



EUROPEAN ROMA RIGHTS CENTER

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SHADOW REPORT OF THE EUROPEAN ROMA RIGHTS CENTER

on the Republic of Croatia's combined second and third periodic reports

to the Committee on Elimination of Discrimination against Women
(CEDAW 32nd Session
10 to 28 January 2005)

A. EXECUTIVE SUMMARY

The European Roma Rights Center (hereinafter "ERRC")¹ is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. In particular, the ERRC undertakes strategic litigation, international advocacy, research and policy development, and training of Romani activists. The ERRC respectfully submits herewith written comments on the Republic of Croatia's combined second and third periodic reports² (hereinafter "State Report") for consideration of the Committee on Elimination of Discrimination against Women (hereinafter "the Committee") at its 32nd Session from 10 to 28 January 2005.

The ERRC has undertaken first-hand research in Croatia since 1998, when the organisation first sent teams of independent field researchers there. Since then, the ERRC has maintained close relations with domestic partner organisations in Croatia and has regularly monitored the situation of Roma in Croatia, both independently and in collaboration with partners.³ In the run-up to the current review

¹ Further information on the European Roma Rights Center is available on the web at: www.errc.org

² Combined second and third periodic report of Croatia to the Committee on the Elimination of Discrimination Against Women, available on the Internet at: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=CEDAW/C/CRO/2-3&Lang=E>

³ This submission has been prepared by ERRC staff, interns and volunteers. In particular, Savelina Russinova supervised initial research. Cristi Mihalache coordinated preparation of the draft and led a field research team. Michele Vernet undertook policy and field research and assisted in the preparation of draft submissions. Brigita Bajrić and Mirela Kovačević assisted with field research. Tara Bedard revised a draft of the submission. Claude Cahn supervised submission preparation and edited drafts of the document. The ERRC is additionally grateful to the following persons and organisations: Bajro Bajrić, Ksenija Rissi, "Organisation Roma for Roma Croatia", Ramiza Memedi, "Organisation Better Future", Nadica Balog,

of Croatia's compliance with international law in the area of discrimination against women, the ERRC (i) commissioned domestic partner organisations to undertake targeted research into the situation of Romani women in Croatia; (ii) held a number of meetings with organisations focusing on the situation of Romani women in Croatia to explain issues related to the Convention and invite comments and assistance from domestic partner organisations in documenting issues facing Romani women in Croatia; (iii) undertook field missions in Croatia, sent from the Budapest office of the ERRC, aimed at documenting the human rights situation of Romani women in Croatia. The ERRC is also extensively involved in strategic legal work in Croatia, among other things including a major lawsuit against Croatian education officials concerning the segregation of Romani children in Croatian schools. Documentation gathered in the course of that and other litigation work also forms the basis for this submission.

Quality statistical data on Romani women's access to education, employment, health and participation in political and public life is for the most part lacking in Croatia. The Croatian government has to date failed to make public adequate statistical data on the human rights situation of Roma in Croatia, and in particular on the situation of Romani women. Croatian officials with whom the ERRC spoke made reference to a recently adopted law on data protection as grounds for their inability to gather and/or disseminate statistical data on the situation of Roma in key sectoral fields. However, that law provides possibilities to produce and use such data where the public interest might require such actions. International bodies -- and in particular UN human rights bodies -- have on a number of occasions recommended to the Croatian government that it swiftly remedy gaps in statistical data in matters relating to the situation of disadvantaged groups in the country. To date, however, little effective action appears to have been undertaken in this area.

In a welcome development, the Croatian government has recently adopted a comprehensive policy document on Roma.⁴ It is still too soon to know whether this policy will be successful in ameliorating the exclusionary burdens many Romani women face in Croatia. However, it is of concern that at many points in this document and elsewhere, descriptions of Romani women provided indicate that policy-makers appear to be in many ways contemptuous of Roma. For example, Romani women often appear incapable of any of the functions of daily life when looked at through the biased lens of the Roma Program. For example, recommended measures include "health education teaching of the Roma, especially women, on the subjects, *inter alia*: personal and group hygiene (personal hygiene habits, hygiene of individual body parts, including sex organs, oral and dental hygiene, food hygiene, preparation and storage of food, hygiene of clothes and shoes, correct child care and procedure with sick children)".⁵ One of the conclusions reiterates similar paternalistic attitudes towards Romani men and women, reasoning that the main cause of irregular school attendance by Romani children is "insufficient parental concern".⁶ Although, as noted above, the Croatian government lacks any factual or statistical basis for making any claims about Roma in Croatia, it nevertheless appears confidently to believe -- and has enshrined in policy -- that Roma are in particular need of special instruction in basic health and hygiene measures. The official conclusion that one ethnic group may be incapable of caring for itself -- not as a matter of any material exclusion, but rather out of basic incompetence -- can only be regarded as an indicator of the extent

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⁴ Government of the Republic of Croatia, "National Program for Roma", Zagreb, October 2003 (hereinafter "Roma Program").

⁵ Roma Program, p. 43.

⁶ Roma Program, p. 62.

to which (i) the Croatian government is ignorant of issues facing the Romani minority and (ii) unquestioned and deeply-rooted racist presuppositions about Roma inform policy in Croatia.

This submission addresses the situation of Romani women in Croatia and the obstacles they face in accessing the rights protected by the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter "the Convention"). Roma are a burdened group in Croatia, facing the stigma of anti-Romani sentiment and frequently suffering racially discriminatory treatment. Romani women in Croatia face issues which create a situation of disproportionately lowered access to rights protected under domestic and international law, and in particular under the Convention. Roma are more vulnerable in Croatia than the majority female population of the country. The marginalisation of Romani women in Croatia is an example of intersectional discrimination, on the basis *inter alia* of gender and ethnicity. A summary of ERRC concerns arising from issues flowing from the Convention follows:

1. The need for data disaggregated by sex and ethnicity

Various international monitoring bodies, including the United Nations Committee on the Rights of the Child and the United Nations Committee Against Torture, have noted the lack of disaggregated data on ethnicity in Croatia.⁷ Earlier, the Committee expressed concern regarding insufficient statistical information on the situation of minority women in its Concluding Observations on Croatia's initial report on the implementation of the Convention. Further, in its State Report the Croatian government acknowledged that so far there is no data disaggregated by gender related to minorities. When such disaggregated statistics on the basis of sex and ethnicity are missing, it is difficult to evaluate the extent to which Romani women are able to exercise fundamental rights in areas such as education, employment, health or participation in public life, as well as the efficacy of policies to address exclusionary burdens. Given the necessity of designing and implementing adequate policy regarding the situation of Roma, and particularly of Romani women, there is a compelling need for disaggregated data, in particular on sex and ethnicity, as well as on issues arising due to the intersection of sex and ethnicity.

2. Comprehensive anti-discrimination law

Croatia currently lacks a comprehensive anti-discrimination law and is therefore not in conformity with international standards in this area. The concentration in the Penal Code of existing implementation legislation elaborating the ban on discrimination under domestic law has meant that few individuals have to date been able to make use in practice of existing legal protections. There is no reason to believe that, absent the elaboration of civil and administrative law banning discrimination and establishing procedures such that victims may have access to due remedy, there will be any change in this status quo in the future. Additionally, existing Croatian penal provisions do not make sufficiently clear that positive action to ensure equality is not illegal.

3. Access to citizenship and other status-related issues

A significant number of Roma in Croatia do not have access to a full range of fundamental rights due to the lack of clear legal status, i.e. citizenship or legal residence. International bodies, such as the Council of Europe's European Commission against Racism and Intolerance and the Advisory Committee on the Framework Convention for the Protection of National Minorities, as well as the United Nations Committee on the Elimination of Racial Discrimination, have called attention to the

⁷ Committee on the Rights of the Child, Concluding Observations on Croatia, CRC/C/15/Add. 243, October 1, 2004 and Committee against Torture, Conclusions and recommendations of the Committee against Torture on Croatia. June 11, 2004, CAT/C/CR/32/3.

problematic effects of the Croatian citizenship law⁸ on specific categories of the Croatian population, including Roma. Research by the ERRC and local organisations has established that lack of citizenship constitutes a key obstacle hindering the access of very significant numbers of Roma in Croatia to a range of fundamental human rights. Although the Croatian government has acknowledged this issue in the Roma Program, Croatian authorities have not to date undertaken adequate measures to ensure that all Roma so entitled as assessed according to current international law standards have access to citizenship or a similar durable status. As a result, a number of Roma encountered by the ERRC in the course of field research in Croatia are stateless, calling seriously into question Croatia's compliance with its international legal obligations.

4. Full and unimpeded/equal participation in public and political life

There is a dearth of Romani women taking part in mainstream Croatian public and political life. Romani women may experience additional stigma from within their own communities when attempting to become involved in politics and other decision-making processes because of the pervasiveness of “traditional attitudes” reinforcing the gendered division of labour. Romani women are often married and have children at an early age and act as the primary child caregiver. They may additionally be involved in some kind of economic activity to support their family. Each of these factors constitutes a barrier to the involvement of Romani women in politics.

5. Police abuse against Romani women

Roma in Croatia -- and particularly Romani women -- do not have full and unimpeded access to justice when their rights are violated. ERRC research and interviews with local organisations revealed that Romani women are sometimes physically abused and/or harassed by the police, and are often humiliated by police officers who make racist remarks or otherwise insult them. In some cases documented by the ERRC, victims of police assault have been pregnant Romani women. Worryingly, when Roma try to report such abuses, they are often reportedly told that they either have to pay fees or a lawyer in order for the abuse to be investigated. Apparently, police and other public officials take advantage of the fact that Roma -- particularly Romani women -- often are not aware of their fundamental rights or of legal procedures. The Roma Program provides that discrimination by the police against Roma should not be tolerated. However, there is no description of what measures should be taken to guarantee this.

6. Domestic violence

Domestic violence is reportedly widespread among Romani families in Croatia, as it is among non-Romani families in Croatia and indeed throughout Central and Eastern Europe. Romani activists in Croatia told the ERRC domestic violence is fostered in an atmosphere in which “Gypsy husbands like to be king”. Child marriage in the Romani community is an additional exacerbating factor giving rise to domestic violence. Croatian government policy on providing protection to battered women is currently seriously flawed by its failure to proceed from the first needs of victims to safety. The Committee is urged to pay particular attention to this area of policy.

7. Access to education

ERRC field research and interviews with representatives of local organisations raised serious concern as to the educational status of Romani women and girls in Croatia. Almost every Romani woman the ERRC interviewed during a November 2004 research mission was either illiterate or dropped out of school very early, before finishing even primary school. Few of the Romani girls interviewed by the ERRC had attended any form of secondary education. As to access to higher education, there is a

⁸ Croatian Citizenship law, no. 224-01/91-01/03, adopted by the Parliament of the Republic of Croatia on June 26, 1991, Zagreb, available on the Internet at: <http://www.legislationline.org/view.php?document=61510>

dramatically low number of Romani students enrolled in universities. Racial segregation of Romani children in Croatian primary schools is a significant factor in the systemic under-education of Roma in Croatia. Many Romani children in Croatia are segregated in separate Roma-only classes in what are otherwise "regular"/mainstream public schools, based solely on their ethnic or racial identity. Government policy to date has failed adequately to address this issue.

8. Access to employment

The situation of Romani women in the field of employment is a serious issue of concern. None of the Romani women interviewed by the ERRC during field research in November 2004 were, at the time of interviews, formally employed. Romani women are sometimes employed as maids, and sometimes undertake activity in the informal economy, such as gathering scrap metal for resale or buying and selling items on the informal market. Romani women face discrimination due to their ethnicity by employers. As most Romani women and girls drop out of school at an early stage, they frequently do not have access to vocational training or qualification courses, which would enable them to higher rates of participation on the formal labour market.

9. Access to health care

Lack of citizenship and unclear legal status often leave Roma, and particularly Romani women, outside the scope of health care. In general, many Roma in Croatia cannot access regular medical examinations. There are also cases in which Roma, and in particular Romani women, are refused treatment in emergency situations. Medical personnel also reportedly discriminate against Romani women because of their ethnicity.

10. Abusive Removal of Romani Children from the Care of their Biological Parents

On a number of occasions Croatian state officials have reportedly arbitrarily removed children from their families. One factor contributing to the exposure of Romani households to invasive state practices in removing Romani children from parental care is the very apparent gendered division of labour in Romani families in Croatia; in many Romani households in Croatia, the sole present care-provider is the mother. In many cases, this exposes the family to the pressures of poverty, drawing the attention of social workers who may be overzealous in the application of invasive measures. However, this issue does not explain all issues related to the removal of Romani children from the care of their biological parents. As yet ill-documented and inadequately addressed by policy is the worrying concern frequently expressed by Roma in Croatia, that social workers and other state officials are over-zealous in their actions to intervene in Romani families, and that for reasons of racial bias, they may undertake measures more invasive than they would were the families concerned no Romani. The Croatian government should take serious steps in the coming period to research this issue and provide policies aiming to combat any racially discriminatory or otherwise abusive practices in this area.

B. RECOMMENDATIONS

In view of the issues raised in this submission, the ERRC recommends that the Government of Croatia:

1. Collect and publish in a form readily comprehensible to the public reliable statistical data -- including comparative data -- on the basis of sex and ethnicity on the situation of Roma in Croatia, particularly on the situation of Romani women, in the fields of education, housing, employment, health care and other sectors of relevance to the Convention.
2. Undertake urgent measures aimed at remedying the current flaws of the Croatian Law on Citizenship and in practices of allocating Croatian citizenship, such that Roma, and particularly

Romani women, and other affected people with genuine and effective links to Croatia can have full and equal access to citizenship or a comparable durable status.

3. Adopt comprehensive anti-discrimination legislation in conformity with the requirements of European Council Directive 2000/43/EC, “implementing the principle of equality between persons, irrespective of racial or ethnic origin” and other international standards in the field. Without delay, ratify all provisions of the Revised European Social Charter.
4. Without delay, assess Croatia policy and practice in the area of providing protection to victims of domestic and other gender-based violence and implement swiftly reforms aimed at ensuring that the interests of the victim are primary. Take proactive steps to ensure that Romani women have full access to services made available to battered women, and that no discriminatory impacts arise in the implementation of Croatian policy addressing domestic violence.
5. Ensure that the "National Program for Roma" takes full account of the particular issues Romani women face in Croatia. Ensure that the projects developed under the Program are implemented and monitored with the full participation of Roma, particularly Romani women, and that their impacts are assessed to ensure that no disparate gendered impacts result.
6. Require that the Office for Gender Equality develop programmes targeting Romani women and girls that aim to improve their access to health, education, employment and political participation. Facilitate the development of better links between Romani women's organisations and mainstream women's organisations.
7. Adopt and implement a comprehensive school desegregation programme so that all Romani children may fully realise their right to equal access to education. Without delay, end the practice of segregating Romani children in Roma-only classes. Integrate all Romani children into mainstream classes and, where necessary, design and implement adequately funded and staffed programmes aimed at easing the transition from segregated to integrated schooling.
8. Address on a priority basis the disproportionately high rates of school abandonment amongst Romani girls.
9. Develop and implement catch-up or adult education programmes aimed at remedying legacies of substandard education and non-schooling of Roma, in particular of Romani women.
10. Undertake further investigation into the issue of disproportionately high unemployment amongst Romani women, and develop initiatives to address the root causes of their limited access to employment.
11. Create policy guidelines for vocational education of Romani girls that combat gender discrimination and provide equitable employment opportunities and treatment
12. Develop and implement effective programmes aimed specifically at improving the access of Romani women and girls to healthcare; develop health education programmes such as the training of Romani women health mediators, a model currently applied in other countries.
13. Provide equal access for all to high quality contraceptives and fertility awareness; contraception as well as sexual and reproductive health services should be available free-of-charge, or at low cost, for disadvantaged groups, young people, ethnic minorities and the socially excluded.

14. With a view to ensuring that Romani women and girls do not suffer discriminatory treatment in education, healthcare, employment, or justice, provide training in international anti-discrimination standards to educators, medical personnel, police officers and other public officials.
15. Undertake urgent measures to remedy the under-representation of Romani women in public institutions. Encourage and provide incentives for the inclusion of women from minority groups, particularly Romani women, in the national and local administration, law-enforcement bodies and the judiciary.
16. At all levels, speak out against racism and anti-Romani sentiment, as well as against abuses and human rights violations against Romani men and women.

C. DETAILED DISCUSSION

1. The need for reliable statistical data disaggregated by sex and ethnicity

Reliable statistical data on the situation of Romani women in sectoral fields of relevance to the Convention, as well as statistical data comparing the situations of Romani men and Romani women, Romani women and non-Romani women, and Romani women and the population as a whole, is for the most part at present non-existent, or at least not publicly available.

In its Concluding Observations⁹ on Croatia's initial state report, the Committee expressed concern that "in view of the complex ethnic and religious composition of the population of Croatia, the report does not include statistical information on the social, economic and political standing of minority women." The Committee further recommended that "the Government of Croatia collect and make available statistical information pertaining to the social, economic and political status of minority women with a view to developing specific policies to respond to the needs of different groups." In its report to the Committee, the Croatian government acknowledged that, "so far the data on national minorities was not disaggregated by gender" and, to this end, a working group that would collect data on the status of national minority women was supposed to be set up.¹⁰ In fact, as recently as November 2004, the ERRC met a representative of the Croatian government's Office for Gender Equality who has been tasked, along with the Office for National Minorities, to establish the aforementioned working group. According to Ms Helena Radin of the Office for Gender Equality, there has been no undertaking of specific data collection pertaining to Romani women since the group was set up in March 2004. It remains to be seen whether the working group and the Office for Gender Equality will be able to successfully complete a comprehensive study detailing specific information pertaining to the disenfranchisement of Romani women in Croatia. References and information used by the Government in policy documents relating to Roma, including the Roma Program, have been neither clear and specific nor disaggregated by sex and ethnicity. It is unclear how Croatia can be viewed as complying with its international law obligations in the field of eradicating all forms of discrimination against women if the government lacks the basic data required to design effective policies in this area.

⁹ Committee on the Elimination of All Forms of Discrimination Against Women, Concluding Observations on Croatia, CEDAW A/50/38 (1995).

¹⁰ State Report, p. 19.

Reports of United Nations monitoring bodies, intergovernmental and non-governmental organisations have also stressed the importance of collecting and disaggregating data on the basis of ethnicity and gender. For instance, the UN Committee on the Elimination of Racial Discrimination (CERD), in its General Recommendation no.25, notes that "Data which have been categorised by race or ethnic origin, and which are then disaggregated by gender within those racial or ethnic groups, will allow the States parties and the Committee to identify, compare and take steps to remedy forms of racial discrimination against women that may otherwise go unnoticed and unaddressed."¹¹ The European Monitoring Centre on Racism and Xenophobia's (EUMC) report "Breaking the Barriers: Romani Women and Access to Public Health Care" (hereinafter referred to as "EUMC Report") notes how data collection serves several purposes that promote genuine equality.¹² After referring to the various inter-governmental and national initiatives in Europe on these issues, this report sets out guidelines on data collection that seek to provide information without violating privacy.¹³

Other UN monitoring bodies have also expressed concern at the lack of data disaggregated by ethnicity and gender when monitoring Croatia's compliance with other universal human rights instruments. For instance, the Committee on the Rights of the Child, in its concluding observations on Croatia's compliance with the Convention on the Rights of the Child, noted its concern about "the absence of disaggregated statistical data and other information on the situation of children, especially those belonging to different ethnic groups and the most vulnerable groups. This type of information is lacking in particular with respect to girl children, street children, disabled children, displaced, refugees and asylum-seekers children, children from minority groups, and Roma children."¹⁴ Additionally, the Committee Against Torture, in its Concluding Observations on Croatia's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recommended that the State Party "provide to the Committee statistical data regarding cases of torture and other forms of cruel, inhuman or degrading treatment or punishment reported to administrative authorities and the result of the investigations, disaggregated by, *inter alia*, gender, ethnic group, geographical region, and type and location of place of deprivation of liberty, where it occurred. In addition, information should be provided regarding complaints and cases filed with domestic courts, including the results of investigations and the consequences for the victim in terms of redress and compensation."¹⁵

There is, apparently, a conviction among state officials¹⁶ that the collection of data disaggregated on ethnicity contravenes national legislation on data protection. In fact, there are exceptions from the general rule that it is forbidden to collect and process personal data related to, *inter alia*, racial or

¹¹ Committee on the Elimination of Racial Discrimination *General Recommendation No. 25: Gender related dimensions of racial discrimination*: 20/03/2000 (Fifty-sixth session, 2000), para 6.

¹² European Union Monitoring Centre (EUMC), *Breaking the Barriers: Romani Women and Access to Public Health Care*, 2003, p.35.

¹³ *Ibid.*, at p.36-37.

¹⁴ Committee on the Rights of the Child, *Concluding Observations on Croatia*, CRC/C/15/Add. 243, October 1, 2004

¹⁵ Committee against Torture, *Conclusions and recommendations of the Committee against Torture on Croatia*. June 11, 2004, CAT/C/CR/32/3.

¹⁶ ERRC interview with Ms. Milena Klajner, of the Office of Minority Issues of the Croatian Government, Zagreb, November 2, 2004.

ethnic origin¹⁷. The law on data protection¹⁸ provides that data can be collected on such grounds in the following situations: (1) "if processing this data is necessary in order to fulfill the tasks set in the public interest", (2) "if the person voluntarily made this data public", and (3) "if this data is processed as a part of work done by an institution, association or any other non-profit body serving a political, religious or other purpose, and under the condition that the data processing is related to their own members, and under the condition that these data cannot be revealed to a third party without the consent of the person". In these situations, "such data collection must be particularly marked and protected."

Given the necessity of designing and implementing adequate policy regarding the situation of Roma - and particularly of Romani women -- the data protection law appears to provide sufficient grounds for the collection of such disaggregated data.

2. Comprehensive Anti-Discrimination Law

Croatia has ratified a number of international laws committing the State to eliminating all forms of discrimination.¹⁹ Croatian Penal Code Article 106(1) states that "Whoever on the basis of race,

¹⁷ Article 8, Law on the protection of personal data, published in the Official Gazette 103/2003.

¹⁸ Law on the protection of personal data, published in the Official Gazette 103/2003.

¹⁹ For example, Article 2 of the International Covenant on Civil and Political Rights (ICCPR) states:

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

Article 16 of ICCPR provides that "[e]veryone shall have the right to recognition everywhere as a person before the law."

Article 26 of ICCPR states that "[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Article 6 of the International Convention on the Elimination of All Forms of Racial Discrimination provides that "States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, 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."

Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedom states that "[t]he enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

colour, gender, language, religion, political or other conviction, national or social origin, property, birth, education, social status or other grounds, or because of one's belonging to an ethnic or national community or minority in the Republic of Croatia denies or restricts a human being and a citizen's constitutionally guaranteed right or who on the basis of this difference or affiliation gives citizens advantages will be punished with imprisonment of terms of six months to five years." Articles 106(2) and 106(3) provide penal sanctions for "denying or restricting the right to free expression of ethnic origin or the right to cultural autonomy" for an ethnic or national group or minority, and denying or restricting the right to use one's language and script, respectively. The latter provision applies only to citizens of Croatia.

The foregoing is problematic for a number of reasons. In the first place, due to the high standard of proof required in criminal cases, these provisions would be difficult if not impossible in most cases for a victim of racial discrimination to derive any benefit from. Indeed, the ERRC knows of no instances in which they have ever been applied, and partner organisations could not cite any examples they knew of the provisions being applied. European standards on anti-discrimination law, set down first and foremost in European Union Council Directive 43/2000 "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin", envision primarily administrative and civil sanctions to complement penal law provisions covering racially motivated violent crime. Establishing civil and administrative anti-discrimination law provisions allow for key elements of the anti-discrimination law *acquis*, such as the shifting of the burden of proof to the alleged perpetrator in cases where a *prima facie* case of discrimination has been established. Such provisions are crucial for the full implementation of legal guarantees against all forms of discrimination, since very frequently in alleged discrimination cases, key evidence is in the hands of the perpetrator.

In addition, the current Croatian Penal Law provisions cited above are not worded in a form suitably nuanced to ensure that there will not be legal challenge to positive action measures in Croatia in the future. International law -- in particular the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) -- is unequivocal that positive action measures are not to be regarded as racial discrimination.²⁰

The Croatian government should, without delay, adopt a comprehensive anti-discrimination law in conformity with international standards. This would include supplementing existing Constitutional and penal law provisions with civil and administrative law incorporating into the Croatian legal order European Union guidelines -- as well as international law standards -- on comprehensive anti-discrimination law. The Croatian government should also without delay amend Croatian law to ensure that positive action measures are not considered discrimination.

3. Access to citizenship and status-related issues

The ERRC is concerned that a disproportionate number of Romani people in Croatia do not have access to a full range of fundamental rights due to the lack of clear legal status, i.e. citizenship or legal residence.

Croatia is party to all three of these binding international human rights law instruments.

²⁰ Article 1(4) of the ICERD states: "Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved."

The Roma Program has taken note of the fact that many Roma in Croatia do not have Croatian citizenship, as well as the importance of addressing the issue of citizenship as "an important condition for the realisation of many rights (political, civil, economic, social, cultural and others)."²¹

Research by the ERRC and local organisations²² concluded that the 1991 Law on Citizenship in Croatia has had a disproportionate effect on Roma in Croatia. Following the adoption of the law, residents of Croatia who were administratively registered as citizens of the former Socialist Republic of Croatia became citizens of the new state as well. However, many Roma factually residing in Croatia, in some cases for decades, often did not register with the local authorities, since republican citizenship did not bear much administrative importance in the former Yugoslav Federation. As a result of the 1991 law, such persons were deprived of Croatian citizenship and were consequently treated as foreigners. The Croatian Citizenship Law does offer a limited opportunity for citizenship to those who were not officially residing in Croatia at the time it became independent, but here the law includes provisions which may be arbitrarily applied against Roma and others for the purposes of denying them Croatian citizenship.²³ For this reason, many Romani persons from Croatia have been forced to apply for Croatian citizenship through the strict naturalisation procedure as if they were complete foreigners to the country.

Article 8 of the Croatian Law on Citizenship, which lists conditions for naturalisation, is considered to be the article that chiefly allows for arbitrary and discriminatory treatment of Roma by officials in practice.²⁴ This article requires applicants to submit proof of at least five years of registered residence in Croatia. Since many Roma left Croatia during the armed conflicts and returned only recently, they often cannot satisfy this requirement, although they may otherwise have real and effective ties to Croatia. Additionally, many Roma who have always lived in Croatia have extreme difficulty proving legal residence since many Romani settlements are informal and therefore do not provide for an official residence. Representatives of local organisations have also noted that some Romani children in Croatia have not been born in hospitals. Such persons may have extreme difficulties in gaining access to Croatian citizenship, because they largely lack any personal documents.

Article 8 of the Law on Citizenship also requires applicants to prove knowledge of the Croatian language and Latin script. Language tests are taken in police stations and Roma face difficulties in receiving advance information on the type of knowledge needed. Furthermore, widespread illiteracy amongst Croatian Roma prevents many from meeting the language requirements. Article 8 also

²¹ Roma Program, p. 25.

²² For more information see Tanja Peric, "Personal Documents and Threats to the Exercise of Fundamental Rights of Roma in Europe", in *Roma Rights Quarterly* no. 2/2003, "Personal Documents and Access to Fundamental Rights", ERRC, Budapest, 2003, available on the Internet at: <http://www.errc.org/cikk.php?cikk=1097>.

²³ Article 16 of the 1991 Croatian Citizenship Law states, "Members of the Croatian people who are not resident in the Republic of Croatia can obtain Croatian citizenship if they fulfil the conditions stated in Article 8 (1)(4) and 8(1)(5) of this law, and submit a written statement that they consider themselves citizens of Croatia." Unofficial translation by the ERRC. The mentioned conditions from Article 8 relate to knowledge of Croatian language and script, respect of Croatian law and order, and "acceptance of Croatian culture".

²⁴ For a more detailed discussion of the Croatian Citizenship Law, see Danova, Savelina and Rumyan Russinov. "Field Report: The ERRC in Croatia". In *Roma Rights*, Summer 1998. Available at: <http://errc.org>. Since 1991, there have been no amendments to the Law relevant to the situation of Croatian Roma as presented in this article.

requires the applicants to be "attached to the legal system and customs persisting in the Republic of Croatia" and to accept "the Croatian culture", so those persons who have been convicted of crimes (even if they have served their sentences) may not be eligible for citizenship. In essence, they are punished twice for the same criminal deed. In addition, it is unclear under what criteria one would assess "respect for ... Croatian customs and Croatian culture". The inclusion of such a requirement in the law -- while possibly relevant for the purposes of naturalisation proceedings -- inserts an element of arbitrariness opening possibilities for racial discrimination against persons who by right have a claim to belonging in Croatian society.

Finally, persons who fulfil all the listed requirements also reportedly must pay fees of 200 Euro or more in order to apply for Croatian citizenship. This amount is prohibitively high for many Croatian Roma who live below the poverty line.

The principle that statelessness is anathema has been repeatedly affirmed by the international community. Article 24 of International Covenant on Civil and Political Rights (ICCPR), addressing the rights of children, stipulates that "[e]very child has the right to acquire a nationality." The Convention of the Rights of the Child (CRC) states at Article 7: "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents [...]"²⁵

A number of international legal instruments address the issue of statelessness exclusively. The Convention on the Reduction of Statelessness includes a number of provisions aiming to prevent statelessness as a result of loss of nationality due to any change in the personal status of an individual. Article 8 states that "[a] Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless." Article 9 stipulates that a State may not deprive any person or group of persons of their right to nationality on racial, ethnic, religious or political grounds. Further, the Convention Relating to the Status of Stateless Persons states, *inter alia*, "The Contracting States shall as far as possible facilitate the [...] naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings" (Article 32).²⁶

The European Convention on Nationality recognizes the right to nationality and Article 3 acknowledges the principle that each State determines under its own law who are its nationals. However, domestic laws of States Parties must be in conformity with a set of principles enumerated in the Convention. These principles are:

- (a) everyone has the right to a nationality;
- (b) statelessness shall be avoided;
- (c) no one shall be arbitrarily deprived of his or her nationality;
- (d) neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse. (See European Convention on Nationality, Article 4)

Article 5 states that the rule of non-discrimination applies in matters of nationality:

²⁵ Croatia became a party to both the ICCPR and the CRC by succession on October 12, 1992.

²⁶ Croatia became a party to the Convention Relating to the Status of Stateless Persons by succession on October 12, 1992.

1. The rules of a State Party on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin.
2. Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently.

In addition, the European Convention on Nationality renders explicit that the context of state succession places particular burdens on states to act to avoid statelessness. States succession is regulated under an entirely separate chapter of the Convention (Chapter VI), which states, at Article 18:

- "1. In matters of nationality in cases of State succession, each State Party concerned shall respect the principles of the rule of law, the rules concerning human rights [...] in particular in order to avoid statelessness.
2. In deciding on the granting or the retention of nationality in cases of State succession, each State Party concerned shall take account in particular of:
 - a the genuine and effective link of the person concerned with the State;
 - b the habitual residence of the person concerned at the time of State succession;
 - c the will of the person concerned;
 - d the territorial origin of the person concerned. [...]"²⁷

International bodies such as the European Commission against Racism and Intolerance²⁸ ("ECRI"), the Advisory Committee on the Framework Convention for the Protection of National Minorities²⁹, both of the Council of Europe, as well as the United Nations Committee on the Elimination of Racial Discrimination³⁰ have also drawn attention to the problematic effects of the Croat citizenship law on specific categories of the Croatian populations, including Roma.

Recent ERRC field research has revealed that a large number of Romani women in Croatia with genuine and effective links to the country lack the citizenship of Croatia or of any other state. There are various causes influencing their unsettled legal status, such as displacement during Balkan wars, no registration at birth, lack of financial resources to replace necessary missing documents or to pay the application fee, illiteracy, lack of information about application and granting procedures, lack of time due to child care responsibilities, or often simply rejection decisions by local officers. The locality of the office (which may be of great distance away from home), and frequency of necessary

²⁷ To date, Croatia has not signed or ratified the European Convention on Nationality.

²⁸ European Commission against Racism and Intolerance, Second report on Croatia, adopted on 15 December 2000 and made public on 3 July 2001, available on the Internet at http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Croatia/Croatia_CBC_2.asp#TopOfPage

²⁹ Advisory Committee on the Framework Convention for the Protection of National Minorities, opinion on Croatia adopted on April 6, 2001, available on the Internet at [http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_\(MONITORING\)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_Croatia.asp#TopOfPage](http://www.coe.int/T/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/4._Opinions_of_the_Advisory_Committee/1._Country_specific_opinions/1._First_cycle/1st_OP_Croatia.asp#TopOfPage)

³⁰ Concluding observations of the Committee on the Elimination of Racial Discrimination on Croatia, May 21, 2002. CERD/C/60/CO/4, available at [http://193.194.138.190/tbs/doc.nsf/\(Symbol\)/9030acf6162ee9fbc1256be500499306?Opendocument](http://193.194.138.190/tbs/doc.nsf/(Symbol)/9030acf6162ee9fbc1256be500499306?Opendocument)

visits to offices charged with assessing applications for citizenship are additional obstacles affecting the ability of an applicant to have access to Croatian citizenship. However, the underlying cause of the statelessness amongst the stateless Romani women with whom the ERRC met is systemic exclusionary practice in the area of allocating citizenship to persons who are not ethnic Croatians.³¹

A brief description of some cases documented recently by the ERRC follows:

- Ms N.R., 43 years old, from Zagreb told the ERRC³² that she had an identity document for foreigners issued in 2003 and expiring in 2008, and had applied for citizenship in February 2004. She has been living in Croatia for 18 years and reportedly applied, for the first time, for citizenship in 1990, but the application was subsequently rejected. She informed the ERRC that her husband does not have documents and that she is afraid that the police will find this out and expel him. Her children also do not have documents and thus are not entitled to state-provided medical care.
- Ms Dževahira Rama, 23 years old, of the Vučak area of Zagreb, told the ERRC³³ that she was born in Serbia and does not have citizenship or any documentation, although she had been living in Croatia for many years. She is one of many children in the family and all are collecting scrap metals to raise money. They do not have the financial means to pay for missing documentation and are illiterate.
- Ms Ruža Mišković, 29 years old, from Beli Manastir, told the ERRC³⁴ that she married a Croatian citizen in 2001, that she had Serbian citizenship, and that she applied for Croatian citizenship in 2000. She had an identity document provided to foreigners which had expired, and she stated that she did not have enough money for a new one (300 Croatian Kuna -- approximately 45 Euro). She had been told that she still had to wait another two years and, as a result, had to return every three months to Serbia to get her passport stamped. Frequently, she cannot afford the trip.
- Ms Beriša Sabrija, 54 years old, of Zagreb, told the ERRC³⁵ that she did not have citizenship but because of continuous health problems (her back and legs hurt her constantly) she could not go to the office, which is too remote, in order to apply. She would have applied through a representative, but was told that this would not be possible. She was also afraid to go because she was involved in buying and selling items in the market without authorisation and so she was afraid of all authorities.

³¹ The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) provides at Article 5 that "[i]n compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (d) Other civil rights, in particular: [...] (iii) The right to nationality. Croatia is a party to ICERD beginning October 12, 1992, when it succeeded to the treaty.

³² ERRC interview with Ms. N.R., Zagreb, November 3, 2004.

³³ ERRC interview with Ms. Dževahira Rama, Zagreb, November 2, 2004.

³⁴ ERRC interview with Ms. Ruža Mišković, Beli Bonastir, November 6, 2004.

³⁵ ERRC interview with Ms. Beriša Sabrija, Zagreb, November 3, 2004.

Local NGO information reinforces the idea that Croatian citizenship is the basis of "access to everything -- education, employment and health care, including pre-natal and post-natal care"³⁶ and that issues affecting Romani women are "tied to access to governmental institutions and bodies." Additionally, children of parents without Croatian citizenship and/or valid residence permits and/or other personal documents face additional administrative burdens, making it difficult for them to enrol in school; and many Romani women, for reasons of status, are reportedly without health insurance.³⁷

It has been noted that a lack of citizenship frequently leads to violations of other fundamental human rights, including those of minority women. For example, in relation to domestic violence, the Report of the United Nations Expert Group Meeting on Gender and Racial Discrimination states: "the interaction of legislation relating to immigration status, social benefits and housing may leave immigrant women with no access to basic welfare resources, including housing, prerequisites for most women who wish to leave a violent relationship."³⁸ In addition, the lack of citizenship further exacerbates the ability of women to realise fundamental human rights, such as access to health, education and formal employment outside of the home.

The Croatian government has omitted to note, in the section of its report to the Committee on the implementation of its obligation under Article 9 of the Convention³⁹, the fact that some ethnic groups, including Roma -- and in particular Romani women -- are disproportionately affected by unclear legal status.

Finally, the ERRC has frequently noted in the course of its first-hand documentation work in Croatia that the very fragile situation of Roma in Croatia -- particularly exacerbated by the fact that many members of the Romani community lack citizenship in Croatia and are therefore under regular threat of expulsion -- has contributed significantly to the reluctance of many Roma in Croatia in pressing rights claims. Where individuals believe that taking action to claim fundamental rights may result in further exclusion for themselves, their families and even their community, and that they may even face expulsion from the country, they may be systemically incapable of seeking justice for violations of fundamental rights. The Croatian government bears particular responsibility for fostering an atmosphere in which Roma fear pressing rights claims due to systemic exclusion.

4. Equal participation in political and public life

Article 7 of the Convention sets out that "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country". The Beijing Platform for Action regarding Women in Power and Decision-making states: "[w]omen's equal participation in decision-making is not only a demand for simple justice or democracy but can also be seen as a necessary condition for women's interests to be taken into account".⁴⁰ The Roma Program

³⁶ ERRC interview with Ms. Jagoda Novak, Open Society Institute -- Croatia, Zagreb, November 2, 2004.

³⁷ ERRC interview with Ms. Ksenija Rissi, organisation "Roma for Roma Croatia", Zagreb, November 3, 2004.

³⁸ United Nations Division for the Advancement of Women, *Report of the Expert Group Meeting: Gender and Racial Discrimination*, Zagreb, November 2000, p. 9.

³⁹ State Report, p. 33.

⁴⁰ United Nations Fourth World Conference for Women, *Platform for Action: Women and Decision-making, Beijing*, September 1995, p. 1.

notes the fact that the elections for national minorities councils in May 2003 demonstrated the “high awareness of the Roma of the need to participate in elections”, citing the turnout of Romani voters as over 38%, higher than many other national minorities. Currently, there is a lack of Roma -- in particular Romani women -- in the mainstream political scene in Croatia.

In addition to the discriminatory or stereotyped attitudes of mainstream society towards them, Romani women may face additional stigma from within their own communities when attempting to become involved in politics and other decision-making processes because of the pervasiveness of “traditional attitudes” reinforcing the gendered division of labour.⁴¹ Romani women in Croatia often marry and have children at an early age and act as the primary child caregiver; they additionally may be involved in some kind of economic activity to support their family. Each factor presents a barrier to Romani women’s involvement in politics. Involvement in the political sphere is essential for Romani women’s voices to be heard and their issues addressed.

While several of the Government’s measures as described in the Roma Program are commendable, the recommended actions therein unfortunately do not make reference to concrete measures which could be undertaken to increase the participation of Romani women in the political sphere. There is no reference to possible barriers Romani women may specifically face, and/or what steps could be taken to overcome these barriers. Similarly, the State Report does not include among the material it presents any single piece of information on the access of Romani women, and generally of minority women, to full and equal participation in political and public life.⁴²

The Croatian government should undertake specific measures to address the under-representation of Romani women in the socio-political spectrum, such as to educate government bodies and general public including the Romani community as to the necessity of the inclusion of women in politics (a fundamental responsibility of all States Parties as outlined in CEDAW General Recommendation no. 23(28)). Additionally, the Government should ensure that Romani women are educated and recruited to public positions, e.g. all branches of government, both at local and national level.

5. Police abuse against Romani women and access to justice issues

The ERRC is concerned that Roma in Croatia -- and particularly Romani women -- do not have full and unimpeded access to justice when their rights are violated. ERRC research and interviews with local organisations revealed that Romani women are sometimes physically abused and/or harassed by the police, and are often humiliated by police officers who make racist remarks or otherwise insult them. In some cases documented by the ERRC, victims of police violence have been pregnant Romani women. Worryingly, when Roma try to report such abuses, they are often told that they either have to pay fees or a lawyer in order for the abuse to be investigated. Apparently, police and other public officials take advantage of the fact that Roma -- particularly Romani women -- often are not aware of their rights or of legal procedures. The Roma Program provides that discrimination by the police against Roma should not be tolerated. However, there is no description of what measures should be taken to guarantee this.

⁴¹ See Roma Women’s Forum, *Putting Romani Women’s Rights on the Map*, Budapest, June 2003. It should also be noted that there are many examples of politically active Romani women who are actively involved in combating these attitudes especially among young Romani women.

⁴² State Report, pp. 30-32.

For instance, Ms Hanča Mašić, 34 years old, from Zagreb, reported to the ERRC⁴³ that on June 16, 2001, while she was 5 months pregnant, she was physically abused by a police officer for attempting to dispose of garbage at a local garbage dump. When she and her husband went to the dump they were met by two policemen, one of whom they knew and with whom they at that time had a good relationship. This policeman told them they were not allowed to dump their garbage at that particular place, and that if they did so they would have to pay a fine. When the woman protested, the officer reportedly struck Ms Mašić in the face and she fell, causing the breaking of her waters. The husband called an ambulance but when the ambulance came, the attendants were told, "leave the Gypsies alone, they are just pretending". The officer then reportedly threatened that he would shoot the husband if he attempted to assist Ms Mašić. Ms Mašić's husband called a second ambulance and local Romani activist Mr Seferović. After Mr Seferović's arrival, the two police officers left and Ms Mašić was taken by ambulance to the hospital. The doctors of the ambulance reportedly told Ms Mašić that she was bleeding and it was likely that she had lost the child. After Ms Mašić's husband called the police, dispatchers reportedly sent a police officer not wearing a uniform. While in hospital, the other policeman (not the one who had struck her physically) came and asked the doctor for her medical file. The doctor reportedly refused to provide this to the officer since he was told by the policeman that he was there in unofficial capacity. Ms Mašić was ultimately hospitalised for ten days, but was eventually able to give birth to a healthy child. Medical officials at the hospital subsequently sent her medical records to the police. When she called the police, she was told that they were believed to have engaged in a conflict with the police. Ms Mašić had also reportedly been told that she would need a lawyer if she wanted to file a complaint in relation to the incident, and that she would have to pay 5000 kuna (approximately 800 Euro) as a fee for filing the complaint.

In another instance reported to the ERRC by the same person, in 2003, Ms Mašić was seven months pregnant when, after parking the car near a public market, two police officers reportedly stopped her and her husband, and one of them said "stop, you Gypsies". At this point, the second officer defended them, asking the other one why he was harassing them. When the officers requested that they present their documents, they handed them over, including those of the car. Then one police officer started to swear at Ms Mašić and her husband, telling them that they "do not have rights in Croatia". Ms Mašić replied that they are people like anyone else. The police officer then pushed her onto the car, where she hit her breast and stomach. Because of this, she began to experience labour pains the next day and had to seek medical care. Although the doctor reportedly advised that she be hospitalised, she could not stay because of her responsibilities for her other children. However, she subsequently returned to hospital the following day because she experienced pain all night. The doctor warned her that it was possible to go into premature labour and the next day administered medicine in order to prevent this from occurring. She eventually gave birth at close to nine months. Ms Mašić reportedly called the police station to report what had happened on the evening the incident took place. The only evident follow-up was that ten days later Ms Mašić received a letter saying that her allegations were not true and that her husband had committed a traffic offence and received a fine of 500 kuna (around 80 Euro). Ms Mašić is reportedly still experiencing pain from the incident and often calls the ambulance. The ERRC believes no officers have ever been sanctioned for physically abusing Ms Mašić.

In another case reported by Croatian national media⁴⁴, on August 17, 2002, Ms Jugsela A., a 20-year-old Romani woman in her fifth month of pregnancy, was injured by two plainclothes police officers after a conflict ensued between the officers and a group of Roma who were allegedly involved in black-market vending. According to *Vjesnik*, the officers approached Mr Enisa O., one of the

⁴³ ERRC interview with Ms. Hanča Mašić, 34 years old, Zagreb, November 5, 2004.

⁴⁴ Daily newspaper *Vjesnik* of August 18, 2002.

Romani men, and asked him to show his identification papers. *Vjesnik* reported that when Ms A. realised that the two men were police officers, she grabbed the merchandise and attempted to run. A police spokesperson reported that Ms A. tripped and fell to the ground, according to *Vjesnik*. However, on August 21, 2002, the Zagreb-based Romani organisation Romani Woman's Association "Better Future" (Udruga žena Romkinja "Bolja budućnost") reported to the ERRC⁴⁵ that the officers had beaten Ms A. Better Future reported that Ms A. was receiving social aid but that this was not enough to sustain her, therefore she must engage in black market selling to supplement her income. While both Roma and non-Roma are involved in black market selling, according to Better Future, during police actions against sellers police are excessively violent towards Romani vendors, often being physically abusive and using racial slurs against them. Better Future reported that it receives information from Roma about such incidents on a daily basis.

The Roma Program makes reference to the fact that the lack of education of many Roma impairs their ability to exercise their fundamental rights and that legal aid would "make it easier to realize rights before the state and judicial bodies, as well as the bodies of units of local and regional self-government". The provision of legal aid is a commendable goal on the part of the Croatian government and one which should be supported. However, it is not simply a lack of education which makes it difficult for Roma to exercise their rights, as they often face prejudice and discriminatory attitudes when seeking assistance from authoritative bodies, legal professionals and police. No mention is made of educating those involved in the criminal justice system of the damaging nature of prejudicial and discriminatory attitudes. In addition, the impunity police have to date generally enjoyed with respect to the abuse of Romani individuals has very significant impact on the conduct of the police generally. Although the ERRC is involved in a number of lawsuits against police officers for the physical abuse of Roma, the ERRC is unaware of final penal sanctions ever brought against a police officer who physically abused a Romani person.

If the Croatian government intends that all women in the country have full and unimpeded access to justice, it must take adequate measures to provide information to Romani communities about fundamental human rights and legal procedures and it must also ensure that when abuses arise, they are properly investigated and sanctioned. Moreover, tolerance building measures should be provided to police and other state officials. Finally, Roma -- and in particular those Roma living in poverty -- should be provided with free legal aid. Particular efforts should be undertaken to ensure that such aid extends to all segments of the Romani community, and in particular to Romani women.

6. Domestic Violence

The very worrying issue of domestic violence is not at all addressed in the Roma Program. General Recommendation No.19 of CEDAW states "gender-based violence is a form of discrimination that seriously inhibits a women's ability to enjoy rights and freedoms on a basis of equality with men."⁴⁶ Specifically with regards to domestic violence, General Recommendation No. 19 (11) states "[this form] of gender-based violence help[s] to maintain women in subordinate roles and contribute to the low levels of political participation and to their lower level of education, skills and work opportunities...lack of economic independence forces many women to stay in violent relationships."

⁴⁵ Romani Woman's Association "Better Future" (Udruga žena Romkinja "Bolja budućnost") report to the ERRC, August 21, 2002.

⁴⁶ Committee on the Elimination of Discrimination Against Women, General Recommendation no. 19, available on the Internet at: <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>

The issue is particularly difficult for women who have additionally been marginalized due to their ethnicity, race or religion, and Romani women fall into this category.

Domestic violence is reportedly widespread among Romani families in Croatia, as it is among non-Romani families in Croatia and indeed throughout Central and Eastern Europe. The Romani Women's Association "Boliji Život" in Rijeka reported the following to the ERRC:

Many Romani women are hiding the terror under which they live. Basically they are hiding it because of their children and because of their existence. These women are ashamed of the reaction of their environment: acquaintances, cousins, parents and children. Many women are economically dependent so they do not see a way out from their situation and they think it is their fate.⁴⁷

Mr Kasum Cana, an independent Romani activist from Zagreb, informed the ERRC of a case concerning a 16-year-old woman with a very young child who wanted to leave her husband, reportedly due to violence in the home.⁴⁸ According to Mr Cana, Ms M.S. left her husband with her one child due to repeated extreme physical abuse, but a Romani kris (a traditional form of judicial tribunal practiced in some Romani communities) decided that the woman's father had to return a large sum of money to the husband. This is important as it illustrates one of the many cultural factors impeding women who want to leave abusive relationships. Mr Cana also noted the tendency that "Gypsy husbands like to be king" and that "only women want to work, the husbands are not working, women must work both inside and outside the house," which further impede the ability of Romani women to leave abusive spouses. He concluded that the "situation for women and children is very bad."

Women from marginalised communities may be reluctant to report violence due to "inaction or indifference by, or hostility from, State authorities who may even condone such violence"⁴⁹. Ms Brigita Bajrić, of the Association "Roma for Roma Croatia", told the ERRC that in the course of her work, many women have spoken to her about frequent domestic violence in their home environments, usually perpetrated by their relatives and/or husbands.⁵⁰

The adequacy of Croatian policy to address domestic violence is open to question. Battered women's shelters exist in Zagreb, but the process of gaining access to such shelters is complicated. According to the current system of arrangements for providing battered women with shelter from abuse in Croatia, women must first report to the police if they have been beaten at home before they can have access to a shelter. As a result, all women are placed in the predicament of having to report a crime -- one perpetrated by their spouse or partner -- in order to have access to basic security of person. This system is in urgent need of reform, such that the rights of the victim -- and in particular her safety in situations of immediate threat -- is the primary issue addressed.

In addition to the predicaments arising for all women from this series of arrangements, Romani women may additionally fear going to police for reasons of bias on the part of the police. As noted above, Romani women have fallen victims in the recent past to police abuse in Croatia. In addition,

⁴⁷ Report of Romani Women's Association "Boliji Život", Rijeka, to the ERRC, October 2004, on file at the ERRC.

⁴⁸ ERRC interview with Mr Kasum Cana, Zagreb, November 4, 2004.

⁴⁹ UN OHCHR, *Gender Dimensions of Racial Discrimination*, Geneva, August 2001, p.11.

⁵⁰ ERRC interview with Ms Brigita Bajrić, Budapest, November 15, 2004.

many Romani women fear that if police are brought in to address domestic violence issues, a range of stereotypes may give rise to significant possibilities for discriminatory treatment at the hands of the police. For example, police may act on stereotypes about "wild, uncontrollable Gypsies" and bring disproportionate charges against partners, regardless of factual profiles of individual cases. Alternately, police stereotypes that "Roma have their own laws" and "what goes on in the Romani community is outside the limits of society" may cause law-enforcement officials to abandon victims to the whims of perpetrators.

One -- although certainly not the only -- factor contributing to the problem of domestic violence in Romani families in Croatia is the problem of child marriage. The Roma Program states that "only 11% of Roma parents questioned in the case of girls, and 6% in the case of boys believe that they should be married before they are eighteen". Of the women interviewed by the ERRC, the average age for marriage was 14.7 years of age. This is indicative of the lack of options currently available to Romani women, as has been the case with preceding generations. Article 16(2) of the Convention states "[t]he betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory". Article 16 of the Convention and the Committee's General Recommendations also emphasise the importance of maintaining equitable relationships within the marriage between husband and wife. This issue has not however been adequately addressed by the Roma Program.

There is a pressing need in Croatia to redesign the current system of addressing domestic violence by introducing a victim-centred approach, and involve criminal law enforcement authorities for the purposes of prosecuting perpetrators only as a second step, once basic safety has been secured.

In addition, there are concerns with the current system of providing victims of domestic violence with shelter arising from conditions imposed for extended stay at some shelters. Domestic NGO partners note that if women are able to access a shelter they may stay for up to one year, but within that time the individual must secure gainful employment. If she is not able to find employment within the year at the shelter, she has to leave and her children will be taken into care by social workers. As previously mentioned, finding employment within the formal sector is frequently difficult for Romani women due to discriminatory forces on the job market. This arrangement may preclude the possibility that some Romani women might be able to stay at a given shelter, even where there may be a compelling need for her to do so.

7. Access to education

ERRC field research and interviews with representatives of local organisations revealed alarming information as to the educational status of Romani women and girls in Croatia. Nearly all of the Romani women the ERRC interviewed during research conducted in November 2004 were illiterate or had dropped out of school very early, before finishing even primary school. Few of the Romani women or girls interviewed by the ERRC in Croatia had attended any form of secondary education. As for access to higher education, extremely small numbers of Roma are currently enrolled in universities or have graduated university in the past.

Another study conducted by a local organisation⁵¹ documented that of the total 122 Romani people interviewed, 38.5% of them were illiterate; 19% were literate but without schooling and only 4% were attending high school or night school. The age group with the highest illiteracy rate was the 45-54

⁵¹ Research conducted by the organisations "Better Future" ("Bolja Budućnost"), Zagreb, 2001.

cohort at 73%; the lowest was in the 15-24 cohort at 30%, still a very significant figure. The majority of the women in this study were illiterate (48%); 16% of them were literate but without schooling. Only one woman interviewed out of the 63 had been to high school. The largest percentage of women who had attended school had only completed primary school (22%).

There is a huge gap between the educational levels of the majority population in Croatia and those of Roma, particularly of Romani women. The reasons for this alarming situation are various, but among the most important are: lack of citizenship and residence documents, which makes difficult for Romani parents to register their children in schools; lack of financial resources which would allow parents to send their children to school; and the practice of marrying Romani girls at an early age (13-16), before their completion of primary school. It is highly unlikely that access to political participation and/or to gainful formal employment could be realised when Romani girls are not attending school, or, at best, drop-out after the 5th or the 6th grade.

The State Report does not even acknowledge the alarming situation described above or the lack of research or targeted measures aimed at addressing the high drop-out rates among Romani women as ethnic minority women. There is no ethnic breakdown of statistics on this issue in the report.⁵²

Racial segregation of Romani boys and girls in the Croatian school system

The ERRC has documented and is currently involved in legal proceedings challenging the widespread practice of racial segregation of Romani pupils within Croatian primary schools.⁵³ Many Romani children in Croatia are segregated in separate Roma-only classes in what are otherwise "regular"/mainstream public schools. This segregation is based solely on their ethnic or racial identity. Thus, in areas of Croatia there are effectively separate school systems for Romani and non-Romani children respectively. For instance, according to data provided by the Office of Education, Culture, Information, Sport and Technical Culture of Medimurje County, 59.1 percent of the 865 Romani students in the county attended separate Romani classes in the school year 2000-2001.⁵⁴ In some places, the overwhelming majority of Romani pupils attended separate Romani classes; for instance, in the primary school in Kuršanec, of the total number of Romani pupils (191), 88.5 percent attended separate Romani classes, and only 11.5 percent were placed in ethnically mixed classes. Similarly, in the primary school in Macinec, of the total number of Romani pupils (191), 83.3 percent attended separate Romani classes, and only 16.7 percent were placed in ethnically mixed classes.⁵⁵ In the 2000-2001 school year, there were a total of 24 separate Romani classes in the county, both for the early grades, where Romani are represented in larger numbers, and for the higher grades, where Romani children make up a lower percentage of the student population.⁵⁶

⁵² State Report, pp. 33-36.

⁵³ See ERRC. *Croatian Deputy Ombudsman Under Pressure for Condemning Racial Segregation in Croatian Primary Schools* available at: <http://www.errc.org/cikk.php?cikk=292&archiv=1> and ERRC. *Legal Action in Croatian School Segregation Case* <http://www.errc.org/cikk.php?cikk=321&archiv=1>.

⁵⁴ Letter of the Office of Education, Culture, Information, Sport and Technical Culture of Medimurje County, May 29, 2001, Class 602-01/01-01/70 reg. No. 2190-03-02/01-03.

⁵⁵ Letter of the Office of Education, Culture, Information, Sport and Technical Culture of Medimurje County, December 7, 2001, Class 602-01/01-01/86 reg. No. 2190-03-02/01-02.

⁵⁶ Among the primary schools, there were two classes for Roma in the primary school in Orahovica, six in Macinec, nine in Kuršanec, and one in Poduren during the 2000-2001 school year (See Letter of the Office of Education, Culture, Information, Sport and Technical Culture of Medimurje County, May 29, 2001,

Segregated Roma-only classes provide inferior quality education in the form of a considerably reduced curriculum designed for students with developmental problems. Consequently, children who have completed their primary education in separate Roma-only classes as a rule do not go on to mainstream secondary classes. Additionally, Romani children in separate Roma-only classes abandon school at a high rate. According to official statistics, the number of Romani students enrolled in segregated classes decreases with each grade. For instance, in the four primary schools in Medimurje county, Romani children accounted for 73.0 percent of the total number of pupils in the first year, only 17.3 percent of the total number of pupils in the seventh year, and 8.9 percent of the total number of pupils in the eighth year.⁵⁷ These figures clearly demonstrate that Romani pupils have a much lower chance of finishing primary school as compared to their non-Romani peers. Consequently, segregated Roma-only classes manufacture underachievers who are unable to compete with their peers educated in mainstream schools, effectively denying Romani children equal opportunities to education and, subsequently, to employment.

The placement of Romani children in separate classes in Croatian schools is based solely on racial discrimination. The Government has not offered any objective and reasonable justification for the existence of such a practice. Rather, authorities have repeatedly resorted to racist justifications for their discriminatory practices, arguing, for instance, that Romani children lack basic hygiene, have no motivation to learn and are not socialised. International bodies and organisations, such as the United Nations Committee on the Elimination of Racial Discrimination,⁵⁸ and the Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities⁵⁹ have expressed concern at the racial segregation of Romani children in the Croatian school system.

Based on the facts described above, on April 19, 2002, 57 parents of Romani pupils in Medimurje County, assisted by the ERRC and the local non-governmental organisation Croatian Helsinki Committee, filed a lawsuit with the Čakovec Municipal Court charging the Croatian Ministry of Education, the Medimurje County government, as well as four primary schools in Orahovica, Macinec, Kuršanec and Podturen, with segregating the plaintiffs and numerous other Romani children into separate and educationally inferior classes based solely on their racial/ethnic identity. As of November 2004, more than two and a half years after it was filed, the lawsuit is still pending before the Constitutional Court of Croatia.

Education as addressed in the Roma Program -- inadequate approach towards the education of Romani boys and girls

Although one of the stated goals of the education section of the Roma Program is "desegregation", the subsequent programmatic paragraphs do not detail a comprehensive desegregation plan.

Class 602-01/01-01/70 reg. No. 2190-03-02/01-03). The following school year, another separate class for Roma was introduced in Macinec (See Letter of the Office of Education, Culture, Information, Sport and Technical Culture of Medimurje County, December 7, 2001, Class 602-01/01-01/86 reg. No. 2190-03-02/01-02).

⁵⁷ Letter of the Office of Education, Culture, Information, Sport and Technical Culture of Medimurje County, December 7, 2001, Class 602-01/01-01/86 reg. No. 2190-03-02/01-02.

⁵⁸ United Nations Committee for the Elimination of Racial Discrimination, Concluding Observations: Croatia, CERD/C/60/CO/4 from May 21, 2002, para. 11.

⁵⁹ Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on Croatia, April 6, 2001, para. 49.

Discussing the organisation of classes, the Roma Program states, "for Roma children who were included in pre-school programs and/or speak the Croatian language well, mixed classes are organised". However, the Roma Program also provides, "For Roma children who were not included in pre-school programmes and/or do not know sufficient Croatian, separate classes will be organised or separate groups in the first grade of elementary school." The Roma Program is silent on the issue of what is to become of such children following the first grade of elementary school and when -- if ever -- they are to be integrated into mainstream classes. The Roma Program similarly includes no provisions for mainstreaming boys and girls already attending racially segregated classes.

Some elements of the Roma Program reveal explicitly racially discriminatory approaches to the education of Romani children. For example, an entire subsection of the Roma Program provides for "testing the linguistic, psychological and physical status of Roma children before inclusion in the preschool program". The drafters of the Roma Program appear to have given no thought to the fact that singling out of one ethnic group for such testing would appear to contravene a significant part of the corpus of international human rights laws the Croatian government has committed itself to upholding.⁶⁰

Finally, a number of the presuppositions of the drafters of the Roma Program are blatantly racist. For example, one passage of the education section of the Roma Program states: "[...] The heart of this program is the learning of the Croatian language, development of hygiene and study habits, sociability, sensitivity, self-control, the adoption of acceptable forms of behaviour, and other activities, which encourage the all-round development of the emotional and physical character of every child". The image of Roma revealed as prevailing among the drafters of the Roma Program is one of aggressive, wild and dirty people unable or unwilling to rear their boys and girls in a manner fit for human society. It is unclear how Croatian educators can hope to make progress in facilitating the integration of Romani boys and girls into the mainstream Croatian education system while labouring under a policy imbued with such presuppositions.

If the Croatian government is to ensure equal access to education as required under its international law obligations, and therefore to full integration into the society to Romani girls and women, it must, as a matter of urgency, address the massive disparities between Roma and non-Roma in the Croatian educational system; a situation reinforced by the policy of the Croatian authorities to segregate Romani boys and girls into separate classes. When combined with other factors, including some detrimental traditional cultural practices, these facts result in the systemic exclusion of Romani women and girls from the effective realisation of the right to education.

Government success in ensuring that all Romani boys and girls may fully realise their right to equal education largely depends on the ending of the practice of segregating Romani boys and girls into Roma-only classes and on the adoption and implementation of a comprehensive school desegregation programme.

⁶⁰ Article 5 of the International Convention for the Elimination of All Forms of Racial Discrimination provides that "[in] compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] (e) Economic, social and cultural rights, in particular: [...] (v) The right to education and training"

8. Access to employment

According to Article 11 of the Convention, "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights". The right to work is an "inalienable right of all human beings".

Although there is little available statistical data on the situation of Romani women in employment -- and the Croatian government has not remedied this problematic data basis in its report to the CEDAW -- field research by the ERRC and other empirical data indicates that the situation of Romani women in employment in Croatia is a serious issue of concern. None of the Romani women the ERRC interviewed during November 2004 were, at the time of the interview, formally employed. Out of 122 Roma interviewed during research conducted by the local organisation "Better future" ("Bolja Budućnost")⁶¹ (out of which 63 were women), only 1% were employed full time. Romani women, are, most of the time, either housekeepers or, if engaged in an occupational activity, it is likely an informal one (e.g. gathering scrap iron and other re-usable materials in garbage dumps, or buying and selling items on the informal market). The research of the organisation "Better future" ("Bolja Budućnost") revealed that the two categories with the largest amount of employed individuals were within the informal sectors of part-time trading (e.g. scrap metal 16%) and domestic-related activities (19%).

Romani women face discrimination due to their ethnicity by employers. For example, Ms Marija Ignac, 19 years old, from Lončarevo (Međimurje), informed the ERRC⁶² that she tried to get a job in the region, i.e. around Čakovec, but wherever she went, prospective employers told her that they had enough people, even when jobs were apparently vacant. For instance, she applied for a job as cleaning lady with a boutique/mini-market and was rejected. Ms Ignac told the ERRC that she believes that the sole or prevailing reason for her being regularly refused work is her Romani ethnicity.

In other instances, Romani women are bullied or harassed on the job, apparently with the intention of forcing them to abandon the workplace. For example, Ms Senija Seferović, 31 years old, from Zagreb, was employed as a cleaning woman in the organisation EKO KEM, in April 2001, according to her testimony to the ERRC.⁶³ When her employer found that she was Romani, she reportedly told Ms Seferović that "she should be punished" and instructed her to clean more than what she had previously been required to clean. After the episode, Ms Seferović quit her job.

As most Romani women and girls drop out of school at an early stage, they are frequently not able to avail themselves of the opportunity to access vocational training or qualification courses so that they may be able to actively participate in the formal labour market.

None of the Romani women or local organisations with which the ERRC spoke during field research in November 2004 knew of any initiative by local or national authorities aimed at providing qualifications for Roma, and in particular for Romani women.

⁶¹ Research on the situation of Roma conducted by the organisation "Better future" ("Bolja Budućnost"), Zagreb, 2001.

⁶² ERRC interview with Ms Marija Ignac, Lončarevo, Međimurje, November 4, 2004.

⁶³ ERRC interview with Ms Senija Seferović, Zagreb, November 4, 2004.

The State Report⁶⁴ does not offer any information regarding the status of minority women, particularly Romani women, in the field of employment, nor does it acknowledge the lack of data as to the employment status of Romani women or other minority women. Moreover, the Croatian government has included no information on any policy measures envisaged to tackle any discrepancy in their access to employment for Romani, and other minority women. Thus, where Romani women are concerned, the Croatian government is not presently fulfilling its obligations under article 11 of the Convention requiring that state parties shall "take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: [...] (c) [...] the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training."

The Roma Program details several noteworthy proactive measures including: training and employment in all economic activities; support for those who wish to start their own businesses; and co-financing of the labour costs for employers who employ Roma. These measures are to be welcomed. However, it is unfortunate that the Roma Program is missing a nuanced approach taking into consideration gender disparities and specificities when addressing the unemployment of Romani men and women. Notably absent is any mention of women and the barriers they may face to securing employment. In addition, several of the measures described in the Roma Program may perpetuate harmful stereotypes about Roma. These measures include: employment of Romani people in the collection of secondary raw materials and a self-help programme for the Roma aimed at the construction of infrastructure for Roma settlements. The self-help programme has the possibility of being positive as long as there are options for employment in other sectors (such as IT or other demanded qualifications on the labour market) and outside of the settlement; the key is choice. There is again no mention of possible discriminatory attitudes which may limit Roma in their access to gainful employment. Such statements as "causes of their problems with finding a job may be found in very low educational and qualification structure of members of this national minority" and the "refusal on behalf of the Roma to take part in programmes for obtaining additional qualifications" divert attention from the greater and more pervasive issue of racial discrimination. Most of the possibilities for employment as outlined in the Roma Program are within construction, a sphere in which women have traditionally not participated. As such, the Roma Program does more than not mention Romani women, but in fact is potentially exclusionary in its measures.

9. Access to health care, including family planning and related services

On the basis of extensive research in Croatia, the ERRC believes that a significant segment of the Romani community -- and in particular many Romani women -- faces major obstacles in realising basic rights to the highest attainable standards of health. Article 12 of the Convention provides: "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning".

ERRC research in Croatia revealed that Romani people -- and in particular Romani women -- experience significant obstacles in their access to health care mainly because of their lack of citizenship. Even when they have such documents, there are other further barriers that prevent them from obtaining the necessary health insurance.

The Roma Program notes that Roma who have the status of citizens may have formal access to health care under the provisions of the Health Protection Act and the Health Insurance Act. The Roma Program notes that the percentage of Roma who in fact have health insurance is very small

⁶⁴ State Report, pp. 36-39.

due to widespread unemployment among Roma, as well as due apparently to the problem that few Roma access health care provisions established by law. However, the Program fails to adequately address the importance of the relationship between lack of citizenship and access to health services. Ms Brigita Bajrić of the Association "Roma for Roma Croatia" informed the ERRC that the biggest hurdle to receiving health care is lack of citizenship, which in turn means an inability to obtain health insurance.⁶⁵ Without citizenship, it is only possible to obtain state-provided health insurance for 3 months, and only in the case of an emergency (there is still a small payment required). Similarly, Ms Jagoda Novak of the Open Society Institute - Croatia told the ERRC that Croatian citizenship is "the basis of access to everything – education, employment and health care".⁶⁶

Romani women are refused treatment in emergency situations because they lack citizenship or health insurance, despite that the "Law on Health insurance"⁶⁷ states, at Article 68, that "the Republic of Croatia insures financing from the governmental budget to cover the costs of the primary health insurance" for, *inter alia*, persons "whose place of residence is unknown." For example, Ms Ruža Mišković, 29 years old, from Beli Manastir, told ERRC⁶⁸ that she has chronic heart problems and on October 29, 2004, she went to the doctor because she was experiencing so much pain that she could not even walk but, due to the expiry of her health insurance, medical personnel did not give her any treatment or medication and sent her home. Even though she has a chronic heart disease she cannot receive regular check-ups. Ms Senija Seferović of 'The Association of Women Union Romani' Kozari put, Zagreb, told the ERRC⁶⁹ that Romani people may receive large bills for emergency services." Mr Branko Petrovic of the 'Association of Roma' in the Baranje region informed the ERRC⁷⁰ that people have to pay a fee in order to receive a temporary insurance for emergency situations.

Romani women are sometimes reportedly discriminated against in medical facilities because of their ethnicity. In addition, the biased attitudes of the medical personnel often threaten the health and even the lives of Romani women. An incident documented in Croatia by the ERRC involves the refusal of ambulance personnel to attend to a pregnant Romani woman, Ms. Verica Oršuš, in a Romani settlement. Subsequent to the refusal and possibly resulting from it, the child in question was stillborn.⁷¹ The family was eventually awarded damages by the Croatian health authorities. In another case, Ms Marija Ignac, 19 years old, of Lončarevo (Međimurje) told the ERRC that she had suffered discriminatory treatment in health care facilities in Croatia.⁷² She attended clinics for pre- and post-

⁶⁵ ERRC interview with Ms Brigita Bajrić, Budapest, November 15, 2004.

⁶⁶ ERRC interview with Ms Jagoda Novak, Open Society Institute - Croatia, Zagreb, November 2, 2004.

⁶⁷ Decision of the Croat Parliament no. 01-081-3314/2, October 19, 2001. Unofficial translation by the ERRC.

⁶⁸ ERRC interview with Ms Ruža Mišković, Beli Manastir, November 6, 2004.

⁶⁹ ERRC interview with Ms Senija Seferović, Association of Women Union Romani, Zagreb, November 4, 2004.

⁷⁰ ERRC interview with Mr Branko Petrović, President of the Association of Roma in the Baranje region, Beli Manastir, November 6, 2004.

⁷¹ See Alan Anstead, Litigating Discrimination in Access to Health Care, in Roma Rights, no. 2/2004, the Quarterly publication of the European Roma Rights Center, available at : <http://www.errc.org/cikk.php?cikk=1989&archiv=1>

⁷² ERRC interview with Ms Marija Ignac, Lončarevo (Međimurje), November 4, 2004.

natal examinations; she had medical insurance because she was under the age of 18, her mother receives a pension, her father is working. Despite having the correct documents, she has reportedly many times been told to wait for long periods of time by doctors. In many instances, this has caused her discomfort because she attends medical services with her children and, therefore, long periods of waiting can be difficult and impractical. Ms Ignac told the ERRC that she believes that in many instances, doctors have forced her to wait for extensive periods of time or otherwise do not treat her in an appropriate manner simply because she is Romani.

The Roma Program does not adequately address the biased attitudes in which the aforementioned incidences are fostered. The first goal mentioned in the health section of the Roma Program is the "health education for the Roma". While health education programmes for Roma -- including Romani women -- are an important measure newly undertaken by the Croatian government, it is of concern that the presuppositions underpinning government health education programmes appear to be driven by biased and degrading views of Roma, and therefore are not likely to succeed to a significant degree, and may actually be harmful in many respects. For example, the Roma Program provides for the measure of: "health education and teaching of the Roma, especially women, on the subjects: personal and group hygiene...food hygiene...hygiene of clothes and food...family planning and environmental hygiene". These goals similarly point to the Roma as being the locus of health problems reinforcing the attitude that Roma are inferior and unsanitary. There is no mention whatsoever of the denial of Roma to access of health care and the biased attitudes which perpetuate it. This approach not only reinforces racist stereotypes but also gender stereotypes placing the burden of family health care on the woman.

Romani women do not have adequate access to reproductive rights. Despite birth in a hospital being free, including hospital stay, any problems arising from the birth, if treated, would have to be paid for, which can run into figures far beyond a Romani woman's means. Pre- and post-natal care is not free-of-charge in Croatia. Most of the Romani women the ERRC interviewed have not sought any pre- or post- natal care simply because of cost. The few that had were charged a fee. For instance, Ms Ruža Mišković, 29 years old, from Beli Manastir reported to the ERRC that she had to pay 100 kuna (around 15 Euro) for every visit she paid before giving birth.⁷³

ERRC interviews with Romani women repeatedly revealed the concern among Romani women that due to the fact that contraceptive measures are expensive, Romani women do not, in practice, have access to family planning. In general, contraceptive pills for one month cost 60 kuna (almost 10 Euro), and condoms 20 kuna (around 3 Euro). Should a woman wish to abort, it would generally cost her 2,000 kuna (approximately 300 Euro) and she would reportedly not receive any formal counselling or support.

None of the information provided in the State Report⁷⁴ relates to the status and access of Romani women, or minority women generally, to health care. In particular, the section on health insurance has not noted the obstacles a significant number of Romani women face because of the lack of citizenship in obtaining health insurance in Croatia⁷⁵, a fact that practically precludes them from adequately accessing their basic right to health care.

⁷³ ERRC interview with Ms Ruža Mišković, Beli Manastir, November 6, 2004.

⁷⁴ State Report, pp. 44-54.

⁷⁵ State Report, p. 53.

10. Abusive Removal of Romani Children from the Care of their Biological Parents

The autonomy of the family and its centrality as a unit in society are important values from which fundamental rights flow, as acknowledged by a number of international and domestic human rights legislation to which Croatia is a party⁷⁶, including the Convention. Article 16 of the Convention requires States Parties to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations”. These provisions notwithstanding, it is a serious issue that situations leading to separation of children from their families by state authorities without proper investigation into the particular case, are reported to occur in Croatia. For example, in one case reported to the ERRC by Mr Josip Balog of "the Association of Roma of Međimurje county",⁷⁷ Ms Radojka Bogdan, 26 years old of Kotoriba (Međimurje county) had only one child, Dalibor Bogdan, age 7. Social workers came to assess their situation as neighbours had reported, wrongfully, that Ms Bogdan did not take proper care of her child. Ms Bogdan was working informally and she did not receive sufficient support as a single mother. Dalibor Bogdan was chronically ill with bronchitis and his mother reportedly took him to see doctors regularly. She had asked for support from the social welfare office as a single mother with a chronically ill son. As a result of reports from the neighbours and social welfare office, the Office for Social Welfare took the child from the care of Ms Bogdan, on October 19, 2004, and gave her the right to visit her child only once a month for a limited time. The child had reportedly already been placed with another family. On October 29, 2004, Ms Bogdan filed a complaint against her child being taken from her custody.

One factor contributing to the exposure of Romani households to invasive state practices in removing Romani children from parental care is the very apparent gendered division of labour in Romani families in Croatia (where two parents are even present at all), noted by the Roma Program; in many Romani households in Croatia, the sole present care-provider is the mother. However, this issue does not explain all issues related to the removal of Romani children from the care of their biological parents. As yet ill-documented and inadequately addressed by policy is the worrying concern frequently expressed by Roma in Croatia, that social workers and other state officials are

⁷⁶ Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms states:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 16 of the European Social charter on the right of the family to social, legal and economic protection states:

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.

⁷⁷ ERRC interview with Mr Josip Balog, "Association of Roma of Međimurje county", Čakovec, November 4, 2004.

over-zealous in their actions to intervene in Romani families, and that for reasons of racial bias, they may undertake measures more invasive than they would were the families concerned no Romani. The Croatian government should take serious steps in the coming period to research this issue and provide policies aiming to combat any racially discriminatory or otherwise abusive practices in this area.