lacuna needs urgently to be remedied.

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<sup>496</sup> *European Roma Rights Center* interview with Ms Indira Bajramović, President of the Romani women’s non-governmental organisation *Bolja budućnost*, August 4, 2003, Tuzla.

<sup>497</sup> European legal norms banning discrimination are currently in a period of expansion. In June 2000, the Council of the European Union adopted Directive 2000/43/EC (hereafter called the “Directive”) “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.” By mid-2003, all EU Member States had to harmonise their legislation with the norms set forth in the Directive. In addition, as part of the *acquis communautaire*, the Directive must also be integrated into internal law by all EU candidate states. Bosnia and Herzegovina is neither an EU Member State, nor is it currently a candidate for EU membership. However, the EU Directive is currently the European minimum standard in laws banning racial discrimination. As such, it provides relevant benchmarks for assessing the adequacy of the legal provisions banning racial discrimination in Bosnia and Herzegovina.

Less than six months following the adoption of the Directive, on November 4, 2000, the Council of Europe opened Protocol No. 12 to the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) for signature. Protocol No. 12 broadens significantly the scope of the Convention’s anti-discrimination protection by providing for a comprehensive ban on discrimination on a number of grounds in the exercise of any right set forth by law. These new instruments supplement and expand the existing Article 14 ban on discrimination in the ECHR. Together with commentary such as the Council of Europe’s European Commission Against Racism and Intolerance’s Policy Recommendation No. 7, they provide clear guidelines to comprehensive anti-discrimination law.



### 13. CONCLUSION

The human rights situation of Roma in Bosnia and Herzegovina is, today, entirely unacceptable. As set down in the Constitution, Roma are barred from participating in the Presidency and the House of Peoples at State level, solely on the basis of their ethnicity, as these offices are reserved for members of the “constituent peoples”: Bosniaks, Croats and Serbs. Roma are also unable to vote for the constituent person or persons to represent them in the House of Peoples, as only Bosniak and Croat members of the Federation-level House of Peoples may vote for these positions. In addition, many Roma in Bosnia and Herzegovina cannot vote in any elections because they lack evidence of their citizenship or one or more documents required to register to vote, and in fact may be stateless. Roma therefore find themselves in an institutionally crippled and dependent position, hindered systemically in their ability to address the many issues they face in post-war Bosnia and Herzegovina. The government of Bosnia and Herzegovina must act without delay to remedy this series of structural deficiencies in its legal framework and practice.

The preamble of the Universal Declaration of Human Rights (UDHR) affirms the “inherent dignity” and “the equal and inalienable rights of all members of the human family”. Indeed the very first article of the UDHR states, “All human beings are born free and equal in dignity and rights.” The tragedy of the failure to give effect to these principles resonates in the words of Fatima, a Romani woman from Zenica, who told the *ERRC*: “We don’t have the same rights as other people.”<sup>498</sup> Roma in Bosnia and Herzegovina have been denied their rights for so long and in such systematic fashion that, like Fatima, many have come to think that they simply do not have the same rights as other people.

Despite evidence of first steps in the development of policies to address the very serious issues related to the realisation of fundamental human rights by Roma in Bosnia and Herzegovina, many Roma nevertheless encounter very serious obstacles in exercising basic human rights. To a dramatic extent mired in poverty and/or extreme poverty, many Roma are unable to avail themselves of basic services required to access

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<sup>498</sup> Perić, p. 1.

a range of fundamental rights. Rather than acting swiftly and effectively to remove these burdens, state agencies and other authorities to date have been primarily seen to impose further burdens in the exercise of fundamental rights, in particular by failing to provide many Roma with the documents required to claim such services.

The visible extreme situation of Roma in Bosnia and Herzegovina has to date failed to provoke any widespread view that the situation of Roma in Bosnia and Herzegovina constitutes a human rights emergency. This is so even though the denial of basic rights has resulted in the deaths of Romani individuals on a number of occasions. It is also true notwithstanding the very evident fact that generations of Romani children are currently so excluded from the system that without swift emergency intervention now, they are nearly assured to constitute a future extremely deprived underclass.

The aim of this report is to describe the contours of the human rights emergency facing Roma in Bosnia and Herzegovina, and to indicate some areas in which policy measures are needed to move toward ending that emergency. There is no doubt that remedying the current situation will not be a simple undertaking. Nor, however, is there any doubt that the longer such measures are delayed, the more difficult they will be to implement successfully. Bosnia and Herzegovina today enjoys very significant international attention and there is a plethora of potential sources for assistance available to authorities. Insofar as awareness of the situation of Roma has grown dramatically in Europe in recent years, sentient, human-rights-based policy efforts by the Bosnian government are likely to be met with support and encouragement from a number of quarters. However, these must first be designed and serious indications provided that they will be implemented.



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## 15. SUMMARY IN ROMANI

Naj but thema ande save si e manuŝikane čačipa kade garantuime katar o zakono sar andi Bosna thaj Hercegovina. Maj baro zakono Bosniako thaj Hercegovinako phenel, “Bosnia thaj Hercegovina sar vi liduj entitetura trubun te den drom thaj te keren sekuritato pala maj baro levelo maŝkarthemutne pindžarde manuŝikane čačipengo/xakajengo thaj fundamentale slobodengo.” O maj baro zakono maj dur del prioriteto Europake Manuŝikane Čačimaske Zkonoske khetane na-diskriminaciake paragrafurenca thaj del but aver maŝkarthemutne manuŝikane čačimaske kontraktura, vi varesave save naj ratifikuime ande ni jekh Europako them. Kadale faktura sar vi varesave paragrafura katar Bosnia thaj Hercegovina thaj maj bare zakonura ande duj entitetura *prima facie* keren diskriminacia mamuj Rroma, thaj dukhaven vi korkore pes thaj vi maŝkarthemutno manuŝikane čačimasako zakono. Maj baro zakono Bosniako thaj Hercegovinako opril e Rromen te astaren baro numbri pire politikane čačipengo. Bosnia thaj Hercegovina si numaj jekh them andi Europa ande savo si e Rromenge oprime katar o zakono te keren politikane ofisura sar vi prezidiumo. Sar membrura dujtone klasako manuŝengo save naj konstitutivo nacia, Rromane čhavorren andi Bosnia thaj Hercegovina adjes ŝaj numaj te avel mangin te jekh djes vareko lendar avel prezidento kadale themesko.

*Europake Rromane Čačimaske Centrosko (ERRC)* monitoringo pala i situacia e Rromengi andi Bosnia thaj Hercegovina kerda te e Rroma ŝaj slobodo te phenen kana si lenge politikane, civile, ekonomikane thaj sociale čačipipa dukhadine sar rezultato lenge statusosko ande kodo them, sar vi godolese/vaŝ odi kaj či-kamipe mamuj Rroma vazda opre rasistikani diskriminacia sar vi aver manuŝikane čačimaske violencie mamuj Rroma. Maj dur godolese kaj si lenge legalo opripe te keren pe maj baro levelo politikane ofisura, but Rroma andi Bosnia thaj Hercegovina naŝti den piro politikano glaso pal pe aver rig but Rromen naj sa personale dokumentura thaj varekana si vi bithemesko. Problemo pala personale lila/dokumentura či del ŝaipe e Rromenge te utilizin varesave servisura save si vasne pala astaripe fundamentale čačipengo, sar si i edukacia, urbanizmo, sastipaski protekcia thaj sociale ažuțimaske servisura. Buten Rromen naj sasa ŝaipe te irin pire barvalipa save sasa lenge maj anglal o maripe, thaj godolese/vaŝ odi train ande but bilači situacia, butivar ande naformale komunitetura save si telal svako dživdimasko standardo. But egzemplura kana si kerdini violencia mamuj Rroma katar themeske agentura vaj katar nathemeske si sikadine.

Incidentura kaj si kerdino dukhavipe/violencia mamuj Rroma andi Bosnia thaj Hercegovina katar save kerde pes raportura maj palal lie te inkljen vi ando preso-žurnala.

*Europake Rromane Čačipaske Centrosko* monitoringo pala situacia e rromengi andi Bosnia thaj Hercegovina kerda raporto. Agor purane Jugoslaviako thaj o maripe savo sasa ande kava them kerda but bilačo efekto pala Rroma thaj lenge komunitura andi Jugoslavia. Pe Rroma si kerdine but bare bilačhipa katar sa riga ande purane Jugoslaviako konflikto, thaj gindil pes kaj 30,000 milje/ezera Rroma sesa subjekto etnikane xoslipasko/ ethnic cleansing. But Rroma sesa intjardine sar vi dukhadine ande lagera/koncentraciake kampura. Rroma thaj Rromane komunitura sasa sajekh dukhadine specialo ando foro Prijedor thaj ande gava trujal sar: Kozarac, Hambarine, Tukovi thaj Rizvanovići. But bare bilačhipa mamuj Rroma si kerdine ande Vlasenica, Rogatica, Zvornik thaj ande gava save si trujal. Majcerra/minimum 70 Rroma si mudardine ando masakro ando foro Srebrenica po 1995-to berš. Rroma(murša) sesa tradine te aven robura/slave ande armie svakone rigake ande kava konflikto. But Rromane džuvlja sesa tradine po sex thaj maj palal sesa tradine te keren godo pala love. O maripe katar 1992 dži kaj 1995-to berš ličharda/phagarda but Rromane komunitura. Vaš odi but si vasno te sa kadala kriminale aktivitetura mamuj Rroma katar 1992-to dži kaj 1995-to berš aven krisime.

Maj dur, vi kaj majoriteto e Rromengo andar i Bosnia traisarda anglal o maripe andi easto Bosnia, andi regia savi akana bešel o entiteto savo si pindžardo sar Republika Srpska, adjes maj but Rroma bešen andi regia (vaj kotor e Bosniako) savi akharel pes federacia, maj but po Westo thaj maj palal but Rroma baro numbri e Rromengo či irisajle palpale andi Bosnia thaj Hercegovina. Genocido civilo maripe savo sasa andi Bosnia thaj Hercegovina but pharusarda demografia rromane komunitongo andi Bosnia thaj Hercegovina. Buten Rromen naj sasa šaipe te roden palpale o barvalipe/property savo sasa lengo maj anglal o maripe thaj ačhile bi lače kompenzaciako pala godo so sasa len thaj so si ličhardino vaj phagardino kana sasa o maripe.

Kava raporto si bazirime (leski baza) pe lila save si linde katar o *ERRC*, inpedanto katar amalikane na-governoske organizacie sar *Helsinki Komiteto pala Manušikane Čačipa andi Republika Srpska (HCHRRS)*, thaj vi katar aver na-governoske organizacie. O monitoringo manušikane čačimaske situaciako e rromengo andi Bosnia thaj Hercegovina katar *ERRC* thaj *HCHRRS*, vazda opre but manušikane čačimaske dukhavipa sar:



### **1. Ekskluzia e Rromengi katar maj baro levelo politikane participaciako**

Maj baro zakono Bosniako thaj Hercegovinako opril e Rromen katar ofisura pala Prezidiumo thaj katar parlamento. Numaj trin konstitutive nacie-Xoraxaja, Kroatura thaj Serbura-šaj len than ando Prezidiumo thaj ando Parlamento. Godolese, lokhes pe baza e etnicitetoski, Rromenge si oprime/či-dindo te len than/participirin sar kandidatura pe alosaripa pala kadale ofisura. Rromenge si maj dur oprime te den piro politikano glaso pe alosaripa pala reprezentantura e parlamentoske e Federaciaki Bosniaki thaj Hercegovinaki, godolese kaj numaj Xoraxaja thaj Kroatura den pire reprezentanturen ando Parlamento. Ekskluzia katar politikane ofisura po maj baro levelo numaj maj but dukhavel thaj kovljarel romano komuniteto andi Bosnia thaj Hercegovina.

### **2. Pharipa pala astaripe/akseso Personale Dokumenturengo/lilengo thaj Themutnipe/Citizenship**

But Rromen andi Bosnia thaj Hercegovina naj personale dokumentura thaj varekana naj len ni themutnipe. Egzemplura pala anatemikano fenomeno bithmutnipasko maškar e Roma sasa raportuime andar Bosnia thaj Hercegovina. Rromen andi Bosnia thaj Hercegovina si but pharipa te astaren dokumentura/lila sar o bijandimasko lil, personalo identifikaciako lil, dokumentura save sikaven kaj o them musaj te del e manuše sastipaski protekcia thaj socialo žutipe sar vi pasporto. Bariere save baron katar problemo pala dokumentura šaj daravel e manuše, thaj problemo pala jekh dokumento kerel pharipe te astarel pes aver dokumento. Astaripe personale dokumenturengo thaj themutnipe kerel pharipe e Rromenge andi Bosnia thaj Hercegovina te astaren baro numbri avere fundamentale čačipengo thaj slobodengo, sar čačipe pala dinipe politikane glasosko, čačipe pala adekvato kher, čačipe pala socialo žutipe, čačipe pe edukacia thaj čačipe pala lače sastipaske standardura.

### **3. Violencia mamuj Rroma**

Andi relacia pala permanento/svako-divesutni etnikani tenzia thaj na-pakiv maškar manuša ande post/palal maripaski Bosnia thaj Hercegovina, e Roma arakhle korkore pen ando jekh bilačo statuso e agencienca pala zakono ande saven len

naj (vaj si minimumo) reprezentantura. Policiake manuša/oficira andi Bosnia thaj Hercegovina sesa preparatora pala fitikano dukhavipe e Rromengo; von specio thaj maj but dukhade e Rromen perdal jekh bilači etnikani praksa; von kerenas atakura pe rromane gava/komunitetura; sikade e romen sar bange pala varesave kriminale aktura save von či kerde thaj naj sasa evidencia kaj von godo kerde; thaj maj palal či kerde lače rodipa/investigate ande relacia e kriminalosa save si kerdine mamuj Rroma. Rasizmostar motivirime/thaj kerdine atakura mamuj Rroma katar 1992-to dži kaj 1995-to berš si dokumentuime. Ande but incidentura e Rroma sesa viktimura pakl e atakura sesa kerdine katzar gadže, so ande varesave kazura kerda but bare bilačhipa. Verbalo violencia thaj diskriminacia mamuj Rroma si svakodivesutni andi Bosnia thaj Hercegovina.

#### **4. Violencia andi relacia bešipaske thanenca/kherenca thaj barvalipaske čačipenca**

But Rromen si bare pharipa po drom te astaren pire barvalipaske čačipa/property rights thaj aksesio pala adekvato bešipasko than/housing andi post/palal maripaski Bosnia thaj Hercegovina. Šaj phenel pes kaj si but Rroma akana vadži čhudine te bešen pe averčhande thana. Ande varesave kazura rromen naj sasa šaipe te irin pire khera save sesa lenge maj anglal deso o maripe teljarda vaš odi kaj si len dar te irin pes. Represia pala personalo barvalipe e Rromengo (khera thaj phuvja) akano pelo pe diskrecia lokale barederipasko save trubun lokhes te traden e manušen (save akana bešen pe kodola barvalipa) katar kodola barvalipa. Ande but kazura pala iripe personale barvalipengo katar e Rroma (pala kava vi o *ERRC* džanel), e manuša save okupirisarde/bešle pe jekh vrama gothe ličharde kodola barvalipa maj anglal deso gele. But na-formale komunitetura kaj e Rroma traisarde maj anglal o maripe si phagardine thaj naj akana adekvate pala bešipe thaj dživdipe. E Rromen saven sasa šaipe te irin pes pe pire barvalipa butivar xatjaren pes sar vareko ko mangel katar lokale barederipa save roden lendar te džan po aver than vaš odi kaj kamen pe kodola thana kaj akana e rroma bešen, te keren industrikane vaj aver ekonomikane buxljarimaske projektura, pal ande kodi vrama či keren plano pala alternativo than e Rromenge kaj von trubun te bešen. Rroma save train ande na-formale komunitetura vaj save traisarde ande khera save si dinde lenge sar socialo žutipe maj anglal o maripe si akana čhudine avri katar beneficie save del o nevo zakono pala barvalipa thaj butivar našti astaren e love save si dinde sar socialo žutipe. Ande gasave komunitetura našti astarel pes

jekh adekvato dživdimasko standardo. Ande varesave kazura but bilače dživdimaske standardura ande Rromane komunitetura kerel vi te varesave manuša meren. Maj dur, e Rroma našti kade lokhes te len varesavo kher pe renta vaj godolese kaj si bari diskriminacia vaj godolese kaj naj len love.

**Pharipa/problema pala astaripe/akseso avere fundamentale čačipengo/xakajengo**

Rromen andi Bosnia thaj Hercegovina si problemura te astaren pire fundamentale čačipa sar si butjaripe, socialo žutipe, maj baro standardo pala sastipe thaj sitjuvipe/ edukacia. Rroma si sajekh ačhadine po drom te astaren publike/sa-manušenge servisura save si vane/importante pala realizacia sociale thaj ekonomikane čačipengo. Ando baro numbri e kazurengo save si dokumentuime katar *ERRC* thaj leske amalikane organizacie, rromane individualcura mule vi sar rezultato Bosniake barederipasko/ autoritetosko te del fundone/bazikane servisura sar fundo sastipaski protekcia. Baro numbri e Rromengo adjes maren pes mamuj egzistencialo problemo vaš odi kaj train/ dživdinen pe but bilače thana ande but bilače dživdimaske/traimaske kondicie.

Andi relacia kadale raportosa o *ERRC* turvinjil/del adveto te o governo Bosniako thaj Hercegovinako (sar vi duj entitetoske guvernura, foroske khera thaj barederipa andar kantonura) adoptuin/len aktivitetura thaj politika andi relacia pala lenge kompetencie.

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