

# **Racial Discrimination and Violence against Roma in Europe**

## **Statement submitted by the European Roma Rights Center**

**For consideration by the United Nations Committee on the Elimination of Racial Discrimination at its 57<sup>th</sup> Session, on the occasion of its Thematic Discussion on Roma, August 15-16, 2000**

### Executive Summary

The European Roma Rights Center ("ERRC"), an international public interest law organisation, respectfully submits written comments concerning racial discrimination and violence against Roma in Europe, for consideration by the Committee on the Elimination of Racial Discrimination ("the Committee") at its 57<sup>th</sup> Session, on the occasion of its thematic discussion on Roma, on August 15 and 16, 2000.

We are aware of the efforts undertaken by a number of Governments<sup>1</sup> to comply with their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (the "Convention"). To date, however, these measures are insufficient to ensure the effective implementation of the Convention, particularly with regard to Articles 2, 3, 4, 5, 6 and 7.

As to Article 2, discrimination and violence against Roma remain widespread throughout Europe while legal protection against discrimination and racially-motivated violence is inadequate. The problem of insufficient legislative provisions aimed at combating racism and discrimination is further compounded by the failure to ensure their effective implementation.

As to Article 3, in several countries in Europe, Governmental policies towards Roma, most notably in the fields of housing and education but also in other areas of life, amount to racial segregation into conditions of life to which no other segment of the population is subjected.

As to Article 4, prominent public officials in Europe have continued to disseminate racist speech targeting Roma, thereby encouraging racism rather than combating it in the societies they govern.

As to Article 5, many Governments have failed to ensure Roma and other minorities equal protection of the law. Roma in a number of countries suffer widespread discrimination in the justice system, and are the victims of an unchecked wave of violence at the hands of law enforcement authorities, skinheads and others. In addition, Roma are commonly discriminated against with respect to a broad range of rights, most egregiously and systematically, freedom of residence, employment, housing, health care, education, and access to public goods and services.

As to Article 6, notwithstanding the numerous breaches of the Convention perpetrated against Roma throughout Europe, protection is lacking or ineffective, and remedies non-existent or inadequate.

As to Article 7, efforts to promote racial tolerance, in part through the conduct of educational and media campaigns to familiarise the public with the Convention and its standards, are insufficient or entirely absent from the political agendas of most European Governments.

In view of these deficiencies, Governments should, without delay, comply with the following recommendations, aimed to begin the process of eliminating discrimination against Roma:

1. Involvement - In designing, implementing and evaluating policies to combat and prevent discrimination, Governments must involve representative groups of Roma at all stages.

2. Political will - The foundation for any successful anti-discrimination policy is political will at the highest levels of Government. Absent moral leadership in the fight against discrimination, all other steps

risk being mere window dressing. Senior Governmental officials must frequently and publicly acknowledge that racism against Roma is a grave and pervasive problem which afflicts, not Roma, but majority society. Governments and the public at large must first acknowledge the extent of racism in order to combat it.

3. Legislation – Although European constitutions uniformly prohibit discrimination and guarantee equality, many governments have yet to follow through on these constitutional promises by enacting implementing legislation specifically prohibiting racial discrimination. This is so, even though a number of countries have criminalised incitement to, and acts of, racially-motivated violence. Governments which have not yet done so should enact comprehensive legislation specifically prohibiting non-violent discrimination – and providing civil and criminal remedies therefor – in all spheres of public life, including but not limited to education, employment, housing, health care, social services, and access to citizenship and public accommodations.

4. Enforcement - Governments must do more to ensure consistent and adequate enforcement of existing legal standards in the field of discrimination.

a) On the one hand, Governments must effectively discipline public officers – including police, prosecutors and other investigative authorities – who fail adequately to enforce discriminatory norms.

b) On the other hand, Governments must arrange for training of public officers – including police, prosecutors and judges – to educate them in binding international law prohibiting racial discrimination, and its applicability in domestic fora. In short, law enforcement officers must be aware that racial discrimination is against the law, and that it is their duty to enforce that prohibition.

5. Positive Action - International law authorises and in some cases mandates affirmative action by governments to ensure equality in fact, as well as in law, for those groups including Roma who have historically suffered systematic discrimination. Among the most important measures which Governments can take in this regard are the active recruitment, identification and capacitation of Roma into the ranks of public employment, including the police, prosecutorial corps and the judiciary.

6. Specialised bodies - Governments must establish specialised official bodies with specific responsibility to act in the field of racial discrimination. In a number of countries, Ombudsmen have been established to address these questions, and in some instances, Ombudsmen have played a useful role in highlighting and focus public scrutiny upon abuses. But this is not enough. Governments must establish state organs with the legal power to investigate and prosecute acts of discrimination.

7. Race Statistics - Governments can hardly comply with international obligations to eradicate racial discrimination absent data showing the racial impact of policies in the fields of, inter alia, employment, housing, education, and criminal justice. Governmental efforts to combat racial discrimination should therefore be based on reliable statistical data and other quantitative information reflecting as accurately as possible the situation of Roma and other minorities in society. Such information should be collected in compliance with human rights principles, and protected against abuse for purposes other than reversing racial discrimination and improving the overall situation of the Roma.

8. Dialogue - Governments should pursue and intensify programmes to facilitate dialogue and understanding between groups of Roma and various public officials, including the police, prosecutors and the judiciary.

9. Anti-racism and human rights education - Governments should intensify efforts at popular education about the extent of anti-Roma racism, about the contributions of Romani culture and history, and about the binding nature of international and domestic prohibitions on racism and discrimination.

10. International commitments - Governments must demonstrate their commitment to combat racism and discrimination by making full use of existing international instruments, in particular:

a) Article 14 of the Convention: All Governments which have not done so should declare, pursuant to Article 14 of the Convention, that they accept the competence of the Committee to consider communications from individuals and groups concerning violations of the Convention;

b) European Union Race Directive: Governments throughout Europe should expeditiously bring their legislation and practice into conformity with the Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, adopted by the Council on June 29, 2000, and;

c) Protocol No. 12 to the ECHR: All Council of Europe Member States should proceed with a speedy ratification of Protocol No. 12 to the European Convention on Human Rights, broadening the scope of Article 14 on non-discrimination, adopted by the Committee of Ministers on June 26, 2000.

### Expertise and Interest of the ERRC

The ERRC is an international public interest law organisation, which monitors the human rights situation of Roma in Europe and provides legal defence in cases of abuse. Since its establishment in 1996, the ERRC has undertaken first-hand field research in some twenty countries, and has disseminated numerous publications, from book-length studies to advocacy letters and public statements. ERRC publications and additional information about the organisation are available on the Internet at <http://www.errc.org>.

The ERRC believes that the upcoming session of the Committee offers an opportunity to highlight some of the most significant respects in which a number of Governments have failed to fulfill their commitments under the Convention. We submit that our extensive factual research concerning the human rights conditions of Roma throughout Europe and our extensive experience in litigating on behalf of Romani victims of abuse warrant the attention of the Committee to this document.

### Discussion

#### Article 2

To date, most European Governments have failed to comply with their obligation to “pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms [...]” (Art. 2(1)). In particular, they have not complied with their obligation to “prohibit and bring to an end, by all appropriate means, including legislation [...] racial discrimination [...]” (Art. 2(1)(d)).

Most tellingly, although European constitutions uniformly prohibit discrimination and guarantee equality, numerous Governments – particularly those in Central and Eastern European countries – have yet to follow through on these constitutional promises by adopting comprehensive implementing legislation prohibiting racial discrimination. This is so, even though a number of countries have criminalised incitement to, and acts of, racially-motivated violence. Many Governments have yet to enact legislation specifically prohibiting non-violent discrimination – and providing civil and criminal remedies therefor – in all spheres of public life, including but not limited to education, employment, housing, health care, social services, and access to citizenship and public accommodations.

The Council of Europe European Commission against Racism and Intolerance has recently concluded that, “[t]here is persistent racial and ethnic discrimination in such areas as employment, housing and the provision of services, and [...] it is closely linked to a lack of effective anti-discrimination provisions in several member States.”<sup>2</sup> Similarly, in a report released in March this year, the OSCE High Commissioner on National Minorities found that “[a]lthough national constitutions typically prohibit discrimination and ensure equality, many OSCE participating States have failed to enact or implement legislation necessary to give effect to this fundamental norm,” urging “States that have not yet met their international obligations in this regard” to make the enactment of such legislation “a high priority.” According to the report, “[w]hile enacting such legislation is not a panacea for racism, it is a necessity.”<sup>3</sup>

A number of Governments in Central and Eastern Europe have recently pledged to adopt specific anti-discrimination legislation, but none can yet pride itself on having actually done so. For example, the so-called “Framework Programme for Equal Integration of Roma in Bulgarian Society,” endorsed by the Bulgarian Government on April 22, 1999, includes, inter alia, a commitment to enact legislation prohibiting racial discrimination, but ERRC remains unaware of any progress made in this regard.<sup>4</sup> Similarly, in a

resolution adopted in April 1999, the Czech Government apparently contemplated presenting draft legislation “restricting racial (or other) discrimination” to the Parliament, but has, as of this writing, not made public any practical steps taken toward the drafting of such a law.<sup>5</sup> In Romania, meanwhile, a draft Law against All Forms of Discrimination was recently adopted by the Government, but has yet to be considered by the Parliament.<sup>6</sup> Elsewhere, even less progress has been made, and some Governments, most notably the Hungarian, have gone as far as affirmatively announcing that no anti-discrimination legislation is needed.<sup>7</sup>

Moreover, even when states do have such legislation, as illustrated in this document, and as observed by ECRI, “it is not implemented satisfactorily. ECRI has frequently noted [...] the gap between rhetoric and reality,” and that “the application of principles [of equality and non-discrimination] is often less than thorough.”<sup>8</sup>

### Article 3

In a number of countries in Europe, Governmental policies towards Roma amount to racial segregation in breach of Article 3 of the Convention, which states that “States Parties particularly condemn racial segregation [...] and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.”<sup>9</sup> Racial segregation of Roma is most notable in the field of housing, but is prevalent in other spheres of public life as well, in particular in the field of education (see under Art. 5(e)(v) *infra*). ERRC notes that the cases described below are not isolated phenomena in the countries concerned, but should rather be seen as illustrative examples of a more general policy fostered and/or tolerated by the respective Governments.

Perhaps the most notorious recent example of racial segregation of Roma culminated in the Czech Republic last autumn, when municipal authorities in the northern Czech city of Ústí nad Labem ordered the construction of a wall separating the Romani residents of Matiční Street from their non-Romani neighbours.<sup>10</sup>

The city council first announced its decision to build the wall in May 1998. Despite intense international attention and numerous appeals to the Czech Government to take firm measures to prevent the construction of the wall,<sup>11</sup> the Czech Cabinet reacted only in May 1999, and even then, merely by “recommending” that the regional government of Ústí nad Labem rescind its decision to build the wall. On October 13, 1999 – the same day the Czech Parliament finally annulled the resolution by the Ústí nad Labem City Council – the latter went ahead with the planned construction; inhabitants of the buildings on Matiční Street were awoken at around four o’clock in the morning when builders arrived and began constructing the wall under an approximately eighty-person-strong police guard. Construction was completed by evening.

On November 23, 1999, following massive protests by civil society and numerous condemnations by representatives of various intergovernmental bodies, the Ústí nad Labem City Council resolved to remove the wall, and on November 24, 1999, builders tore it down. While welcoming the demolition of the wall, ERRC finds the one and a half years of inaction by the Czech Government irresponsible and unacceptable. It should have promptly and unequivocally made clear that segregation and racism are not tolerated in the Czech Republic. Instead, it effectively stood by and watched as the Roma of Ústí nad Labem were subjected to the continuous and humiliating threat – and later reality – of racial segregation.<sup>12</sup> ERRC further notes with concern the credible reports according to which, as part of the negotiated settlement between the national Government and the Ústí nad Labem city authorities, the Government provided a large grant to buy the houses of non-Romani residents of Matiční Street, effectively capitulating to their segregationist desires.<sup>13</sup>

In Italy, by developing a housing policy for Roma premised on the racist and incorrect characterisation of them as “nomads,” the Government has fostered the segregation of Roma into inhuman and degrading “camps” to which no other segment of the population is confined.<sup>14</sup> Alone among all population groups, Roma in Italy – be they immigrant Roma from the territory of former Yugoslavia and

Romania, or “Italian” Roma and Sinti – are almost invariably confined to a life in camps located far from most city centres, thoroughfares and public services.<sup>15</sup> The entirely predictable result of such intentional racial segregation, and of the racist assumptions which underlie it, is the marginalisation of Roma from mainstream political, economic and social life, and the denial of equality in public spheres from housing to criminal justice, education and employment.

Following its most recent review of Italy’s compliance with the Convention, in March 1999, the Committee expressed concern “at the situation of many Roma who, ineligible for public housing, live in camps outside major Italian cities,” and concluded that “[i]n addition to a frequent lack of basic facilities, the housing of Roma in such camps leads not only to a physical segregation of the Roma community from Italian society, but to political, economic and cultural isolation as well.”<sup>16</sup> ERRC notes that notwithstanding the 18 months that have elapsed since the Committee expressed these concerns, the housing situation of Roma in Italy remains unaltered.<sup>17</sup>

Roma also suffer de facto segregation in Slovakia.<sup>18</sup> A municipal ordinance passed by the city of Košice in 1995 designated the housing settlement of Luník IX on the outskirts of the town as the site for the “creation of living conditions for citizens of the city of Košice who illegally occupy flats, homeless persons, non-rent payers, and unadaptable citizens.”<sup>19</sup> Although the ordinance does not specifically refer to Roma, subsequent municipal documents supplementing the above ordinance, approve financing for “small-sized, substandard flats” “for Roma.”<sup>20</sup> Commenting on the 1995 ordinance, the OSCE High Commissioner on National Minorities has recently noted that “it appears that the policy embodied in Resolution 55 was designed principally with Roma in mind.”<sup>21</sup> Indeed, since 1995, almost all of the non-Romani residents of Košice have been allocated housing elsewhere in the city and have moved out. Meanwhile, Roma living in other areas of Košice have been evicted and moved to Luník IX.<sup>22</sup> The housing estate is now nearly 100% Romani, and houses approximately 4000 people who all live in appalling conditions in which disease is rife, rats are evident, and electricity, heating and basic sanitation are unavailable entirely or for months at a time. Many families live in flooded basement flats without windows, therefore even lacking natural light.<sup>23</sup> Although virtually all Roma living in Luník IX have applied to move out, none have received flats outside the estate. The one exception of which ERRC is aware – Jan Ziga, a Romani man who reportedly signed a contract to move into a flat on Svatoplukova street in central Košice on September 8, 1998 – was ultimately prevented by the district mayor from moving into his new home, following objections raised by the inhabitants of the building in which he had been granted an apartment. Mr. Ziga continues to live in Luník IX.<sup>24</sup>

#### Article 4

Notwithstanding Governments’ obligations under Article 4(c) not to “permit public authorities or public institutions, national or local, to promote or incite racial discrimination,” racist speech against Roma by public officials is common. As a result, racism is, not challenged; it is encouraged.<sup>25</sup>

Recent examples of this phenomenon are illustrative:

On April 27 this year, Mayor Dezső Csete of the eastern Hungarian town of Csór declared on Hungarian TV news that “[a]t present time, I believe that the Roma of Zámoly have no place among human beings. Just as in the animal world, parasites must be expelled.”<sup>26</sup> In a May 12 article commenting on the mayor’s speech, the Hungarian daily “Népszabadság” noted that neither the Government, nor the governing parties reacted to the statement. Reportedly, only the opposition Alliance of Free Democrats has sought an investigation by the Office of the Ombudsman for National and Ethnic Minority Rights into the TV news report.<sup>27</sup>

In Italy on May 17, 2000, Paolo Frigerio, Northern League Mayor of Cernusco sul Naviglio near Milan, made a widely publicised statement in which he promised to pay 5 million Italian lire (approximately 2,500 US dollars) of public Government money to anyone willing to spray manure on the area where a group of immigrant Roma were temporarily residing in his town. According to Mayor Frigerio, “a bath of manure is the only way to even the score with the Gypsies, an act of justice equal to what they leave us when they move on.”<sup>28</sup>

In Romania, the national daily *România Liberă* of December 4, 1999, published a long interview with General of Brigade Mircea Bot, Chief of the Bucharest Police, in which he is quoted to have stated, inter alia, that “Gypsies are grouped around well-known criminals,” and that “up until now, the Gypsy people were used to stealing, robbing,” while “now” they are focused on “financial criminal acts [...]”. In the conclusion of the interview, General of Brigade Bot stated that “there are Gypsies who are born criminals” who “do not know anything else than to commit criminal acts [...]”.<sup>29</sup>

More recently, in March this year, Alliance for Romania Deputy Chairman Mugurel Vintila is reported to have told the Romanian daily “National” that “Western chancelleries” are preparing Romania’s “transformation into a Gypsy state” and that the Roma in Romania are financed from abroad in order to “penetrate the [country’s] power structures.”<sup>30</sup> Also in March this year, upon returning from a meeting of the Romania-EU Association Council, Romanian Foreign Minister Petre Roman reportedly stated that the Romanian Government has an obligation to “protect 23 million Romanians against the few thousand Gypsies” who are preventing the country from getting off the EU visa blacklist.<sup>31</sup>

In Slovakia last year, Ján Slota, mayor of the northern Slovak town of Žilina, is reported to have told a rally that Slovakia would never tolerate a Romani minority because “they are Gypsies who steal, rob and pilfer.”<sup>32</sup> During a trip to Berlin on November 29, 1999, President Rudolf Schuster reportedly commented that Slovak Roma are “profiting from state help but are neither willing nor capable of assuming responsibility for the improvement of their own situation.”<sup>33</sup> On January 5 this year, finally, while calling for sanctions against Czech Airlines for transporting Roma from Bratislava to Finland, Foreign Ministry State Secretary Jaroslav Chebo was quoted in international press as stating, that the “real discrimination” was prompted by “73 people who may bring about the re-imposition of visa requirements for 5,5 million Slovaks.”<sup>34</sup>

ERRC is unaware of any public official who has been criticised – let alone brought to justice – for any of the above incidents, or for any other act of racial incitement against Roma or other minorities. As Member of the European Parliament Claude Moraes recently noted, Roma are “the only ethnic minority which [...] seems to [be] regarded as ‘politically correct’ to denigrate.” Moraes urged that “[a]lso in the Member States, the authorities should energetically prosecute incitements to racial hatred directed, in particular, against Roma refugees.”<sup>35</sup>

## Article 5

### Article 5(a) – The right to equal treatment before the tribunals and all other organs administering justice

Information gathered by ERRC indicates that Roma in numerous countries throughout Europe suffer widespread discrimination in the justice system. This discrimination takes two broad forms; on the one hand, complaints by Romani victims of human rights abuse are not adequately investigated by law enforcement and judicial authorities, and on the other, Romani defendants are subjected to pre-trial detention more often and for longer periods of time than non-Roma, and receive disproportionately severe sentences.

In the overwhelming majority of the cases of anti-Romani violence monitored by ERRC, judicial systems throughout the continent, especially in Central and Eastern Europe, continue to render inadequate decisions, in particular by failing to take into account racial motivation even where evidence has clearly shown that the victims were attacked only because they were Roma. To take one example, on July 1, 1999, the district court of the central Slovak town of Banská Bystrica upheld a first instance ruling by a local court that a skinhead who had assaulted a Romani man in 1996 was not guilty of racially-motivated crime since Roma and

the ethnically Slovak skinhead were of the same race. Even if reportedly acknowledging that the only reason for the attack was the hatred felt by the perpetrator for Roma, the first instance court ruled in October 1998 that such hatred was not “because of race,” since – in the argument of the court – Roma belong to the same race as Slovaks.<sup>36</sup> A recent Council of Europe report expressed similar concerns about the situation in the Czech Republic: “[T]he interpretation of ‘racial motivation’ rendered by some judges is a very restrictive one,” resulting in a situation in which “perpetrators of racially motivated crime often escape being brought before the courts, and even when they are found guilty of such crimes, punishment is relatively light.”<sup>37</sup> The murder case of Milan Lacko, a Romani father of four, beaten unconscious and left to die on a road where he was ran over by a truck on May 15, 1998, is just one example of this trend; although found guilty on several charges by the first instance court in October 1998, all four defendants received suspended sentences.<sup>38</sup>

In Romania, meanwhile, hundreds of Romani victims remain without redress for the several dozens of incidents of community violence perpetrated against them in the first half of the 1990s; in addition to failing to prosecute civilian perpetrators of mob violence against Roma, despite evidence of systematic failure on the part of the Romanian law enforcement authorities to protect Roma and their property from violent attack, ERRC is not aware of criminal proceedings against one single police officer in connection with these incidents. Indeed, military prosecutors have on three occasions expressly refused to indict police officers for complicity in a 1993 incident in which a mob of ethnic Romanians and Hungarians in the village of Hădăreni killed three Roma, burned fourteen and demolished another five houses belonging to Roma, and chased all Romani inhabitants out of the village.<sup>39</sup>

The Committee itself has, on a number of occasions, voiced concern about the lack of protection provided to Romani victims of racial discrimination and racially-motivated violence.<sup>40</sup> Other international monitoring bodies have expressed similar concerns.<sup>41</sup> As recently noted by the OSCE High Commissioner on National Minorities, Romani victims “encounter significant obstacles in their efforts to secure legal redress for [...] attacks. [...] [P]olice and other authorities have often resisted the obvious implication that [...] crimes [perpetrated by skinheads against Roma] might have been racially-motivated. Responding to an inquiry concerning reported skinhead attacks in the Slovak city of Košice, for example, municipal and police officials stated that they had not identified any racially-motivated crimes there in the past eight years. They dismissed the possibility that attacks against Roma by youth dressed in the characteristic fashion of skinheads actually were committed by skinheads; rather, these officials suggested, the assailants’ emblems of membership in a skinhead movement were merely fashion statements.”<sup>42</sup> ERRC has encountered similar attitudes among Government officials, both in Slovakia and elsewhere in Europe. Commenting on a major skinhead attack against Roma in the Czech town of Děčín on December 18, 1999, local police chief František Pelhart stated that there was no evidence of racial motivation behind the attack. He told the ERRC, “[t]he men were drunk and wanted to fight. It was a coincidence that they ran into Roma. None of them is a member or sympathiser of an extremist movement. Today it is fashionable to have short hair.”<sup>43</sup>

Perhaps even more disturbingly, a report by the Council of Europe found that the Slovak “police in general often refuse to record statements by victims of skinhead attacks against Roma/Gypsies” and “exert pressure on the victims of police brutality to withdraw their complaints, while the media, doctors and investigators refuse to give specific descriptions of the victims’ injuries.”<sup>44</sup> Slovakia is not the only country where prospects of remedy are even smaller when the alleged perpetrators are the police. Failure to adequately investigate police abuse against Roma was the source of two adverse rulings against the Government of Bulgaria in the European Court of Human Rights, in October 1998 and in May 2000.<sup>45</sup> Regardless of where they occur, in most cases, police who abuse Roma act with full impunity. Law enforcement officials are rarely, if ever, disciplined or prosecuted for anti-Romani violence. Often out of fear, Romani victims are reluctant to file complaints. Even where the victims do come forward to seek remedies, only rarely do their complaints result in effective and thorough investigations, let alone convictions. Far more often, Romani complaints concerning police abuse are dismissed as ungrounded, and investigations suspended for alleged lack of evidence, or left indefinitely pending with no result.<sup>46</sup>

Roma also receive differential treatment when entering the criminal justice system in the capacity of defendants. Evidence of such discriminatory trends has recently been noted by a number of international monitoring organs.<sup>47</sup>

Extensive research conducted by ERRC into conditions of Romani detainees in Bulgaria, for example, found that Roma are more often detained on remand than non-Roma when charged with the same offence and that they are, as a rule, not allowed access to legal counsel, although they are entitled to this under Bulgarian law.<sup>48</sup> Roma are also likely to receive more severe sentences than non-Roma; a prison director in Bulgaria told ERRC, “They again send me a Gypsy sentenced to serve a year and a half effectively in prison for having stolen something small, like a rotten barn door, while a non-Gypsy who steals a brand new luxurious car gets away with a six months prison term, and even that term is suspended.”<sup>49</sup>

In the Czech Republic, according to information provided to the ERRC by the Czech non-governmental organisation “Counselling Centre for Citizenship/Civil and Human Rights,” Roma often receive higher sentences than non-Roma for the same crimes committed and are not given suspended sentences in situations in which non-Roma are granted such. Additionally, Roma are apparently often not afforded alternative punishment, such as community service, while such sentences are available to non-Roma. Furthermore, according to the Centre’s findings, Roma are placed in pre-trial detention more often than their non-Romani counterparts, and, once convicted, are less likely than non-Roma to be released on parole.<sup>50</sup>

Credible information indicates similar problems in Hungary. A report released by the Council of Europe in March 2000 expressed “concern[] at evidence that severe problems in the administration of justice exist as regards discrimination against members of the Roma/Gypsy community and non-citizens. There are authoritative reports that Roma/Gypsies are kept in pre-trial detention for longer periods and more frequently than non-Roma, although the prohibition of the recording of the ethnic origin of suspects makes it difficult to evaluate the extent of such discrimination.”<sup>51</sup>

In Italy, too, ERRC research indicates racial bias against Romani defendants. One Italian police officer flatly told ERRC, “Roma [in Italy] are held in detention for longer periods of time and more frequently than non-Roma for the same offence.”<sup>52</sup> Since most of the Roma in Italy – and only Roma – live in camps, and camp addresses are not considered official, Romani defendants are placed in pre-trial detention on flight-prevention grounds even for minor infractions for which non-Roma are routinely released.<sup>53</sup> Employing similar reasoning, judges apparently often sentence Roma to prison terms for crimes which might, in other cases, merit non-custodial punishment.<sup>54</sup>

A number of Governments have themselves acknowledged that, notwithstanding principles of equality and non-discrimination, in practice, Roma and other minorities are often treated differently from others. The Slovak Government’s “Resolution of the Slovak Republic for the Solution of the Problems of the Roma National Minority and the Set of Measures for its Implementation,” for instance, states that “[...] the practical application of human rights protection and protection of the rights of persons belonging to national minorities in real life is not absolute, in particular with respect to the citizens from Romany national minority.”<sup>55</sup> Similarly, in its recent “Report on the State of Human Rights in the Czech Republic in the Year 1999,” the Czech Government noted that “in several cases of serious violent attacks against Romanies and foreigners, again the bodies responsible for penal proceedings tended to trivialize the case.”<sup>56</sup> Conclusive verification of discriminatory trends, as well as the undertaking of effective measures to counter them, are, however, difficult absent efforts by most European Governments to monitor systematically indicators of racial bias in the justice system.<sup>57</sup>

Article 5(b) – The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution

Roma throughout Europe are regularly subjected to unremedied violence and other forms of abuse by law enforcement officials as well as skinheads and other private parties. International organisations, both governmental and non-governmental, have on numerous occasions noted the frequency of reports of police abuse against Roma, and voiced concern that police misconduct is often racially motivated.<sup>58</sup> To date, the authorities’ efforts to combat these alarming phenomena have proven inadequate. As a rule, investigative and judicial remedies are rare.<sup>59</sup>



Racially-motivated violence by skinheads and others is also widespread in many countries throughout Europe. The most typical perpetrators of hate crime, i.e. violence against Roma solely because they are Roma, belong to extremist nationalist groups, but occasional occurrence of “spontaneous” mob outrages constitute a second pattern of civilian racist violence perpetrated against Roma in a number of European countries, in particular Albania, Bulgaria, Romania and Ukraine.<sup>60</sup> The number and frequency of incidents of hate crimes against Roma, meanwhile, are most alarming in Bulgaria, the Czech Republic, Slovakia and the Federal Republic of Yugoslavia (“Yugoslavia”). As with police abuse, several of the most serious racist assaults have been inflicted upon children, and in most cases, with full impunity.

1. Cases of unremedied or inadequately remedied racially-motivated violence against Roma by state authorities

Police abuse of Roma takes various forms, ranging from insults and arbitrary arrests to severe physical mistreatment, sometimes involving the use of firearms and resulting in death. In a number of cases documented by ERRC, the victims of abusive treatment by law enforcement officials were minors. The following cases are illustrative and do not purport to constitute a comprehensive survey:

a) Ill-treatment upon arrest or in detention

- In May this year, police officers in Romania have resorted to shooting Romani men in two unrelated incidents, severely injuring Mugurel Soare in Bucharest on May 10, and killing Vinetou Borcsa in Covasna on May 1. According to ERRC’s information, an investigation into the circumstances of the Bucharest shooting is still pending, while an investigation into the shooting death of Mr. Borcsa found that the use of firearm had been justified.<sup>61</sup> In a third recent incident of police violence against Roma in Romania, on May 6, 2000 in Bunești, north-west of Brașov, two plainclothes police officers reportedly arrested and severely ill-treated K.M., a 30-year-old Romani man in connection with an argument he had had with his employer earlier that day. A witness reported having heard screams from the police building while K.M. was detained, and observed two police officers carrying K.M., unconscious and covered with blood, out of the station and into a police car. According to K.M., he was taken to a hospital where he was refused treatment on the grounds that he was drunk. Out of fear, K.M. did not file a complaint against the police. According to several sources, one of the police officers involved in the beating is known for abusive treatment of Roma.<sup>62</sup>
- Hungarian police, too, have engaged in violence against Roma.<sup>63</sup> In the eastern Hungarian town of Hajdúhadház, for example, Roma report being routinely beaten, verbally abused, and otherwise harassed by the police. According to Z.R., a Romani man, while kicking, beating and slapping him during an interrogation in connection with an alleged theft in March 1999, officers called him a “stinking Gypsy,” and told him “not to Gypsy,” by which they apparently meant “Don’t lie.” Among those arrested in the March 1999 incident was a 15-year-old boy, who also reported physical abuse by the police. Following a nationally televised documentary programme about police brutality in the town on March 11, 1999, officers reportedly arrested and beat a Romani man who had spoken out against police abuse on the programme. In response to intense public pressure by local Romani and human rights organisations and the ensuing media scandal, the Ministry of Interior admitted on June 18, 1999, that Hajdúhadház had the highest reported police violence in Hungary and that 26 officers – half of the town’s entire police force – had been under investigation for alleged abusive conduct over the past three-year period.<sup>64</sup>
- Police beatings of Roma in detention are also widespread in Albania, Bulgaria, Yugoslavia and the Former Yugoslav Republic of Macedonia (“Macedonia”). In May 2000 alone, two incidents of severe police ill-treatment of Roma were recorded in Macedonia, one involving a minor. According to testimony provided by 16-year-old F.J. from the south-eastern village of Krivolak, a police officer came to his home at approximately 9:00 a.m. on May 14, and ordered him to get into a police-car waiting outside. When asked for the reasons of his arrest, the officer reportedly told F.J. “not to argue as he knew very well why and where he was being taken,” and took the boy to the local police station.

Upon arrival at the police station, according to the victim, the officer punched him in the head, causing him to fall to the ground, and then struck him repeatedly with a broomstick in an attempt to compel him to confess to a number of thefts allegedly committed in the area. The beating reportedly continued until approximately 1:00 p.m., when F.J. was released. The local Romani organisation “Mesečina” met with the police chief the following day, seeking an explanation for the ill-treatment, and received promises of investigation, but has to date not been informed about any measures taken against the officer.<sup>65</sup> Notwithstanding the frequency of reported police abuse in Macedonia, investigations are rare and ERRC is unaware of a single case in which disciplinary or criminal sanctions have been imposed.<sup>66</sup>

- On August 12, 1999, police allegedly shot and seriously wounded 21-year-old L’ubomír Šarišský in the course of interrogation in connection with a bicycle theft in the town of Poprad in central Slovakia. As a result of the shotgun wound, Mr. Šarišský died in hospital several days later, on August 17. Police reportedly claimed that the detainee had shot himself with the pistol of the officer questioning him. Speaking on the private television station “TV Markiza” on August 12, Slovak Minister of the Interior Ladislav Pittner stated that the victim had pulled the policeman’s gun out of its holster and shot himself in the stomach. “It does not make sense to me that the policeman would use his weapon against a man who is being interrogated,” Minister Pittner reportedly said. The lawyer of the victim’s family, however, reports that Mr. Šarišský told a friend before losing consciousness in the hospital that he had been shot by the police. According to ERRC’s information, nearly a year-long investigation into the incident has yielded no result.<sup>67</sup>
- Police violence against Roma is not confined to Central and Eastern Europe. On May 22, 1998, at around 4:00 p.m., P.N., a police officer from the carabinieri (a police force reporting to the Ministry of Defence), shot and permanently injured Natali Marolli, an 8-year-old Romani girl in Montaione, approximately 40 kilometres south-west of Florence, Italy. The police were apparently waiting in ambush after having received a report that a “suspicious-looking car with Gypsies was in the neighbourhood.” One of the two police officers involved in the incident reportedly recognised one of the persons in the car as “one Mustafa from one of those Gypsy camps.”<sup>68</sup> ERRC is not aware of any disciplinary measures taken against either officer. An initial investigation acquitted Officer P.N. of attempted murder of the child. Following persistent efforts by the family of the victim, local activists and counsel, the case was reopened in late 1998 and has since been pending without major progress before the investigating judge in Florence.<sup>69</sup>
- In Greece, too, police violence against Roma is commonplace. ERRC field research in Greece in May 1998 found that police officers are rarely, if ever, punished for violating the law, even in extreme instances in which officers kill Roma in the course of duty.<sup>70</sup> On February 23, 2000, the Council of Judges of the Magistrates Court of Thessaloniki acquitted three officers, indicted for the murder of a Romani man named Angelos Celal in April 1998 on grounds of self-defence – despite unequivocal forensic evidence that Mr. Celal had been killed by a shotgun wound in the back.<sup>71</sup>

#### b) Police raids

In a number of countries, law enforcement authorities target Roma communities for special raids – armed assaults in the early morning hours during which homes are searched, contents ransacked, inhabitants, including women, elderly and children, harassed or subjected to excessive force, and men rounded up for arrest or questioning – often without warrants or other legal safeguards required in the ordinary course. Not infrequently, the purpose, and certainly the effect, of such actions, is to intimidate and harass a vulnerable population group, rather than to apprehend and prosecute criminal offenders. In many cases, police officers readily admit that such raids target Roma communities because Roma, as a group, are said to be prone to criminality.

In the Transcarpathian region of Ukraine, police raids in some communities take place on a regular basis. Some result in what the police term “preventive arrests” – young Roma men are detained absent probable cause or reasonable suspicion to believe that they have committed a crime – solely on the

theory that, if they are Roma, they must have done something illegal. As a police officer from the town of Mukachev explained, “the Gypsy population is a special category and those measures which can be applied to normal people just don’t work on Gypsies.”<sup>72</sup>

In Romania, where police raids on Romani communities replaced mob violence as the principal human rights violation affecting Roma 1994 onward, ERRC has documented numerous police raids, all involving abusive treatment. Most recently, on May 15, 2000, a large group of police officers reportedly raided a Romani neighbourhood in Sector 3 of Bucharest, confiscating the identity documents of a Romani woman named L.S. and bringing several young men into the police station in the absence of arrest warrants, for what they termed “verification.” A young Romani man visiting the family of Ms. L.S., for instance, was taken to the police station on the justification that he lived in Vitan, a Bucharest neighbourhood where, according to the police, “bad things happen.” He remained in detention until being released the following day without charge.<sup>73</sup>

In Albania, Bulgaria, Greece, Italy, Slovakia and Turkey, ERRC has received reports that police single out Romani communities for similar raids, which commonly involve searches of women and children, and acts of intimidation such as holding guns to people’s heads. Greek police officials have been reported targeting Roma because, in the words of one officer, “they are Gypsies; they are prone to steal.”<sup>74</sup>

#### c) Other

Robbery by the police – the unlawful confiscation without cause of personal belongings, including jewelry and/or money, accompanied by the threat of physical violence – is yet another common form of police abuse of Roma. In some countries, the police routinely refuse to provide written documentation of confiscated items, which are almost never returned to their owners. Recent reports concerning unlawful confiscation have been received from Roma in Albania, Bulgaria, Italy, Macedonia, Poland, Romania and Ukraine. ERRC is unaware of any police officers who have been disciplined or prosecuted for these crimes.

Other forms of police misconduct targeting Roma include strip searches of women by male police officers,<sup>75</sup> arbitrary destruction of identification documents during identity checks,<sup>76</sup> and forced labour.<sup>77</sup>

## 2. Cases of unremedied or inadequately remedied racially-motivated violence against Roma by non-state actors

As illustrated under Article 5(a) *supra*, like police abuse, most cases of racist violence against Roma by non-state actors go unpunished, or, at best, result in sentences not commensurate with the seriousness of the crimes. Due to limitations of space, only a few illustrative examples are provided of the numerous racist attacks systematically perpetrated against Roma throughout the continent:

- On May 10 this year, G.J., a thirteen-year-old Romani schoolgirl was attacked in Belgrade by a group of her fellow students at the Milan Rakić elementary school and several skinheads. The girl was on her way home from school when the group stopped her, knocked her down and set upon her with knives. They reportedly smeared her blood over her body, saying “your Gypsy blood will pour out of you” and, brandishing a syringe, threatened to inject her with a narcotic drug. Doctors at the local hospital where the girl was treated following the incident established 17 cuts on the girl’s chest and legs, and said she was in shock and mentally traumatized. Following a complaint filed on behalf of G.J. by the local human rights organisation “Humanitarian Law Center,” a criminal investigation was initiated by the Belgrade Public Prosecutor’s Office. All attackers remain at large.<sup>78</sup>

The May attack is only the most recent example of a long line of skinhead attacks targeting Roma in Yugoslavia. Just one month earlier, on April 8, a group of skinheads attacked and severely beat D.A., a fifteen-year-old Romani high-school student in the southern town of Niš. In October 1997, 14-year-old Duško Jovanović was beaten to death with lead pipes by a group of skinheads in downtown

Belgrade. In the overwhelming majority of cases, the authorities have attempted to marginalise the extent and the nature of racial motivation, and most attacks remain without adequate legal remedy.

- The Czech Republic continues to experience a wave of anti-Romani violence of late. According to the Government itself, “the occurrence of racially motivated criminal acts in 1999 increased, in comparison with the previous year: the number of criminal cases grew from 157 to 198, the number of criminal acts from 285 to 371. [...] In most cases the victims of verbal and physical attacks in 1999 were Romanies and in some cases foreigners of dark complexion.”<sup>79</sup> To give one recent example, on the evening of May 2, 2000, two men attacked and severely injured a Romani couple during a promenade on Lazecká Street in the north-western Czech town of Orlová with their five-year-old daughter and 11-year-old son. The attackers, who were wearing black hoods, repeatedly struck the man, L.P., and his wife R.P. with a baseball bat and shouted racist slogans such as “Shut up your black swine.” L.P. reportedly suffered lacerations and contusions to his head, broken arms, and contusions to his left side, while his wife’s kneecap was broken. Both were treated at a local hospital and required surgery. Despite reports that the couple’s 11-year son was able to recognise one of the attackers from photographs of local skinheads shown to him by the police, ERRC is not aware of anyone being arrested for the attack.

In 1998 alone, skinheads killed at least two Roma in the Czech Republic – 40-year-old Milan Lacko and 26-year-old Helena Bihářiová. As noted under Article 5(a) *supra*, the former case has to date, more than two years after the incident, still not reached its conclusion, while in the second, both the investigative authorities and the court refused to recognise racial motivation behind the murder.<sup>80</sup>

- Gruesome crimes of racial hatred against Roma are rampant also in Bulgaria, resulting in at least two deaths in the past two years. In Sofia on June 15, 1999, three teenagers celebrating the end of the school-year and their graduation from eighth class of elementary school beat to death a 33-year-old Romani woman named Nadezda Dimitrova. The boys reportedly came across a group of younger children who were provoking the victim, and joined in attacking her, hitting and kicking her in the head repeatedly until she died. Three suspects were arrested several days later, one of whom confessed to the killing.<sup>81</sup> This prompt initial reaction notwithstanding, as of this writing, more than one year after the incident, the case appears to be stalled at the stage of preliminary investigation. Moreover, the investigative authorities are apparently not considering the attack as a racially motivated crime.<sup>82</sup> One year earlier, on May 15, 1998, Metodi Rainov, a 15-year-old Romani boy in downtown Sofia, was attacked by skinheads wielding knives and truncheons, dragged to the second-story window of a building, and thrown to his death.<sup>83</sup> Also this incident remains unresolved.<sup>84</sup>
- Racist attacks against Roma in Slovakia are reported to have increased in 1999 as compared to the previous year,<sup>85</sup> and, in the words of the Council of Europe, “[m]ore alarming still is the apparent lack of police response to such incidents [...]”<sup>86</sup> On Easter Monday, April 24, 2000, at approximately 1:00 p.m., skinheads attacked J.P. and his girl-friend M.L., both of whom are minors, on the street in the western Slovak town of Rožemberok Slovakia, severely ill-treating J.P. and allegedly attempting to strangle M.L. J.P. suffered a concussion in the attack and had to be hospitalised for several days. J.P. told ERRC that he knew one of his attackers as a local skinhead. The police are reported to consider the attack as disturbance of the peace and possibly assault, but have apparently ruled out racial motivation.<sup>87</sup> Just three days before this incident, on April 21, in the central Slovak town of Poprad, a group of approximately 15 skinheads armed with iron bars attacked three Roma, causing severe injuries. An investigation into the assault is reportedly pending, but has yielded no result as of this writing.

Article 5(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

Slovak authorities have recently annulled elections on what appear to have been racist grounds. In local elections in November 1998, a Romani man named Marian Bily was elected mayor of Petrova, a

town in northern Slovakia with a population approximately 50 % Romani. Immediately after the elections, non-Romani members of the city council initiated a petition drive to contest the outcome. The petition was reportedly circulated by persons going door-to-door and persuading residents, including Roma, to sign, “so that we will not have a Gypsy for mayor.” The Slovak parliament subsequently annulled the election, and in September 1999, re-elections returned a non-Romani man named Ján Borecký as mayor. In the ten months that elapsed between the two elections, Mr. Bily was prevented from taking office, and the former mayor remained in power until the new elections were held.<sup>88</sup>

In Bulgaria, due to a constitutional provision banning the creation of political parties on the basis of religion or ethnicity (Article 11(4)), Romani parties have been forced to avoid the word “Roma” in their names. Thus, Roma standing for election in the October 1999 municipal elections were running under parties named “Free Bulgaria” and “Bulgarian Party for the Future.” Unlike ethnic Turks, the other significant minority in Bulgaria, in parliament since the first free elections in 1990, Bulgarian Roma have thus far not been able to gain effective political representation at the national level.<sup>89</sup>

A 1993 law on minorities in Hungary has been widely hailed domestically and abroad as providing for the effective political participation of Roma in Hungary through the establishment of minority advisory councils at a local level.<sup>90</sup> In practice, however, these councils have little real power. Appeals by minority councils to the county administration have proved ineffective. Moreover, as noted by the OSCE High Commissioner on National Minorities, “inappropriate actions by municipal authorities compounded the problem. In some areas local authorities reportedly refused to provide social assistance to Gypsies once minority councils were established, referring applicants instead to the Gypsy self-government.”<sup>91</sup> Meanwhile, real political participation by Roma in Hungary has dropped precipitously; there were three Roma in the first post-communist Hungarian parliament, 1990-1994. Today there are none.<sup>92</sup>

#### Article 5(d)(i) – The right to freedom of movement and residence within the border of the State

Municipal authorities in several countries in Europe have in recent years issued exclusion orders barring Roma from certain towns or neighbourhoods. In one recent example, on May 20, 2000, following a dispute over an allegedly illegally parked vehicle owned by a local Romani man, the municipal council of Nea Kios, in the Peloponnese region of southern Greece, adopted a resolution to evict all Roma from the land they own and live on in the area.<sup>93</sup> The municipality also reportedly condemned those residents of Nea Kios who had sold land to the Roma, and asked the police to assist in implementing their decision to evict Roma within 48 hours. The municipality further established “surveillance groups” and organised a series of demonstrations by local residents against Roma in the village. As of this writing, Roma are not allowed to enter the village, shopkeepers have been instructed not to sell anything to Roma, and Romani children cannot go to school. On May 31, 2000, following the declaration in Nea Kios, the neighbouring municipality of Nea Tiryntha reportedly issued a similar ban on Romani presence, requiring that Roma leave the region by August 30, 2000. ERRC is not aware of any measures taken by the Greek Government against these unlawful actions.<sup>94</sup>

Similarly, in the summer of 1997, the towns of Ňagov and Rokytovce in Medzilaborce County in northeast Slovakia adopted resolutions expressly stating that “Roma” would not be allowed in.<sup>95</sup> On June 9, the municipal council of Rokytovce published a resolution which threatened that “Roma” who “settle” in the village “will be, with the help of the village inhabitants, expelled [...]”.<sup>96</sup> On July 16, just over a month later, the Ňagov municipal council resolved “[n]ot to allow the Roma citizens [...] to enter the village Ňagov, or to settle in shelters in the district of the village.”<sup>97</sup>

Having unsuccessfully exhausted all domestic remedies to legally challenge the two discriminatory ordinances, on March 12, 1999, three Romani clients represented by ERRC and local counsel filed applications with the European Court of Human Rights.<sup>98</sup> One month later and as an apparent result of this legal action, in mid-April 1999, Slovak Deputy Prime Minister and Chairman of the Parliamentary Committee for Human Rights László Nagy ordered the two towns to repeal their respective anti-Romani decrees. As noted by ECRI as recently as June 27 this year, however, “it appears that the effect of these resolutions remains in place and the Roma/Gypsy communities are still not able to build houses in the municipalities in question.”<sup>99</sup>

On November 28, 1998, it was reported that officials in the southeastern Slovak town of Jelšava had taken a decision to refuse to grant residence permits to Roma moving there.<sup>100</sup> According to press reports, five Romani families who had recently purchased homes in Jelšava had been denied residence permits and therefore were unable to settle in the town legally. When questioned about the incident, Jelšava Mayor Ondrej Mladší is reported to have stated, “The denial of permanent residence was caused by Jelšava citizens’ fear of a wave of Romani migration into abandoned Jelšava houses, which are selling for relatively low prices.” While apparently acknowledging that the town’s conduct was in breach of law, Mayor Mladší reportedly said that the town’s representatives were acting “under the pressure of citizens who fear deterioration of the socio-economic and crime situation in the town.” According to the mayor, “We had to act the way we did to discourage others from the intention of moving to Jelšava and to draw attention to this Slovak-wide problem, about which nothing is being done.”<sup>101</sup> ERRC is unaware of any action undertaken by the Slovak Government to put an end to this discriminatory and unlawful practice.

#### Article 5(d)(iii) – The right to nationality

In the field of citizenship, discrimination against Roma is of concern particularly in Croatia, the Czech Republic and Macedonia. Although the widely-criticised citizenship law of the Czech Republic was finally amended in July 1999 – rendering all persons who were citizens of the Czech and Slovak Federal Republic and who had permanent residence on Czech territory at the time of the dissolution of Czechoslovakia in 1993 eligible for citizenship of the Czech Republic – much remains to be done before Roma can become Czech nationals on an equal footing with their co-citizens. As the OSCE High Commissioner on National Minorities recently noted, “[...] past experience points up the need for continued vigilance in ensuring that the law is faithfully executed. In particular, special efforts may be required to ensure that bureaucratic obstacles do not bloc Romani applicants from claiming their fundamental right to citizenship in accordance with the new law. Past experience has also shown the importance of effective outreach programs to ensure that those previously denied citizenship are aware of their rights and the procedures for exercising them.”<sup>102</sup> Similarly commenting on the Czech citizenship law in a report issued in March this year, the Council of Europe’s European Commission against Racism and Intolerance stated that “[i]n view of persistent allegations of discriminatory attitudes by local officials towards members of the Roma/Gypsy community, including misinformation and discouragement in pursuing applications, strict central government supervision over local offices is urgently required.”<sup>103</sup>

In Macedonia, too, Roma have suffered large-scale discrimination in access to citizenship. Despite eight years of international criticism, the 1992 citizenship law remains unaltered, and continues to impose unduly stringent requirements in breach of European standards – including a 15-year-residence requirement, a physical and mental health pre-condition, and unreasonably high administrative fees – which have disproportionately affected Roma. As a result, thousands of Roma who have genuine and long-standing ties to the territory of Macedonia are presently de jure or de facto stateless in their own land.<sup>104</sup>

ERRC field research conducted in Croatia in 1998 revealed that large numbers of Roma have also been denied citizenship in Croatia. During the two weeks that ERRC spent in Croatia that year, it did not meet one single Rom who had successfully claimed to be a Croat and thereby been granted citizenship. Instead, all applications by Roma for citizenship had been processed by the authorities under the provisions applicable to “aliens.” Among the conditions for naturalisation under these provisions are that the applicant must demonstrate that “he or she is proficient in the Croatian language and Latin script,” and that “a conclusion can be derived from his or her conduct that he or she is attached to the legal system and customs persisting in the Republic of Croatia and that he or she accepts the Croatian culture.” ERRC found that in particular the latter requirement has allowed the police such arbitrary powers of interpretation with respect to what constitutes the acceptance of Croatian culture that Roma have been systematically turned down.<sup>105</sup>

#### Article 5(e) – Economic, social and cultural rights

Roma throughout Europe suffer marginalisation and de facto discrimination in the enjoyment of their economic, social and cultural rights. The failure to date of most Governments to gather reliable data

concerning Roma and other vulnerable groups in the field of housing, education or employment – or, for that matter, to maintain any statistics based on race, ethnicity and/or mother tongue – severely impedes governmental efforts to design policies aimed at remedying the situation.<sup>106</sup>

#### Article 5(e)(i) – The rights to work and to free choice of employment

Roma experience widespread discrimination in employment. Lack of access to adequate education and skills preparation (see Article 5(e)(v) *infra*) is compounded by widespread discrimination by employers. Numerous reports suggest that, even when Romani job applicants possess the requisite qualifications, they are turned down solely due to the colour of their skin.<sup>107</sup> In the Czech Republic, the Government has recently concluded that “there is often discrimination on the part of employers who refuse to employ Romanies without explanation, or state as the reasons for not accepting Romanies the ‘unadaptability’ of Romanies to the usual working regime or their bad experience with other Romanies.”<sup>108</sup>

In some countries, advertisements for job openings specifically state that Roma should not apply. Such job advertisements have appeared regularly in, for example, the major Romanian daily newspaper *România Liberă*. The authorities’ reaction even to such openly discriminatory employment notices has been inadequate; in an interview with the Office of the OSCE High Commissioner on National Minorities last year, a government official in Romania apparently stated that the Attorney General had taken the position that advertisements explicitly barring Roma were “much too common to be prosecuted.”<sup>109</sup>

Even if the political will to combat discrimination against Roma in employment were not lacking, legal protection from employment discrimination remains largely ineffective. Labour Code provisions in a number of countries do contain non-discrimination clauses, but are either not clearly binding or not adequately enforced.<sup>110</sup> In Hungary, for instance, notwithstanding a finding by the Parliamentary Ombudsman for National and Ethnic Minority Rights that a discriminatory employment notice “violates national and international legal regulations,” “due to the lack of legal regulations there is presently no public administrative directive or forum at our disposal that would make it possible to take action against the publication of employment notices which are in violation of the Constitution [...] against such actions there is no form of legal administrative sanction.”<sup>111</sup> Investigation into discriminatory hiring practices in the form of testing<sup>112</sup> conducted by the Hungarian non-governmental organisation “Legal Defence Bureau for National and Ethnic Minorities” (NEKI) last year revealed that out of six testers – three Roma and three non-Roma, and all of whom possessed the necessary qualifications for the position selected – all Roma were turned down while all non-Roma were offered the post.<sup>113</sup> A lawsuit challenging discrimination filed by NEKI with the assistance of ERRC on September 22, 1999 was ruled inadmissible by the Budapest Labour Court on November 25, 1999 and is currently pending appeal at the Hungarian Supreme Court.<sup>114</sup>

In addition to discrimination by employers themselves, discriminatory practices targeting Roma by governmental employment offices have also been reported. Czech press announced on October 26 and 27, 1999, that “for years,” Czech unemployment offices had pursued the practice of marking with an “R” the files of all persons who appeared to be Roma.<sup>115</sup> In the ensuing media scandal over the discovery, the private television station “TV Nova” reportedly procured lists of Romani job-seekers from offices in Prague and the southern Czech city of České Budějovice, indicating that authorities were keeping records of the ethnicity of applicants.<sup>116</sup>

Similarly, in November last year, it was reported that Slovak officials in the country’s National Labour Office were marking with the letter “R” files of persons they believed were Roma. According to Slovak National Labour Office Director General Jaroslav Šumný, the measure did not constitute discriminatory treatment but was implemented because of the “complicated social adaptability” of the group.<sup>117</sup>

#### Article 5(e)(iii) – The right to housing

As noted under Article 3 above, *de facto* racial segregation of Roma in housing is pervasive especially in the Czech Republic, Italy, and Slovakia. Racial discrimination in access to housing is not

restricted to these three countries, however. ERRRC has documented numerous instances throughout the continent in which large numbers of Roma live separated from the rest of the population and often in sub-standard housing conditions.<sup>118</sup> A recent report by the OSCE High Commissioner on National Minorities found that “[r]esettlement projects, ghettoization and the exclusion of Roma families from municipalities have become common occurrences in many countries,” and expressed concern at “housing policies that relegate Roma to segregated communities apart from the rest of society,” terming the latter “a common trend in Europe.”<sup>119</sup> As established by a number of international monitoring bodies, insofar as Roma are treated differently from, and worse than, all others solely because of their race, they are subjected to unlawful racial discrimination in access to housing.<sup>120</sup>

#### Article 5(e)(iv) – The right to public health, medical care, social security and social services

Roma are often denied social services such as health care, social security and other state benefits to which mainstream citizens are entitled. When it comes to health care, for example, OSCE has noted that “[n]on-existent or inadequate access to health care is [...] of immediate concern” and concluded that “[i]mprovement in the health of Roma demands equal access to public health care with a view to achieving the highest attainable standards of health.”<sup>121</sup>

A recent study by the Open Society Institute on access of Roma to social protection, health care and housing in Bulgaria, Macedonia and Romania revealed the existence of a wide range of laws and regulations in all three countries which, although neutral on their face, have had a disproportionately negative impact on Roma. To take one example, in Romania, the system of child allowances reportedly provides for so-called means-tested family support which, instead of growing proportionally with the size of the family, increases for the first three children and remains flat for families with more than three children. Since the overwhelming majority of poor families with four or more children in Romania are Roma, the study found that “this provision is a prima facie case of disparate impact.” The situation is reportedly similar in access to health care. In some regions of Macedonia, health insurance is apparently denied to persons who do not finish primary education. Since more Roma do not finish school than non-Roma, the disparate impact of this practice is clear. Moreover, according to the study, the state, which is required by law to pay the health insurance contribution for eligible low-income families, covers only three children per family. Thus, any children above three remain uninsured.<sup>122</sup>

Albania, too, has been singled out as a country in which Roma are particularly vulnerable to discrimination in this field. A 1999 report by the Council of Europe affirmed many of ERRRC’s findings in 1996<sup>123</sup> and found that “[t]he Roma/Gypsy community is often marginalised by Albanian society. Many prejudices and preconceptions exist which foster this marginalisation: for example, the Roma/Gypsy community is sometimes portrayed as being very rich, or the preservation of its ‘traditional culture’ is evoked as a justification for its non-access to basic social and welfare services. [...] There have been incidents of hostile treatment from public bodies such as [...] hospitals, schools and municipal authorities, and unequal access to basic services such as social welfare payments of health care.”<sup>124</sup>

In Hungary, local authorities have been found to discriminate against unemployed Roma, imposing arbitrary conditions on their right to receive social security benefits. One such case went to court on February 24, 1999, when trial began in a case brought against the local government of Karcag, Jász-Nagykún-Szolnok County, for allegedly making Romani residents carry out community work in order to receive social security benefits. The 135 Romani residents bringing the lawsuit claimed that between 1992 and 1996, they were sent to the government-owned city maintenance office where they had to “volunteer” to do community work, and were reportedly not given their social benefit money unless they could show a certificate proving that they had carried out at least five days of such “voluntary work.” The lawsuit was filed after an investigation by the Office of the Ombudsman for National and Ethnic Minority Rights into the practice found it illegal and recommended that the local government pay wages for the work done by the Roma. The Karcag Mayor, however, refused. On May 5, 1999, the Court of Jász-Nagykún-Szolnok County found the municipality of Karcag guilty of damaging activities in administration and ordered it to pay damages including an amount equivalent to wages to the complainants.<sup>125</sup> According to the Budapest-based non-governmental organisation “Roma Press



Center,” local authorities in the south-western Hungarian town of Kaposvár have also engaged in the practice of linking benefits to community work.<sup>126</sup>

In Slovakia, a new welfare law introduced by the Government in July 1998, apparently replacing in certain cases financial support by food vouchers, has been criticised for disproportionately affecting, or even for being specifically designed for, Roma. As recently noted by the Council of Europe European Commission against Racism and Intolerance, “[a]lthough such replacement of money payments with vouchers is intended to be carried out on an individual basis, it is not clear that this is the case nor whether it is only members of the Roma/Gypsy community who are affected by this measure. ECRI stresses that the allocation of various forms of welfare benefits should be decided upon on an individual basis and in a non-discriminatory fashion.”<sup>127</sup>

Finally, the denial of citizenship to tens of thousands of Roma residing in the Czech Republic following independence in 1993 has deprived them of access to a range of rights and benefits to which only Czech citizens are entitled, inter alia, government social assistance, including child benefits.<sup>128</sup>

#### Article 5(e)(v) – The right to education and training

In a number of countries including the Czech Republic, Hungary and Slovakia, disproportionate numbers of Romani children are relegated to second-class educational facilities – so-called “special schools” – designed for pupils said to be suffering from intellectual or behavioural “deficiencies.” These institutions generally offer little opportunity for skills training or educational preparation. Few graduates of such schools go on to higher education.<sup>129</sup> The result is a system of de facto racial segregation in education, the harmful effects of which cannot be overstated.<sup>130</sup>

ERRC research in the Czech Republic, focusing on the north-eastern district of Ostrava in 1998-1999, found that Romani children there outnumber non-Roma in special schools by a proportion of more than twenty-seven to one. Although Roma represent fewer than 5% of all primary school-age students in Ostrava, they constitute 50% of the special school population. Nationwide, as the Czech Government itself concedes, approximately 75% of Romani children attend special schools, and more than half of all special school students are Roma.<sup>131</sup> On the occasion of its most recent periodic review of the Czech Republic in March 1998, the Committee termed “[e]vidence that a disproportionately large number of Roma children are placed in special schools” as leading to “de facto racial segregation,” and recommended the Czech Government, inter alia, to introduce legal measures to combat racial discrimination in the field of education.<sup>132</sup> As noted under Article 2 supra, notwithstanding the nearly two and a half years that have elapsed since the Committee issued its Concluding Observations concerning the Czech Republic, the Government has failed to comply with the recommendations set forth by the Committee. As such, there still exists no legal machinery in the Czech Republic to effectively challenge racial discrimination in the field of education.<sup>133</sup> Meanwhile, as noted by the Government itself, “[i]n the school year 1998/1999, remedial schools were again frequented by an unreasonably high proportion of Romany children.”<sup>134</sup>

In 1997, a primary school in the northeastern Hungarian town of Tiszavasvári held separate graduation ceremonies for Romani and non-Romani children. In the ensuing publicity into the incident, it additionally emerged that the school had separate dining facilities for its Romani and non-Romani students and that Roma and non-Roma were assigned to separate classes. In a landmark ruling on December 1, 1998, a Hungarian court of first instance found that students who had filed suit had suffered discrimination based on ethnicity and ordered the local government to pay compensation in the amount of 100,000 HUF (approximately 400 USD) to each child in court fees and damages.<sup>135</sup> On September 6, 1999, the Hungarian Minister of Education held a joint press conference with the Parliamentary Ombudsman for Ethnic and National Minority Rights, where he announced that there is segregation in the country’s educational system. The admission came on the heels of a report by the Ombudsman’s Office which found that the high proportion of Romani children in special schools is not a result of their weaker mental abilities, but is a sign of prejudice and failure of the public education system. A review of the legal regulations providing for

the education of mentally disabled children, recommended by the Ombudsman's Office, is allegedly underway, but has, as of this writing, not yielded any results.<sup>136</sup> According to joint monitoring by ERRC and the Roma Press Center, during enrolment in spring 2000, Romani children in Hungary were still effectively blocked from joining integrated schools.

Romani children who attend regular schools also face a series of racially-motivated obstacles, from prejudice on the part of non-Romani parents who do not want their children attending school with "Gypsies," to bullying by non-Roma classmates, to stereotyping by teachers and school administrators. In a school in northern Czech Republic in 1997, in response to requests by the parents of non-Romani children that their children not be seated next to the only Romani pupil in the class, the teacher reportedly seated the Romani boy by himself.<sup>137</sup> More recently, in Spain in May this year, parents of the students in San Juan Bosco school in the Basque town of Barakaldo burst out in vehement protests against the admission of three Romani children, boycotting the school until the district attorney threatened them with legal action if they did not comply with the obligation to send their children to school. To ERRC's knowledge, no measures – legal or otherwise – were taken against the discriminatory attitude of the parents, however. The three Romani children, meanwhile, were placed in a separate classroom with no other students.<sup>138</sup> In a similar case in Italy, children from six non-Romani families who moved to a new school in Florence in September 1998 confronted angry protests from non-Romani parents who threatened to withdraw their children rather than have them share the same benches with Roma. Again, rather than affirming the right of Roma to equal education, the school administration reportedly dispersed the Romani children among several different schools to assuage non-Romani prejudice.<sup>139</sup>

Article 5(f) – The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks

Roma in a number of countries of Europe are regularly denied admission to restaurants, bars and other public places. Instances of such racial exclusion have in recent years been recorded in the Czech Republic, Finland, Hungary, Ireland, Italy, Latvia, Macedonia, Poland, Romania, Slovakia, Spain, Sweden and Yugoslavia. Many Governments, in particular in Central and Eastern Europe, have yet to secure by law the right of access on a non-discriminatory basis to public accommodations.<sup>140</sup>

In Yugoslavia, as recently as July this year, Roma were denied access to a swimming pool located in the Krsmanovac Sports Center in Sabac, western Serbia. Reacting to complaints by Roma who were not admitted to the Krsmanovac pool, the Belgrade-based "Humanitarian Law Center" (HLC) and two Romani non-governmental organisations – the "Democratic Association of Roma" and "Oaza" – conducted a testing of accessibility to the public facility on July 8, in which three Romani and three non-Romani men from the above organizations tried to buy admission tickets for the pool. Staff, however, asked the Roma if they were Romani and, upon receiving an affirmative reply, apologised and said the sports center's rule was that Roma were not allowed to use the pool. The HLC has filed a lawsuit against the owner of the pool.<sup>141</sup>

Roma have also been excluded from swimming pools in the Czech Republic. On May 29, 1999, a guard at the swimming pool in Brno reportedly demanded health certificates from each member of a Romani family before allowing them to bathe. As no one in the family could produce the requested certificates, they were refused entry. When members of the family protested that they had bathed at the swimming pool in the past without showing health documents, the guard reportedly responded that a new set of rules had been introduced, whereby Roma could only be let into the pool upon producing a certificate documenting their good health. Witnesses report that the guard was not requesting similar documents from non-Romani clients.<sup>142</sup> In another, well-publicised Czech case concerning access to a swimming pool, in the absence of legislation expressly prohibiting racial discrimination per se, the deputy mayor of the town of Kladno was criminally prosecuted under Article 198(a) of the Czech Criminal Code – which punishes incitement to ethnic or racial hatred – for barring all Romani children under the age of 15 from entering the town swimming pool in 1996.<sup>143</sup>

The overwhelming majority of cases of racial exclusion documented by the ERRC concern bars and restaurants. In February 1999 and November 1998 in two different bars in the north-eastern Czech

town of Ostrava, and in October 1998 in a club in south-eastern Brno, Roma have been refused entry and/or service solely because they are Roma.<sup>144</sup> In the Brno case, police investigators told ERRC in November 1998 that they had decided not to bring charges in connection with the barring – which concerned the single Romani member of the Czech Parliament Monika Horáková. A subsequent appeal filed by Ms. Horáková's attorney in December 1998 was rejected by a state prosecutor in Brno on January 12, 1999.<sup>145</sup>

The racist refusal to serve Roma is not confined to the Czech Republic. In Hungary, a film team equipped with a concealed TV camera in early December 1998 documented Roma being refused entry on evidently racist grounds to six different night-clubs around Budapest, and in Romania, testing conducted by a mixed group of Roma and non-Roma affiliated with the Bucharest-based non-governmental organisation "Romani CRISS" on the evening of May 5, 2000, found that four night-clubs in Bucharest denied entry to Roma. On February 17, 2000, a landmark decision of a first instance court in the northern Hungarian town of Balassagyarmat established that the refusal of a pub owner in the town of Patvarc to serve Roma had been discriminatory. According to István Szörös, one of the plaintiffs, he has not been to the pub for two years because Erika T., the owner of the pub, refused to serve him. As he testified to the court, "the pub owner told me that I would be served only if I was as white as a handkerchief." The case is currently pending appeal.<sup>146</sup>

In the northern Italian town of Mestre, V.M., a 59-year-old Romani woman, reported having been denied a cup of coffee in a coffee shop in 1996 and told, "Gypsies are not allowed entry here."<sup>147</sup> ERRC is aware of a café in Florence which recently posted a sign at the entrance stating, "No Gypsies."<sup>148</sup> Similarly, on July 16, 1999, a bar in the Latvian town of Talsi reportedly denied entry to a Romani man on racist grounds. An investigation into the incident carried out following a complaint filed by the victim, however, absolved the bar personnel of any wrongdoing.<sup>149</sup>

## Article 6

As illustrated supra, ERRC research throughout Europe indicates that many Governments have failed to comply with their obligations under Article 6 to "assure everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination [...] as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination." While no Government can eliminate completely racial discrimination and racially-motivated violence, the key question is: given the scope and severity of the problems, are the authorities making a serious and determined effort to combat them? Virtually without exception, the general trend on the continent is: not serious and not determined enough.

Most tellingly, as noted under Article 2 supra and throughout this document, and as pointed out by a number of intergovernmental monitoring organs, in many countries, there still exists no law or administrative regulation expressly prohibiting racial discrimination, either generally or in specific fields of public life. Accordingly, few civil or criminal remedies are available to victims of racial discrimination, and criminal investigators often have no lawful power to investigate acts of racial discrimination as such.

Governments have not only failed to pass adequate legislation. In addition, law enforcement officials have failed to make effective use of those legislative prohibitions against acts of discrimination which do exist. As illustrated supra, perpetrators of violence and discrimination against Roma – whether state authorities or private parties – are rarely prosecuted for their actions and in countries where racially-motivated crimes provisions have been adopted, they are infrequently or inconsistently applied.

## Article 7

Much remains to be done by many Governments in the fields of "teaching, education, culture and information, with the view to combating prejudices which lead to racial discrimination and to promoting understanding [...] as well as to propagating the purposes and principles of [...] [inter alia, the] Conven-

tion.” Governments should promptly intensify efforts to promote racial tolerance, in part through the conduct of educational and media campaigns to familiarise the public with the Convention and its standards.

\* \* \*

For more information, please contact:

European Roma Rights Center, 1386 Budapest 62, P.O. Box 906/93, Hungary

Tel.: (+36-1) 428 2351, Fax: (+36-1) 428 2356

E-mail: [vszente@errc.org](mailto:vszente@errc.org)

<sup>1</sup> The geographic scope of this submission is intentionally left open. The aim is to highlight general trends and address issues of common concern to several countries, illustrated with a select number of specific examples which do not purport to be exhaustive, and should not be seen as limited to the country/-ies concerned.

<sup>2</sup> Council of Europe, European Commission against Racism and Intolerance, “Annual Report on ECRI’s Activities Covering the Period from 1 January to 31 December 1999,” CRI(2000)20, Strasbourg, April 27, 2000, p. 7, para. 2. For detailed overviews of existing anti-discrimination legislation in European countries, see Council of Europe, European Commission against Racism and Intolerance, “Legal measures to combat racism in the member States of the Council of Europe,” CRI(98)80, 1998 (in the member states of the Council of Europe), and European Commission, “Report on Member States’ legal provisions to combat discrimination,” February 2000 (in the member states of the European Union).

<sup>3</sup> Organisation for Security and Co-operation in Europe, High Commissioner on National Minorities, “Report on the Situation of Roma and Sinti in the OSCE Area,” March 10, 2000, pp. 50-53.

<sup>4</sup> The Programme represents a unique accomplishment of the Bulgarian civil society, initiated by the Sofia-based “Human Rights Project” and involving over 70 Romani organisations in Bulgaria, following the signature of which the Bulgarian Government was praised by a number of intergovernmental monitoring bodies. In April 2000, however, one year after the agreement was signed, according to the Human Rights Project, “there are no concrete actions for its implementation.” (see “Report by the Human Rights Project on the Implementation of the Framework Program for Equal Integration of Roma in Bulgarian Society,” March 26, 2000).

<sup>5</sup> Resolution No. 279 of April 7, 1999, quoted in Organisation for Security and Co-operation in Europe, op. cit., pp. 52-53.

<sup>6</sup> ERRC interview, Bucharest, June 2000.

<sup>7</sup> During a parliamentary session in May this year, Csaba Hende of the Hungarian Ministry of Justice is reported to have stated that there is no need for specific anti-discrimination legislation in Hungary as the existing legal framework provides sufficient remedies to victims of discrimination (*Népszava*, May 25, 2000). Hende’s statement was not the first indication of this unfortunate position taken by the Hungarian Government; on April 18 this year, RFE/RL reported the Justice Minister herself as stating that “the government does not intend to initiate an anti-discrimination law,” a position which was reportedly later confirmed by a Hungarian diplomat in Washington DC. In this regard, ERRC notes that a recent directive of the European Union implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, adopted by the Council on June 29, 2000, will provide a minimum level of protection against racial discrimination in a range of areas, including access to employment and training, education, social protection (including security and healthcare), social advantages and the supply of and access to goods and services, including housing. The directive further provides for definitions of both direct and indirect discrimination and harassment, shifts the burden of proof once a prima facie case has been established, and provides for a common minimum level of redress through a judicial or administrative procedure, associated with appropriate sanctions, including compensation. This directive is now part of the community acquis, and as such, has to be complied with by all states wishing to join the Union. Also, at the conclusion of the Istanbul Summit of the Organisation for Security and Co-operation in Europe in November 1999, Hungary, along with all OSCE Participating States, has committed itself to adopting anti-discrimination legislation (“We [...] support the adoption and full implementation of comprehensive anti-discrimination legislation to promote full equality of opportunities for all.”) (“Istanbul Summit Declaration,” November 19, 1999, <http://www.osce.org/docs/english/1990-1999/summits/istadec199e.htm>, last visited May 9, 2000, para. 3).

<sup>8</sup> Council of Europe, European Commission against Racism and Intolerance, “Annual Report on ECRI’s Activities Covering the Period from 1 January to 31 December 1999,” op. cit., p. 7. On enforcement of legal standards, see also the Committee’s General Recommendation 15 on Article 4, para. 2 (to satisfy their obligations under Article 4, “States parties have not only to enact appropriate legislation but also to ensure that it is effectively enforced”).

<sup>9</sup> See the Committee’s General recommendation 19, clarifying that Article 3 of the Convention “prohibits all forms of racial segregation in all countries.”

<sup>10</sup> For detailed accounts of this widely-publicised case, see, inter alia, *Roma Rights*, Summer 1998, pp. 7-10; No. 1, 1999, pp. 7-8; No. 4, 1999, pp. 7-9.

<sup>11</sup> In August 1998 – just three months after the city council’s announcement – the Committee requested, under its early warning measures and urgent action procedures, information from the Czech Government about “disturbing reports that in certain municipalities measures are contemplated for the physical segregation of some residential units housing Roma families.” (United Nations Committee on the Elimination of Racial Discrimination, “Decision 2(53) on the Czech Republic: Czech Republic,” A/53/18, para. IIB2, August 11, 1998). The Committee considered the Czech Government’s reply during its 54<sup>th</sup> session on March 11, 1999, at which time the Government steadfastly refused to concede – against all evidence to the contrary – that the threatened construction of what it then euphemistically termed a ceramic fence 1,8 metres high without gates would result in segregation (see “Additional information pursuant to Committee Decision: Czech Republic,” CERD/C/348, January 21, 1999, para. 3) and merely promised to “consider” legal action in the event that the local authorities would go ahead with the construction of the wall (Ibid, para. 8). Not surprisingly, the Committee concluded that the Czech Government’s response and the measures it had taken were unsatisfactory, and “called upon the Government to cancel the decision and report to the Committee in its forthcoming periodic report.” (See United Nations Press Release HR/CERD/99/19 of March 11, 1999). Mr. Ion Diaconu, the Committee expert serving as country rapporteur on the situation in the Czech Republic, is reported to have stated that “[t]he Government should have declared the decision to build the fence illegal and should have requested its annulment. The country’s constitutional system provide[s] that the higher authority [can] nullify a local decision.” (United Nations Press Release HR/CERD/99/18 of March 11, 1999).

<sup>12</sup> On November 12, 1999, local counsel, in conjunction with ERRC, filed a civil lawsuit on behalf of Ms. G.L., a Romani resident of Matiční Street against the local government of Ústí nad Labem. The lawsuit claims breach of the right to human dignity pursuant to Article 11 of the Czech Civil Code and requests a written apology, a declaration of breach of Article 11, a declaration of breach of international legal norms relating to race discrimination and segregation, and an order for demolition of the wall and damages. Following the removal of the wall, the claim pertaining to its demolition was withdrawn and substituted by the proposal of a declaratory verdict, according to which the plaintiff requested the Court to declare that the construction of the wall and its existence until it was removed had unjustly infringed her right to protection of her civil credit and human dignity. A rejection of the claims by the Regional Court on February 1, 2000 has been appealed and is currently pending at the High Court in Prague.

<sup>13</sup> According to ERRC’s information, thus far, one third of the grant, which totaled 10 million Czech crowns (approximately 286,000 US dollars), has been spent on purchasing the houses of three non-Romani families.

<sup>14</sup> Regional laws adopted in ten of the twenty regions in Italy in the late 1980s and 1990s aimed openly at what was commonly referred to as “the protection of nomadic cultures” through the construction of camp sites for Roma (see, e.g. Regional Law No. 299/89 of Lombardy (entitled, “Regional Action for the Protection of Populations with Nomadic or Semi-Nomadic Traditions”). A similar law from 1994 in the Marche region was termed, “Interventions in Favour of Migrants, Immigrants, Refugees, Stateless Persons, Nomads and their Families.” As one observer has noted, “juridical and anthropological categories are thus blended arbitrarily.” (P. Colacicchi, “Down by Law: Police Abuse of Roma in Italy,” *Roma Rights*, Winter 1998, p. 26).

<sup>15</sup> Most camps are surrounded by a wall or a fence. Security guards control entry. Although many Government-authorized camps are equipped with running water, electricity and chemical toilets, a large number lack even these basic sanitary requisites. In the “Casilino 700” camp in Rome, for example, nearly two thousand Roma share nine chemical toilets and live without electricity or running water (ERRC interviews, “Casilino 700” camp, Rome, September 1997 and January 1999). Conditions are even worse in the unofficial, or “illegal” camps, which are not provided with any services whatsoever by the municipal authorities. Apart from being forced to live without water, toilets or electricity, Roma living in such camps are constantly threatened with expulsion and harassment by the police, who raid them systematically to force them to leave.

<sup>16</sup> United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Italy,” CERD/C/304Add.68, April 7, 1999, para. 11. See also the more recent Concluding Observations of the United Nations Committee on Economic, Social and Cultural Rights on Italy (“not[ing] with concern that a large number of the Roma population live in camps lacking basic sanitary facilities, on the outskirts of major Italian cities. The Roma population on the whole live below the poverty line and are discriminated against, especially in the workplace, if and when they find work, and in the housing sector” and “recommend[ing] that the State party step up its efforts to improve the situation of the Roma population, inter alia by replacing camps with low-cost houses [...] and by strengthening and implementing anti-discrimination legislation, especially in the employment and housing sectors.”) (United Nations Committee on Economic, Social and Cultural Rights, “Concluding Observations of the Committee on Economic, Social and Cultural Rights: Italy,” E/C.12/1/Add.43, May 15, 2000, paras. 10 and 23).

<sup>17</sup> Authorities in Italy have not only failed to initiate measures aiming at abolishing the camp system, but are, in fact, planning the creation of new ones; ERRC recently learned that local authorities in Florence are currently planning the construction of a new camp in the town, to which a number of Roma, who at present live in the “official” camp of “Poderaggio,” are to be transferred (ERRC interview, Florence, June 2000).

<sup>18</sup> A June 2000 report by the Council of Europe European Commission against Racism and Intolerance on Slovakia

noted that “in some cities and towns the local authorities have forced the relocation of Roma/Gypsy families from central areas to the outskirts, where ghetto-like Roma/Gypsy quarters and settlements are on the rise, with a resulting deterioration of already very poor living, health and safety standards.” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on Slovakia,” CRI(2000)35, June 27, 2000, p. 12).

<sup>19</sup> Municipal Ordinance No. 55/1995.

<sup>20</sup> Project entitled “Flats for Roma – Small-sized, Substandard Flats,” Supplement No. 1 to the Conditions for the Realisation of Certain Means According to the Decision of the Government of the Slovak Republic No. 273 of April 15, 1996 on the Construction of Flats, Agreed in Writing on May 26, 1997, signed by, inter alia, Alexander Weber, then Mayor of Lunik IX, and Tomas Čuchráčo, then Director of the Department of Housing for Regional Office No. II of Košice. Mr. Weber has been quoted in Slovak press in February 1998 as saying, “My opinion about Roma coincides with that of the mayor of Žilina and Member of Parliament [of the right-wing Slovak National Party] Ján Slota. Many have condemned him for his statement that the proper way to handle Roma is with the small yard and the long whip. Sadly, to a word, he was correct.”

<sup>21</sup> Organisation for Security and Co-operation in Europe, op. cit., p. 102.

<sup>22</sup> According to the OSCE report, “[m]unicipal officials told a delegation from the High Commissioner’s office that a major impetus for the relocation program was that non-Roma had been complaining of Roma living in the city center, saying, ‘If you don’t take them away, there will be problems.’ According to city officials, these Roma not only created problems in the eyes of non-Roma residents, but Roma children in the streets of the old town center were, they believed, a deterrent to tourism.” In another interview with municipal officials in Košice cited in the report, “city representatives had reportedly explained that their plans with respect to Roma in Košice were ‘based on thorough knowledge of situations in other Roma areas in Eastern Slovakia’ and that the ‘overall concept is based on the presumption that the scattering of Romas throughout Košice during the last decades is not natural, that they should live together.’” (Ibid., p. 102).

<sup>23</sup> ERRC interviews, March 1998 and February 2000.

<sup>24</sup> ERRC interview, February 2000.

<sup>25</sup> As recently noted by the OSCE High Commissioner on National Minorities, “By their nature, such statements can foster a climate of intolerance and inspire racist violence.” (Organisation for Security and Co-operation in Europe, op. cit., p. 44).

<sup>26</sup> Roma from Zámoly had recently moved to Csór due to events following the destruction of their houses by the Zámoly municipality. For a more detailed account, see *Roma Rights*, No. 2, 2000 (forthcoming).

<sup>27</sup> *Népszabadság*, May 12, 2000. The above statement is not the first racist slur made by Csete. In 1990, he is quoted to have said, “Every Gypsy should be shot, with one bullet.” (*Arena*, February 3, 1990).

<sup>28</sup> *Il Manifesto*, May 19, 2000, *La Repubblica*, May 20, 2000. The statement was also broadcast in national television news at least twice on May 19, 2000 (on TG 1 at 13:30 and on TG 3 at 21:30).

<sup>29</sup> *România Liberă*, December 4, 1999.

<sup>30</sup> *RFE/RL Newsline*, April 3, 2000.

<sup>31</sup> *RFE/RL Newsline*, March 23, 2000.

<sup>32</sup> *Czech News Agency*, March 9, 1999; *RFE/RL Newsline*, March 9, 1999.

<sup>33</sup> *Czech News Agency*, November 30, 1999. See also United States Department of State, “1999 Country Reports on Human Rights Practices: Slovak Republic,” Bureau for Democracy, Human Rights and Labor, February 25, 2000, [http://www.state.gov/www/global/human\\_rights/1999\\_hrp\\_report/](http://www.state.gov/www/global/human_rights/1999_hrp_report/), last visited February 28, 2000).

<sup>34</sup> *RFE/RL Newsline*, January 5, 2000. Such comments have not remained without effect: More than three out of five Slovaks (60.4 percent) say they favour separating the country’s Romani minority from the majority population and support the idea of creating different schools for Romani children (*RFE/RL Newsline*, December 30, 1999, citing a public opinion poll conducted by the TNS polling institute and reported in the Czech daily *Hospodarské noviny* on December 28, 1999).

<sup>35</sup> Opinion of the Committee on Legal Affairs and the Internal Market (Draftsman Claude Moraes) for the Foreign Affairs Committee, on the communication from the Commission on countering racism, xenophobia and anti-semitism in the candidate countries (COM(1999)256 – C5-0094/1999-1999/2099(COS)), A5-0055/2000, February 28, 2000, p. 36.

<sup>36</sup> On November 12, 1999, following a second appeal by the lawyer of Ivan Mako, the victim, the district court returned the case to the first instance court, expressly requesting it to widen its interpretation of race in accordance with international standards. On April 28, 2000, ERRC was informed that the first instance court had finally ruled that the 1996 attack was racially motivated, and found defendant Jan P. guilty of racially-motivated damage to health, sentencing him to two years imprisonment and another three years probation. ERRC has provided legal expertise to local counsel in the case. For more detailed accounts of the case, see *Roma Rights*, No. 2, 1999, pp. 18-19 and No. 4, 1999, p. 10. ERRC documented a nearly identical reasoning by a Czech judge in 1996, issued in connection with an October 1995 skinhead attack against four Romani men in Hradec Králové (District Court Opinion, November 20,

1996). As a recent report by the OSCE concluded, “[e]ven when efforts to prosecute those responsible have led to convictions and sentences that are commensurate with the gravity of the crimes, these results have often required the intervention of a nation’s highest courts, which have had to reverse disturbing rulings by lower tribunals.” (see Organisation for Security and Co-operation in Europe, op. cit., p. 39).

<sup>37</sup> Council of Europe, European Commission against Racism and Intolerance, “Second Report on the Czech Republic,” CRI(2000)4, March 21, 2000, para. 30. In a similar vein, an October 1999 report by the European Union on the Czech Republic noted, “[a]s illustrated by recent judgements of district courts, sentences for criminal offences motivated by racism or national intolerance often remain inadequate.” (European Commission, Regular Report from the Commission on Progress of Accession,” October 13, 1999).

<sup>38</sup> The verdict, which led to outrage in the local and international Romani and human rights community, was appealed and overruled by the Ostrava second instance court in June 1999. The case is presently pending – for the second time – before the first instance court of Orlová. For detailed accounts of the case, see *Roma Rights*, Spring 1998, pp. 6-7, No. 2, 1999, p. 6 and No. 2, 2000 (forthcoming). In another typical case of skinhead violence, on December 7, 1999, a judge in the northern Czech town of Krnov acquitted all accused in the January 1998 firebombing of a flat inhabited by Roma and a car belonging to them. Three minors had been charged with crimes in connection with the attack, but Judge Lumír Čablík of the District Court of Bruntál reportedly argued that there was not enough evidence to convict. For details on this case, see *Roma Rights*, Winter 1998, pp. 6-7 and No. 1, 2000, pp. 15-16.

<sup>39</sup> On August 22, 1995, the Tîrgu-Mureş Military Prosecutor’s Office dropped charges against police officers I.M. and A.S. (both of whose full names are known to the ERRC) for involvement in the Hădăreni incident. This non-indictment decision was upheld by the Military Section of the General Prosecutor’s Office in September 1995, and by the Military Section of the Supreme Court of Justice on March 14, 2000. For detailed accounts of incidents of community violence against Roma in Romania and their aftermath, see, e.g. Amnesty International, “Romania: Broken Commitments to Human Rights,” May 1995; Human Rights Watch/Helsinki, “Lynch Law: Violence against Roma in Romania,” Vol. 6, No. 17, November 1994; European Roma Rights Center, “Sudden Rage at Dawn: Violence against Roma in Romania,” Country Reports Series No. 2, September 1996, pp. 12-19, and; *Roma Rights*, Spring 1998, pp. 35-42.

<sup>40</sup> In its Concluding Observations concerning the Czech Republic, issued in March 1998, the Committee expressed “alarm” at a “recorded six-fold increase in racially motivated crime between 1994 and 1996;” voiced “concern” about “the persistence of racial hatred and acts of violence [...] towards persons belonging to minority groups, especially Roma and people of African and Asian origin;” and about “reports that the State party had not been sufficiently active in effectively countering racial violence against members of minority groups.” The Committee further noted “that the number of charges and convictions [...] is low relative to the number of abuses reported,” that “perpetrators of racial crime are often lightly punished,” and that “in a number of cases, prosecutors have been reluctant to identify a racial motive.” In light of what the Committee termed “evidence of unnecessarily long proceedings and slow investigations of acts of racial crime,” it expressed “concern” about “judicial effectiveness in this respect” and recommended, inter alia, that the Czech Government ensure an effective and timely handling of court cases of racially motivated crime and punishment of the perpetrators (United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Czech Republic,” CERD/C/304/Add.47, March 30, 1998, paras. 8-13, 16-25).

Following its March 1999 review of Italy, in turn, the Committee expressed “concern” about “the continuation of incidents of racial intolerance, including attacks against foreigners [...] and against Roma, [...] which are sometimes not recognized by the authorities as having a racial motivation or are not prosecuted” and “recommend[ed] that the Italian Government strengthen its efforts towards preventing and prosecuting incidents of racial intolerance and discrimination against foreigners and Roma” and, in its next report, “include information on the implementation of article 6 of the Convention, including the number of cases dealt with by the relevant authorities and courts of justice.” (United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Italy,” CERD/C/304/Add.68, April 7, 1999, paras. 9-19).

Finally, when reviewing Romania’s compliance with the Convention in August 1999, the Committee “note[d] the limited number of cases of racial discrimination that have come before the organs administering justice,” which it said “may indicate a lack of awareness of the existence of available legal remedies and of the protection against racial discrimination provided by the Convention,” and requested that the Romanian authorities “take measures to remedy that situation.” (United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Romania,” CERD/C/55/Misc.27/Rev.3, August 19, 1999, para. 13).

<sup>41</sup> According to a recent report by the Council of Europe on Bulgaria, “[i]t does not appear that [...] provisions covering racist and xenophobic crimes have ever resulted in convictions before the courts in Bulgaria. ECRI is concerned that this is likely to point to a failure in the implementation of the legislation in force, since there is clear



evidence that racist attacks do occur in Bulgaria, perpetrated particularly against members of the Roma/Gypsy population” and expressed concern about “the fact that such attacks are not considered as racially-motivated and are not followed up by the police and prosecuting authorities.” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on Bulgaria,” CRI(2000)3, March 21, 2000, para. 12).

ECRI also recently reported on the situation in the Czech Republic, where it found that “police and investigators appear often to misclassify racially motivated crimes and do not follow through investigations” and noted “a certain reluctance [...] in some cases to prosecute this type of crime.” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on the Czech Republic,” op. cit., para. 30).

In its 1999 annual report on the candidate countries for EU membership, the European Commission concluded that “[t]here has been an increasing incidence of racially motivated violence against the Roma which has not received the unequivocal response from the authorities which it demands.” In its more detailed assessment of Bulgaria, the Commission noted that “[t]he Roma minority, which represents about 5% of the population, continues to suffer from discrimination including in contacts with the administration. Police protection is inadequate.” As for the Czech Republic, the report stated that “[t]he situation of the Roma [...] remains characterised by widespread discrimination, as anti-Roma prejudice remains high and protection from the police and the courts often inadequate.” Likewise, in its chapter on Slovakia, according to the report, “[t]he large Roma minority [...] continued to suffer disproportionately high levels of poverty and unemployment, discrimination, violence at the hands of thugs (‘skinheads’) and lack of protection from the police.” (European Commission, “Regular Report from the Commission on Progress of Accession,” op. cit.).

When it last reviewed Slovakia in August 1997, the United Nations Human Rights Committee expressed “concern[] about reports that Roma people are often victims of racist attacks, without receiving adequate protection from law enforcement officers,” and “recommend[ed] that: (a) priority be given to addressing discrimination, in particular through training and education campaigns; and (b) mechanisms to monitor non-discrimination laws and to receive and investigate complaints from victims urgently be established.” (United Nations Human Rights Committee, “Concluding Observations of the United Nations Human Rights Committee: Slovak Republic,” CCPR/C/79/Add.79, August 4, 1997, paras. 14-15).

Finally, in its most recent annual report, the Human Rights Watch concluded that in 1999, “Roma continued to face systematic discrimination and mistreatment throughout the region. [...] Whether the perpetrators were police or private citizens, Roma faced enormous obstacles in obtaining redress for crimes against them.” (Human Rights Watch, “Human Rights Watch World Report 2000,” December 1999, p. 229).

<sup>42</sup> See Organisation for Security and Co-operation in Europe, op. cit., pp. 36-38. The report expresses similar concerns regarding the attitude of the Romanian authorities: “[A]n official in Romania’s Ministry of Interior stated, when asked about authorities’ responses to pogroms against Roma in the early 1990s, that ‘these conflicts [were] a reaction of the majority to the behavior of the Roma minority;’ that the Roma were not, therefore, victims of racial violence.” (p. 45).

<sup>43</sup> For a detailed account of the incident, see *Roma Rights*, No. 1, 2000, pp. 11-13. Also in Poland, in cases in which Romani victims of civilian violence have turned to the police for protection, their complaints have generally not been heard or acted upon. During field research in 1997, ERRC noted that officials often portrayed regularly occurring attacks as isolated phenomena in which “young individuals express their frustration over the local Gypsy population who tend to expose their economic wealth in a provocative way.” Not surprisingly, the community attacks and individual assaults by skinheads documented by ERRC during its research in June 1997 have all gone without legal redress, despite several official complaints filed by the victims at the local police departments.

<sup>44</sup> Council of Europe, European Commission against Racism and Intolerance, “ECRI’s county-by-country approach: Volume III,” CRI(98)54, Strasbourg, 15 June 1998, p. 61. Similar concerns were expressed by the United States Department of State in its most recent annual report on Slovakia (United States Department of State, “1999 Country Reports on Human Rights Practices: Slovak Republic,” Bureau for Democracy, Human Rights and Labor, February 25, 2000, [http://www.state.gov/www/global/human\\_rights/1999\\_hrp\\_report/](http://www.state.gov/www/global/human_rights/1999_hrp_report/), last visited February 28, 2000).

<sup>45</sup> *Assenov and Others v. Bulgaria*, Application No. 24760/94, October 28, 1998 and *Velikova v. Bulgaria*, Application No. 41488/98, May 18, 2000.

<sup>46</sup> For specific examples of this pattern of impunity, see Article 5(b) *infra*.

<sup>47</sup> An OSCE report from March this year found that “[i]n a number of OSCE participating States, Roma experience discriminatory treatment in their encounter with police and judicial authorities. Evidence suggests that, in several countries, Roma believed to have committed a crime are more likely than members of the majority suspected of similar



crimes to be arrested, detained and prosecuted and, if convicted, sentenced harshly.” (Organisation for Security and Co-operation in Europe, *op. cit.*, p. 35).

The European Commission against Racism and Intolerance recently expressed “concern[] at evidence of differential treatment of members of minority groups, especially Roma/Gypsies, on the part of some Czech national and municipal law enforcement officials” and “harassment and excessive use of force, deliberate prolonging of investigations, wrongful arrests and ill-treatment of detainees belonging to [Roma].” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on the Czech Republic,” *op. cit.*, para. 16).

The United Nations Committee against Torture’s Conclusions concerning Hungary, issued in November 1998, expressed “concern[] that a disproportionate number of detainees and/or prisoners serving their sentence are Roma.” Among its recommendations, the Committee requested the Government to include in its next report “all relevant statistics, data and information” on the number of complaints about ill-treatment, the proportion they represent in relation to the total number of cases investigated, and, in particular, the proportion of detainees and prisoners of Romani origin, and the proportion of complaints made by Roma.” (United Nations Committee against Torture, “Conclusions and Recommendations of the Committee against Torture: Hungary,” A/54/44, paras.78-87, November 19, 1998, paras. 81 and 85).

<sup>48</sup> Article 30(3) of the Bulgarian Constitution and Article 71(4) of the Law on the Ministry of Interior. For a comprehensive report on the issue, see European Roma Rights Center, “Profession: Prisoner: Roma in Detention in Bulgaria,” Country Reports Series No. 6, December 1997. See also the most recent report of the Council of Europe European Commission against Racism and Intolerance (ECRI) on Bulgaria (expressing “concern[] at reports that members of the Roma/Gypsy community held in detention are not always provided with immediate access to legal counsel”). Other problem areas in the field of administration of justice noted by ECRI in Bulgaria were the lack of “access to independent medical examination” and “the length of proceedings, which apparently hinders some victims from obtaining remedy for offences against them.” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on Bulgaria,” *op. cit.*, para. 16).

<sup>49</sup> ERRC interview, Plovdiv, June 1997.

<sup>50</sup> Information provided by the Counselling Centre for Citizenship/Civil and Human Rights, June 2000.

<sup>51</sup> Council of Europe, European Commission against Racism and Intolerance, “Second Report on Hungary,” CRI(2000)5, March 21, 2000, para. 14. See also CAT’s findings concerning Hungary in footnote 47 *supra*.

<sup>52</sup> ERRC interview, Rome, January 1999. Persons familiar with the Italian criminal justice process estimate that Roma and non-EU citizens run twice as high a risk to be sentenced to imprisonment, and spend on average 30 per cent more time in prison than non-Romani Italians and EU-citizens convicted for the same offence (ERRC interview, Florence, January 1999).

<sup>53</sup> On February 18, 1999, in denying a request for pre-trial release on the part of three Romani men detained on charges of burglary, Investigating Judge Antonio Crivelli in Florence highlighted what he termed “the risk of flight due to the fact that they are nomads without stable housing [...]” (Document No. 4359/98, RNR; No. 102980/98 R.G. G.I.P.).

<sup>54</sup> In one recent case, when Razema Hamidovic, a 42-year-old Romani woman who spent the first portion of her nine-year sentence in prison, asked to serve the remainder in a non-custodial capacity, the reviewing magistrate rejected the request, reportedly stating, “We cannot let her out! She is a nomad and will never report to us! If we let her go, we will never see her again!” (ERRC interview, Florence, January 1999).

<sup>55</sup> Resolution No. 821/99 of August 1999 (official translation dated September 27, 1999).

<sup>56</sup> “Report on the State of Human Rights in the Czech Republic in the Year 1999,” April 19, 2000, para. 9.2.1. (unofficial translation). The report also states that “[i]n 1999, the situation of the Romanies in the Czech Republic did not change substantially in comparison with previous years.” (para. 6.2.1.).

<sup>57</sup> As the section on administration of justice of the March 2000 report on Roma by the OSCE High Commissioner on National Minorities concludes, “[e]stablishing that such discrimination occurs on a systematic basis would require statistical research and analysis of a kind that has not been undertaken in countries where these concerns are particularly pronounced [...]” (Organisation for Security and Co-operation in Europe, *op. cit.*, p. 36).

<sup>58</sup> In a report released in March this year, the OSCE High Commissioner on National Minorities found it “clear” that “in several OSCE participating States, Roma frequently experience serious abuse at the hands of police, many of whom express racist attitudes in the course of these encounters, and that legal redress for violations of Romani individuals’ rights is often delayed or denied altogether [...]” (Organisation for Security and Co-operation in Europe, *op. cit.*, p. 36).

In its most recent annual report, the European Commission against Racism and Intolerance notes “a significant increase in complaints concerning racist attitudes and behaviour on the part of law enforcement officers.” (Council of

Europe, European Commission against Racism and Intolerance, "Annual Report on ECRI's Activities Covering the Period from 1 January to 31 December 1999," op. cit., p. 7).

During its review of Spain in March this year, the Committee expressed "concern" about "the position of the Roma minority, and the reports of racist attitudes on the part of the police and Civil Guard officers" and "recommended that in the next periodic report, information should be given on the effectiveness of non-discrimination training schemes for civil servants." (UN Press Release, March 23, 2000, Morning).

In his most recent annual report to the Commission on Human Rights, the United Nations Special Rapporteur on Torture concluded that "[t]here is [...] some evidence that would support the view of many non-governmental organizations that the Roma are more likely to be the victim of police abuse than others." (Report of the Special Rapporteur on the Question of Torture, Sir Nigel S. Rodley, Submitted Pursuant to Commission on Human Rights Resolution 1999/32, Addendum, Visit by the Special Rapporteur to Romania, E/CN.4/2000/9/Add.3, 23 November 1999, para. 51).

The European Union's 1999 report on the candidate countries noted, inter alia, "institutional prejudice against Roma, and the use of force by the police" in Hungary and "police brutality, prejudice, racial harassment and violence" in Romania as issues of concern. (European Commission, Regular Report from the Commission on Progress of Accession," op. cit.).

Following its review of Bulgaria in April-May 1999, the United Nations Committee against Torture expressed concern about "[t]he continued reporting from reliable non-governmental organizations on ill-treatment by public officials, particularly the police, especially against persons belonging to ethnic minorities." (United Nations Committee against Torture, "Conclusions and Recommendations of the Committee against Torture: Bulgaria," CAT/C/BUL, May 7, 1999, para. 10).

According to the most recent annual report of the Human Rights Watch, "[i]n Albania, Bulgaria, the Czech Republic, Greece, Hungary, Macedonia, Romania, and Slovakia, reports of police brutality including excessive use of force leading to injury and death, and racist verbal abuse against Roma were disturbingly common." (Human Rights Watch, op. cit., p. 229).

<sup>59</sup> A recent report by the OSCE on the situation of Roma found that "alleged instances of police abuse frequently go unpunished and sometimes are not even seriously investigated." (Organisation for Security and Co-operation in Europe, op. cit., p. 36).

According to a Council of Europe report on Bulgaria, issued earlier this year, "[...] the majority of complaints filed [...] on behalf of Roma victims of police violence have not been followed up by the authorities" and "[a] first step would therefore seem to be the need to acknowledge on a public level that problems exist in this area, and for police and political leaders to express their strong commitment to ensuring that any allegations of misbehaviour or criminal acts on the part of the police are promptly and stringently investigated and dealt with." (Council of Europe, European Commission against Racism and Intolerance, "Second Report on Bulgaria," op. cit., paras. 34-35).

The same body also issued a report on Hungary, which expressed "deep concern at the continuation of police discrimination and ill-treatment of members of the Roma/Gypsy community in particular," and urged the Hungarian authorities to develop methods "to encourage victims to come forward with complaints, since they often – apparently with some justification – lack confidence in the possibility of redress and fear further reprisals." (Council of Europe, European Commission against Racism and Intolerance, "Second Report on Hungary," op. cit., para. 19).

Commenting on the situation in Romania in late 1999, the Human Rights Watch noted that "[t]he police continued to use excessive use of force in making arrests and pursuing criminal suspects, and such cases rarely resulted in prosecution or disciplinary measures." (Human Rights Watch, op. cit., December 1999, p. 284).

<sup>60</sup> Although such incidents seem to have decreased over the past five-year period, the victims of these crimes remain without remedy in virtually all cases monitored by ERRC.

<sup>61</sup> ERRC interviews, Bucharest and Covasna, May and June, 2000.

<sup>62</sup> ERRC interviews, Braşov, Buneşti and Rupea, May and June, 2000. The above incidents are only the latest in a long row of reported cases of police violence targeting Roma in Romania brought to the attention of ERRC. In July last year, on the occasion of the United Nations Human Rights Committee's review of Romania's compliance with the International Covenant on Civil and Political Rights, ERRC submitted a list of 19 cases of police abuse of Roma that had been reported in Romania in the period 1996-1998 (the full text of which is available on the internet at <http://>

[www.errc.org](http://www.errc.org)). With the exception of one case in which a police officer was indicted for shooting and killing a Romani man in May 1996 – only to be acquitted by the Bucharest Military Court on the grounds of self-defence, despite unequivocal evidence that Mircea-Muresul Mosor, the 26-year-old victim, had been shot in the back – none of these cases resulted in prosecution, let alone conviction, of the police officers involved, giving rise to concern that police in Romania feel free to abuse their authority with impunity. During its examination of Romania, the Human Rights Committee voiced concern about, inter alia, “police brutality against members of the Roma minority,” and “called upon the Government of Romania to do more to end discrimination against Roma” (UN Press Releases HR/CT/99/17 of 20 July, 1999 and HR/CT/99/19 of 21 July, 1999).

<sup>63</sup> When it last reviewed Hungary’s compliance with the Convention, the Committee expressed “[a]larm [...] at apparent harassment and use of excessive force by the police against Gypsies,” and “recommend[ed] [...] a stronger commitment to ensuring that there is no element of racism in law enforcement.” (United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Hungary,” CERD/C/304/Add.4, March 28, 1996, paras. 12 and 18).

<sup>64</sup> According to information provided to the ERRC at the local prosecutor’s office, out of fifteen investigations opened against police officers in Hajdúhadház in 1998, all remained either unresolved or had ended in acquittals as of March 1999. For more detailed accounts of police abuse against Roma in Hajdúhadház, see *Roma Rights*, No. 1, 1999, pp. 38-40 and No. 2, 1999, pp. 10-11; Organisation for Security and Co-operation in Europe, op. cit., p. 42; Human Rights Watch, op. cit., pp. 272-273.

<sup>65</sup> For a more detailed account of the case and other recent cases of police abuse of Roma in Macedonia, see *Roma Rights*, No. 2, 2000 (forthcoming).

<sup>66</sup> In April 1999, on the occasion of the United Nations Committee against Torture’s review of Macedonia’s compliance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, ERRC submitted a list of 13 cases of police abuse of Roma that had been reported in the period August 1996-March 1999 (the full text of which is on the internet at <http://www.errc.org>). During its examination of Macedonia, the United Nations Committee against Torture requested information from the Macedonian delegation as to “how thoroughly complaints against the police by the Roma population were investigated.” (United Nations Press Release, “Committee against Torture takes up Report of Former Yugoslav Republic of Macedonia,” HR/CAT/99/3, April 27, 1999). In its Conclusions, the Committee “urged” the Macedonian Government to “investigate complaints of maltreatment by Government officials particularly those that relate to ethnic minorities,” adding that “investigations should be prompt and impartial and those officials that may be responsible for such maltreatment should be prosecuted.” (United Nations Committee against Torture, “Conclusions and Recommendations of the Committee against Torture: The Former Yugoslav Republic of Macedonia,” CAT/C/MAC, May 5, 1999, para. 10).

<sup>67</sup> For a more detailed account of the case, see *Roma Rights*, No. 3, 1999, pp. 14-15, Organisation for Security and Co-operation in Europe op. cit., p. 42, as well as reports of the *Czech Press Agency*, August 13, 1999 and *RFE/RL Newslines*, August 24, 1999. Recently commenting on Slovakia, the Council of Europe European Commission against Racism and Intolerance stated, “The problem of police mistreatment of members of minority groups, particularly Roma, is of particular concern to ECRI. Few steps have been taken to combat such practices: there appears to be a lack of acknowledgment that police mistreatment of Roma is a reality.” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on Slovakia,” op. cit., p. 9). See also footnote 44 under Article 5(a) *supra*.

<sup>68</sup> Communication issued by the Montañone Police following the incident.

<sup>69</sup> The shooting of Natali Marolli represents only one example of a long series of incidents of police violence against Roma in Italy. On the occasion of the United Nations Committee against Torture’s review of Italy in April-May last year, ERRC submitted a list of 22 cases of police abuse of Roma documented in Italy in recent years (the full text of which is on the internet at <http://www.errc.org>). In none of the incidents described in the document were the police officers involved prosecuted, let alone convicted, for the alleged violations committed.

<sup>70</sup> A recent Council of Europe report on Greece found that “Roma/Gypsies, Albanians and other immigrants are frequently victims of misbehaviour on the part of the police in Greece. In particular, Roma/Gypsies are often reported to be victims of excessive use of force – in some cases resulting in death – ill-treatment and verbal abuse on the part of the police. [...] In most cases there is reported to be little investigation of these cases, and little transparency on the results of these investigations. Although most of these incidents do not generally result in a complaint being filed by the victim, when charges have been pressed the victims have reportedly in some cases been subjected to pressure to drop such charges.” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on Greece,” CRI(2000)32, June 27, 2000, p. 13).

<sup>71</sup> For a more detailed account, see *Roma Rights*, No. 2, 2000 (forthcoming).

<sup>72</sup> ERRC interview with a police officer, August 1996, Mukachev. A 1999 Council of Europe report on Ukraine expressed concern at “reports of systematic ill-treatment of Roma/Gypsies by both regular and special police in Transcarpathia. [...] [M]onitoring raids are carried out on whole communities for a variety of purposes: searching for

suspects, checking propiskas (residence permits), or simple intimidation. [...] ECRI feels that the situation of Roma/ Gypsies should be radically improved and an end put to all discriminatory practices of the type described above.” (Council of Europe, European Commission against Racism and Intolerance, “ECRI’s country-by-country approach: Volume V,” CRI(99)11, Strasbourg, 13 March 1999, p. 56).

<sup>73</sup> ERRC interviews, Bucharest, May 2000. In another recent police action against a Romani community in Romania, in Valea Rece on March 2, 2000, officers are reported to have indiscriminately beat several Roma, including women, and used teargas against children (see *Roma Rights*, No. 1, 2000, p. 57). ERRC is unaware of any investigation into the alleged police misconduct. ERRC research in Romania in 1996 revealed a pattern of systematic police raids conducted in Romani communities throughout the country. Romanian law enforcement authorities with whom ERRC spoke stated that raids were a conscious strategy on their part, aimed as a preventive measure to avoid further incidents of community violence (see European Roma Rights Center, “Sudden Rage at Dawn: Violence against Roma in Romania, Country Reports Series No. 2, September 1996).

<sup>74</sup> ERRC interview, Tyrnavos, May 1997. For a more detailed account of police raids and other abuse targeting Roma in Greece, see e.g. *Roma Rights*, Summer 1998, pp. 24-25.

<sup>75</sup> ERRC interviews, Rome, January 1999. Strip searches of Romani women by police in Rome are apparently common in the Colosseum area, at the Piazza di Spagna and at the Termini railway station.

<sup>76</sup> ERRC interviews in Florence, Naples and Rome, Italy, January 1999 and April 2000, and in Bucharest, Romania, May 2000.

<sup>77</sup> On July 7, 1999, following an identity check at a local market, five police officers in the town of Mukachevo in western Ukraine reportedly arrested three Romani women, G.B., S.A., and E.A., and brought them to a nearby police station, where they ordered the women to clean the premises. Among other things, the women swept the floor and cleaned windowsills, before the appearance in the police station of Aladar Adam, a local Romani representative, who sought explanation and demanded that the women be released. According to Mr. Adam, the officers claimed the women themselves had wanted to clean the police station, and subsequently allowed them to leave. None of the women was charged with any crime. A complaint filed by the women against the officers shortly after the incident did not result in investigation or any disciplinary measures against the officers in question. For a detailed account of the incident, see *Roma Rights*, No. 4, 1999, pp. 22-23.

<sup>78</sup> Information about this case was provided by the Belgrade-based non-governmental organisation Humanitarian Law Center. See also *Roma Rights*, No. 2, 2000 (forthcoming).

<sup>79</sup> “Report on the State of Human Rights in the Czech Republic in the Year 1999,” op. cit., paras. 9.2.1. and 9.2.3. (unofficial translation).

<sup>80</sup> For detailed accounts of the killing of Helena Bihárová and its aftermath, see *Roma Rights*, Winter 1998, p. 6; Summer 1998, p. 21; No. 1, 1999, pp. 13-14.

<sup>81</sup> Information about this case was provided by the Sofia-based non-governmental organisations Human Rights Project and Romani Bah. For a more detailed account of the case, see also *Roma Rights*, No. 2, 1999, pp. 9-10.

<sup>82</sup> ERRC interview, Sofia, July 2000.

<sup>83</sup> For a fuller account of the case, see *Roma Rights*, Spring 1998, p. 6.

<sup>84</sup> ERRC interview, Sofia, July 2000.

<sup>85</sup> See United States Department of State, “1999 Country Reports on Human Rights Practices: Slovak Republic,” Bureau for Democracy, Human Rights and Labor, February 25, 2000, [http://www.state.gov/www/global/human\\_rights/1999\\_hrp\\_report/](http://www.state.gov/www/global/human_rights/1999_hrp_report/), last visited February 28, 2000, quoting the Slovak Office of Legal Protection.

<sup>86</sup> Council of Europe, European Commission against Racism and Intolerance, “Second report on Slovakia,” op. cit., p. 11.

<sup>87</sup> *Pravda* and *Korzar*, April 27, 2000. The most recent annual report of the United States Department of State, issued in January 2000, found that the Slovak “authorities tended to tolerate [...] attacks against Roma and accepted them as ‘normal.’ In almost no case did the police categorize the incidents as racially motivated.” (United States Department of State, “1999 Country Reports on Human Rights Practices: Slovak Republic,” Bureau for Democracy, Human Rights and Labor, February 25, 2000, [http://www.state.gov/www/global/human\\_rights/1999\\_hrp\\_report/](http://www.state.gov/www/global/human_rights/1999_hrp_report/), last visited February 28, 2000).

<sup>88</sup> For a more detailed account of the case, see *Roma Rights*, No. 1, 2000, p. 26.

<sup>89</sup> For more details on Romani political participation in Bulgaria, see *Roma Rights*, No. 4, 1999, p. 17.

<sup>90</sup> See Act LXXVII of 1993 on the Rights of National and Ethnic Minorities.

<sup>91</sup> See Organisation for Security and Co-operation in Europe,” op. cit., p. 138 (also noting that “this system has raised expectations without assuring minimal resources or effective power to meet them.”).

<sup>92</sup> For more details on political participation of Roma in Hungary, see, e.g. Project on Ethnic Relations, “Self-Government in Hungary: The Romani/Gypsy Experience and Prospects for the Future,” November 1997.

<sup>93</sup> Resolution No. 55/2000 dated May 20, 2000, signed by Mayor G. Katriliotis and Chairman of the Town Hall G.

Maninis.

<sup>94</sup> Information provided by the Greek Helsinki Monitor. See also *Roma Rights*, No. 2, 2000 (forthcoming). A Council of Europe report issued in June this year stated that “[i]n recent years, including 1999, some municipal authorities have expelled communities of Roma/Gypsies from the camps in which they have lived for many years, in certain cases without providing alternative accommodation. This has sometimes resulted in Roma/Gypsies being repeatedly expelled from each place they attempt to settle. These expulsions were sometimes accompanied, apparently unhindered by the police, by the destruction and arson of houses, and by threats and humiliating treatment by local authorities and municipal employees.” (Council of Europe, European Commission against Racism and Intolerance, “Second Report on Greece,” CRI(2000)32, June 27, 2000, p. 15).

<sup>95</sup> For detailed accounts of various stages of the case, see also *Roma Rights*, Autumn 1997, pp. 23-24; No. 1, 1999, pp. 52-53 and; No. 2, 1999, p. 21.

<sup>96</sup> Resolution No. 21, adopted by an extraordinary meeting by the community council of Rokytovec on June 8, 1997.

<sup>97</sup> Resolution No. 22, July 16, 1997. Passage of the racial exclusion orders capped a campaign of at least eight years on the part of governmental authorities to – in the words of one area mayor – “get rid of” the local Roma (Theodor Kohut, Mayor of Cabiny, Medzilaborce County, cited in *Korzo*, July 31, 1997). Thus, in 1989, members of seven Romani families who were permanent residents in the affected towns were forced from their homes when their employer – an agricultural cooperative – ceased operations. Two years later, in 1991, no village in the County would allow Roma to park their trailer within its territory. In 1993, temporary dwellings built by some of the Roma were torn down, forcing them to flee. Their return to Medzilaborce in 1997 sparked a series of meetings by local political leaders – culminating in passage of the resolutions – to address what they referred to as “the problem of the Roma in the County.” (Written report from the meeting of mayors, June 30, 1997, signed by Vladimir Cepko, Director of the Department of Social Welfare, District of Medzilaborce).

<sup>98</sup> On December 15, 1998, another Romani client, also assisted by ERRC and local counsel, filed an application with the Committee, for consideration under its individual complaints procedure pursuant to Article 14 of the Convention.

<sup>99</sup> Council of Europe, European Commission against Racism and Intolerance, “Second Report on Slovakia,” op. cit., p. 12. In the report, ECRI furthermore “stresses that any practices aiming at segregating and isolating Roma/Gypsies in ghetto-like neighbourhoods should be firmly condemned by the authorities and urges the authorities to take immediate action to ensure that such practices cease.” (Ibid., p. 12).

<sup>100</sup> *Sme*, November 28, 1998.

<sup>101</sup> *Narodna Obroda*, November 30, 1998.

<sup>102</sup> Organisation for Security and Co-operation in Europe, op. cit., p. 157.

<sup>103</sup> Council of Europe, European Commission against Racism and Intolerance, “Second Report on the Czech Republic,” op. cit., p. 6. The report further notes that “[a]longside ensuring satisfactory implementation of the law, [...] in the field of citizenship, it is incumbent on the authorities to improve communication with the members of the Roma/Gypsy community living in the Czech Republic. In particular, targeted and consistent efforts are necessary to raise the awareness of some members of the Roma/Gypsy community of the need to acquire citizenship of the Czech Republic and the necessary application procedures to follow.”

<sup>104</sup> The Macedonian citizenship law has been widely criticised by a number of international monitoring bodies. See e.g. United Nations Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, E/CN.4/1999/15, January 15, 1999, para. 86, and Council of Europe, European Commission against Racism and Intolerance, “ECRI’s country-by-country approach: Volume VI,” CRI(99)47, May 24, 1999, p. 32 (“ECRI considers that these [...] requirements, which have been strongly criticised both by members of minority groups and international observers for their restrictive nature, have had an indirect discriminatory effect on the acquisition of Macedonian citizenship by some segments of the population of the country, particularly [...] Roma/Gypsies” and “urges the authorities to take all necessary measures to ensure that naturalisation requirements are not discriminatory in practice [...]).

<sup>105</sup> Article 8, para. 1 of the Law on Croatian Citizenship of June 26, 1991 as amended on May 8, 1992. For a more detailed analysis of the Croatian citizenship law and its effects on Roma, see “Roma Rights,” Summer 1998, pp. 50-54. Concerns about the discriminatory effects of the Croatian citizenship law on Roma have been expressed by, inter alia, the Council of Europe, and, more recently, by the OSCE High Commissioner on National Minorities in a report issued in March this year (see Council of Europe, European Commission against Racism and Intolerance, “ECRI’s country-by-country approach: Volume VII,” CRI(99)55, November 9, 1999, p. 29 and Organisation for Security and Co-operation in Europe op. cit., pp. 157-158).

<sup>106</sup> In response to widespread government failure to provide demographic information broken down by race or ethnicity, the Committee has made clear, in its “General Guidelines Regarding the Form and Contents of Reports to be Submitted by States Parties under Article 9, para. 1, of the Convention,” that “[t]he ethnic characteristics of the country are of particular importance in connection with the International Convention on the Elimination of All Forms of Racial Discrimination. Many States consider that, when conducting a census, they should not draw attention to

factors like race lest this reinforce divisions they wish to overcome. If progress in eliminating discrimination based on race, colour, descent, national and ethnic origin is to be monitored, some indication is needed of the number of persons who could be treated less favourably on the basis of these characteristics. States which do not collect information on these characteristics in their censuses are therefore requested to provide information on mother tongues [...] as indicative of ethnic differences, together with any information about race, colour, descent, national and ethnic origins derived from social surveys.” Similarly, the Committee’s General Recommendation IV (1973) expressly endorses the use of race statistics by inviting “States parties to endeavour to include in their reports under article 9 relevant information on the demographic composition of the population.” Similar recommendations to European Governments have also consistently been made by the Council of Europe European Commission against Racism and Intolerance and the Organisation for Security and Co-operation in Europe High Commissioner on National Minorities.

<sup>107</sup> For example, a 1998 Council of Europe report on Slovakia found that the “Roma/Gypsies are among the population groups hardest hit by unemployment” and that “[t]hese very high unemployment rates” are “clearly linked to ethnic discrimination, which is often practised by employers [...]” (Council of Europe, European Commission against Racism and Intolerance, “ECRI’s country-by-country approach: Volume III,” op. cit., 1998, p. 64). A more recent report by the same body on Spain found that “[s]everal minority groups, particularly the Roma/Gypsies and North Africans, face discrimination in the labour market.” (Council of Europe, European Commission against Racism and Intolerance, “ECRI’s country-by-country approach: Volume IV,” CRI(99)6, January 26, 1999, p. 75).

<sup>108</sup> “Report on the State of Human Rights in the Czech Republic in the Year 1999,” op. cit., para. 6.2.3.1. (unofficial translation). A common pattern in many countries, including the Czech Republic, is that when applying in person for a job that has been advertised, Roma are told that the position has been filled, even though they had been told otherwise when making telephone inquiries. In a reversed example illustrating this trend, when calling regarding a job advertisement on behalf of the organisation, a non-Romani volunteer of a Romani non-governmental organisation in Bulgaria was apparently told that no positions were available, but was offered a position later on, when applying in person (see Organisation for Security and Co-operation in Europe, op. cit., p. 33).

<sup>109</sup> Cited in Organisation for Security and Co-operation in Europe, op. cit., p. 32.

<sup>110</sup> See e.g. Council of Europe, European Commission against Racism and Intolerance, “ECRI’s country-by-country approach: Volume III,” op. cit., p. 34 on Italy (“there appears to be no case-law” concerning the anti-discrimination provisions of the labour law, Section 15(2) of Act No. 300 of 1970 (Workers’ Statute”)); “Second report on Slovakia,” op. cit., p. 7 (“The sanctions provided for in the Labour Code (Articles 270a and 270b) have never been used against employers contravening Article III [guaranteeing the right to work and fair working conditions without discrimination on grounds of, inter alia, race]”; “Second Report on Bulgaria,” op. cit., p. 8 (No specific body of civil and administrative legislation exists at present in Bulgaria concerning discrimination in the fields of education, housing, employment, public services or social services, apart from one provision in the Labour Code (Article 8(3)), under which no cases have as yet been brought”); “Second Report on Poland,” CRI(2000)34, June 27, 2000, p. 7 (“Few decisions have as yet been passed by the courts relating to Article 11.3 [prohibiting discrimination in labour relations] of the Labour Code; it is therefore difficult to evaluate its efficacy or scope.”).

<sup>111</sup> Office of the Hungarian Parliamentary Ombudsman for National and Ethnic Minority Rights, “Annual Report of the Parliamentary Ombudsman for National and Ethnic Minority Rights, January 1-December 31, 1998,” para. 4.2.6. (unofficial translation). The notice in question appeared in the July 8, 1998 issue of the daily *Expressz*, specifying that the advertiser was looking for “white-skinned, non-alcoholic” applicants. The construction entrepreneur who advertised the position reportedly acknowledged that the wording had the intention to exclude Romani applicants. For more detailed accounts of the case and employment discrimination against Roma in Hungary, see *Roma Rights*, Summer 1998, p. 14 and No. 1, 1999, p. 21.

<sup>112</sup> A technique to bring evidence of racial (or other) discrimination by comparing the different treatment accorded members of two (or more) groups.

<sup>113</sup> The position concerned door-to-door distribution of brochures on behalf of a private company named “Termékmix Ltd.”

<sup>114</sup> The Budapest Labour Court reportedly justified its decision with the argument that since the claimant would not have been a full-time employee of the firm, and would have worked only on commission, the company’s procedure did not violate the Hungarian Labour Code. See *Roma Rights*, No. 1, 2000, pp. 10-11.

<sup>115</sup> *Lidové Noviny*, October 26 and 27, 1999.

<sup>116</sup> For a more detailed account, see *Roma Rights*, No. 4, 1999, pp. 11-12.

<sup>117</sup> *Czech News Agency*, November 5, 1999. For a more detailed account, see *Roma Rights*, No. 4, 1999, p. 10.

<sup>118</sup> In addition to the Czech Republic, Italy and Slovakia, such countries include Albania, Bosnia-Herzegovina, Bulgaria, Croatia, France, Greece, Hungary, Macedonia, Moldova, Poland, Portugal, Romania, Spain, Ukraine and Yugoslavia.

<sup>119</sup> Organisation for Security and Co-operation in Europe, op. cit., p. 5.



<sup>120</sup> Following its review of the Czech Republic in March 1998, the Committee “noted with concern that the State party does not have civil or administrative law provisions expressly outlawing discrimination in [...] housing,” notwithstanding “discrimination against Roma in areas such as housing, transport and employment.” (United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Czech Republic,” CERD/C/304/Add.47, March 30, 1998, para. 12). In its Concluding Observations on Italy, issued in March 1999, the Committee expressed “concern” about “discrimination against persons of Roma origin [...] in a number of areas, in particular housing.” (United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Italy,” CERD/C/304/Add.68, April 7, 1999, para. 11). Most recently, during its examination of Spain in March 2000, the Committee stated that “discrimination against foreigners, particularly Moroccans and Roma, in terms of housing, was [...] to be regretted.” (UN Press Release, March 13, 2000, Afternoon). See also reports of the Council of Europe, European Commission against Racism and Intolerance on, inter alia, the Czech Republic (“Second Report on the Czech Republic,” op. cit., p. 7: “given that discrimination against Roma/Gypsies especially is reported to be pervasive in virtually all spheres of life, ECRI urges the authorities urgently to consider the establishment of a comprehensive anti-discrimination law which would cover all fields of life, inter alia [...] housing.”); Italy (“ECRI’s country-by-country approach: Volume III,” op. cit., p. 36: “In many towns, it has been reported that there is no urban policy and that discrimination exists in the allocation of public housing. [...] In particular, the Roma/Gypsy community faces severe problems in the field of accommodation.”); Slovakia (“Second Report on Slovakia,” op. cit., p. 12: “The area of housing remains problematic in terms of discrimination against members of the Roma/Gypsy community”); Spain (“ECRI’s country-by-country approach: Volume IV,” op. cit., p. 77: “Discrimination is particularly widespread in the field of housing: neighbourhoods often oblige Roma/Gypsies to move from the area.”).

<sup>121</sup> Organisation for Security and Co-operation in Europe, op. cit., p. 5.

<sup>122</sup> Statement by Ina Zoon, Consultant to the Open Society Institute, prepared on the occasion of a hearing of the United States Department of State, Commission for Security and Cooperation in Europe, June 8, 2000.

<sup>123</sup> See European Roma Rights Center, “No Record of the Case: Roma in Albania,” Country Reports Series No. 5, June 1997.

<sup>124</sup> Council of Europe, European Commission against Racism and Intolerance, “ECRI’s country-by-country approach: Volume VII,” CRI(99)55, November 9, 1999, pp. 15-16.

<sup>125</sup> See *Roma Rights*, No. 2, 1999, p. 19.

<sup>126</sup> For more details, see also *Roma Rights*, No. 1, 1999, p. 14.

<sup>127</sup> Council of Europe, European Commission against Racism and Intolerance, “Second Report on Slovakia,” op. cit., pp. 12-13.

<sup>128</sup> Although the law was amended in July 1999, there has been no compensation for the effective exclusion of this large segment of the population, many of whom were dependent on state support.

<sup>129</sup> In the Czech Republic and Hungary, legislation barring children who have graduated from special schools from continuing in anything other than a parallel system of substandard secondary schools was amended in 1999 and 1992 respectively. In practice, however, as shown by the Hungarian experience, children graduating from special schools still do not cross the line from special primary education into normal secondary education (see *Roma Rights*, Summer 1998, pp. 30-36 and Organisation for Security and Co-operation in Europe, op. cit., p. 75).

<sup>130</sup> As recently noted by the OSCE High Commissioner on National Minorities, “[p]erhaps no legally-sanctioned practice affecting Roma is more pernicious than the phenomenon of channeling Romani children to ‘special schools’ – schools for the mentally disabled. [...] Aside from the obvious disadvantage this entails in terms of the sub-standard quality of education made available to Romani children – depriving them of the equal opportunity to learn and to develop as capable and self-reliant citizens – the effect is also automatically to disqualify Romani children from admission to certain secondary and tertiary educational and professional institutions.” (See Organisation for Security and Co-operation in Europe, op. cit., pp. 74, 4). In addition to the OSCE, a number of other international monitoring bodies have, in recent years, expressed concern about de facto racial segregation of Romani children in education. See e.g. European Commission, “Regular Report from the Commission on Progress of Accession,” op. cit. (on Bulgaria: “A disproportionate number of Roma children are sent to special schools for the mentally handicapped;” on the Czech Republic: “Roma still make up some 70 % of children sent to special schools for the mentally handicapped; out of the 100 preparatory schools set up in 1998 to prepare Roma children for mainstream primary schools, around a third are reported to have actually been set up in the schools for the mentally handicapped;” on Hungary: “Roma continue to suffer widespread prejudice and discrimination in their daily lives. They face discrimination in access to education [...]. More than 150 segregated schools remain throughout Hungary;” on Slovakia: “Roma children are over represented in schools for retarded children and other forms of school segregation are reported.”). In a policy recommendation issued in 1998, Council of Europe European Commission against Racism and Intolerance recommended that “Governments of member States [...] vigorously combat all forms of school segregation towards Roma/Gypsy children and [...] ensure the effective enjoyment of equal access to education.” (Council

of Europe, European Commission against Racism and Intolerance, “General Policy Recommendation No. 3: Combating Racism and Intolerance against Roma/Gypsies,” CRI(98)29, Strasbourg, March 6, 1998.”).

<sup>131</sup> See Resolution No. 279 of April 7, 1999, “Draft Conception of the Governmental Policy towards the Romani Community,” para. 5 (“three-quarters of Romani children attend special schools destined for children with a moderate mental deficiency and [...] more than 50% (estimations are that it is about three-quarters) of all special school pupils are Romani”).

<sup>132</sup> United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Czech Republic,” CERD/C/304/Add.47, March 30, 1998, paras. 13 and 19.

<sup>133</sup> Legal complaints challenging racial segregation of Roma in special schools, filed in June, 1999 by a group of Romani children in Ostrava, assisted by local counsel and ERRC, were unsuccessful at the domestic level. In its decision of October 20, 1999, the Constitutional Court, acknowledging the “persuasiveness” of the Applicants’ arguments, nonetheless rejected the complaints, ruling that it had no authority to consider evidence demonstrating a pattern and practice of racial discrimination in Ostrava or the Czech Republic. The Court effectively refused to apply applicable international legal standards for proving racial discrimination. Having unsuccessfully exhausted all domestic remedies, on April 18, 2000, representing 18 Romani children from Ostrava, the ERRC and local counsel filed an application with the European Court of Human Rights in Strasbourg.

<sup>134</sup> “Report on the State of Human Rights in the Czech Republic in the Year 1999,” op. cit., para. 6.2.4.1. (unofficial translation).

<sup>135</sup> On April 22, 1999, the second instance court of Szabolcs-Szatmár-Bereg County upheld the decision of the first instance court. For detailed accounts of the case, see *Roma Rights*, Spring 1998, pp. 56-58; Autumn 1998, pp. 7-8; and No. 2, 1999, p. 19.

<sup>136</sup> See also *Roma Rights*, No. 4, 1999, p. 20.

<sup>137</sup> See *Roma Rights*, Summer 1998, p. 31.

<sup>138</sup> See *Roma Rights*, No. 2, 2000 (forthcoming). Following its recent review of Spain’s compliance with the Convention, the Committee “expresse[d] concern over the high drop-out rates and registered absences of Roma children in primary schools, as well as the low number of Roma completing higher education” and requested the Spanish Government to “provide information about measures undertaken and foreseen to ensure the right to equal education opportunities for the Roma minority.” (United Nations Committee on the Elimination of Racial Discrimination, “Concluding Observations by the Committee on the Elimination of Racial Discrimination: Spain,” CERD/C/56/Misc.37/Rev.3, March 23, 2000, para. 10).

<sup>139</sup> ERRC interview with a representative of the Florence municipality, January 1999. In its Concluding Observations concerning Italy, the United Nations Committee on the Rights of the Child expressed concern “that sufficient measures had not been taken to assess and provide for the needs of children from vulnerable and disadvantaged groups, such as [...] children of foreign and Roma origin,” and that such children “seem more likely to be stigmatized in public perception [and] to drop out of school [...]”. Among its suggestions and recommendations, the Committee stated that “[f]urther measures should [...] be taken to prevent a rise in discriminatory attitudes and prejudices towards particularly vulnerable children such as [...] Roma children and foreign children. The Government should consider adopting a more active stand and coherent policy with respect to the treatment of these children and to create an environment favourable to their fullest integration into Italian society.” (United Nations Committee on the Rights of the Child, “Concluding Observations of the Committee on the Rights of the Child: Italy”, CRC/C/15/Add.41, November 27, 1995, paras. 11 and 17).

<sup>140</sup> While cases documented in Ireland and Sweden have resulted in court rulings establishing clear violations for acts of racial discrimination, as noted under Article 2 supra, comparable litigation in many countries, in particular in Central and Eastern Europe, is rendered difficult if not impossible in the absence of legislation expressly prohibiting discrimination per se. As recently noted by the Czech Government itself, “[p]articularly problematic are possibilities of the prosecution of racial discrimination in services, which are still supported only by a regulation of law no. 64/1986 of the Coll., of the Czech Trade Inspection (CTI), in connection with law no. 634/1992 of the Coll., of the protection of customers, as amended by later regulations. Racial discrimination in services is mentioned by many integrated and successful Romanies or foreigners who only resemble Romanies. Amongst those who reported discrimination in services in 1999, was, for example, member of the CHR, an Indian, Kumar Vishwanathan in Ostrava and a British diplomat, Tony Brennan, whose Indian colleagues were not allowed into a Prague discotheque. In both these cases, however, the CTI arrived at the decision that a fine cannot be imposed on the basis of their testimony, because inspectors found that other people of dark complexion were served during the inspection of these businesses.” (See “Report on the State of Human Rights in the Czech Republic in the Year 1999,” op. cit., para. 9.1.4. (unofficial translation)).

<sup>141</sup> Humanitarian Law Center press release, July 12, 2000.

<sup>142</sup> See *Roma Rights*, No. 2, 1999, p. 6.



<sup>143</sup> For a detailed legal commentary on the case, and on anti-discrimination legislation more generally, see J. A. Goldston, "Race Discrimination Litigation in Europe: Problems and Prospects" in *Roma Rights*, Autumn 1998, pp. 19-38.

<sup>144</sup> In its most recent Concluding Observations on the Czech Republic, issued in March 1998, the Committee "noted with concern" "the denial of access to public places such as restaurants, pubs, discotheques [...] by persons belonging to some ethnic minorities, especially Roma," and recommended the Czech Government to introduce legal measures to combat racial discrimination in, inter alia, "access to services and places open to the general public." (United Nations Committee on the Elimination of Racial Discrimination, "Concluding Observations of the Committee on the Elimination of Racial Discrimination: Czech Republic," CERD/C/304/Add.47, March 30, 1998, paras. 12 and 19).

<sup>145</sup> For more detailed accounts, see *Roma Rights*, No. 1, 1999, p. 16. A second legal challenge brought against discrimination in access to public services in the Czech Republic, initiated by the three Roma refused service in the November 1998 case, resulted in a court-approved settlement in which Hotel Imperial in Ostrava agreed to pay the Roma 25,000 Czech crowns (approximately 650 USD) in exchange for the Roma dropping their lawsuit. See *Roma Rights*, No. 4, 1999, p. 13 and ERRC Press Release "ERRC Applauds Court-Approved Compensation for Racial Discrimination against Roma by Czech Hotel Owner," October 29, 1999.

<sup>146</sup> Information provided by the Legal Defence Bureau for National and Ethnic Minorities, a Budapest-based non-governmental organisation representing the Romani plaintiffs in this case.

<sup>147</sup> ERRC interview, Mestre, January 1999.

<sup>148</sup> ERRC interview, Florence, January 1999.

<sup>149</sup> See Latvian Centre for Human Rights and Ethnic Studies, "Human Rights in Latvia in 1999." In a letter to the Latvian National Human Rights Office, Home Guard headquarters [the company providing security services to the bar in question] apparently argued as follows: "As the mother of Mr. B. [the guard who refused entry to the Romani client] is a Russian and one of his father's parents is Roma, it is doubtful that any discrimination on the basis of ethnic origin could have taken place on the part of Imants B [the Romani client refused entry]."