

# WRITTEN COMMENTS

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING SERBIA

Regarding EU Accession Progress for Consideration by the European Commission during its 2013 Review



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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# 1 ANTI-DISCRIMINATION

Serbia's anti-discrimination legislation is broadly in line with European standards on combating racism and racial discrimination. Yet several issues remain to be addressed. The European Commission underlined that certain aspects of Serbian anti-discrimination law are not in line with the *acquis*, notably the scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation of reasonable accommodation for disabled employees.<sup>1</sup>

In practice the very extent of discrimination issues raises the question of the law's effectiveness. International human rights organizations and state institutions highlighted the fact that Roma continued to be the most vulnerable minority community and target of verbal and physical harassment from ordinary citizens, police violence and societal discrimination. Similarly, LGBT people, national minorities and disabled people still face discrimination in Serbia.<sup>2</sup>

The awareness among Romani communities in Serbia of the relevant provisions of the anti-discrimination legislation and the competency of the Commissioner for Equality Protection (the CEP) remains very low. In early 2013 the ERRC collected data on the work of equality bodies in 10 European countries<sup>3</sup> in relation to discrimination against Roma. Although Roma are the second largest minority in Serbia<sup>4</sup> and generally perceived as the most discriminated group in the country,<sup>5</sup> data for 2011 and 2012 show that less than 8% of complaints submitted to the Serbian Commissioner for Equality Protection related to discrimination against Roma and at least one third of those complaints were dismissed or withdrawn.<sup>6</sup> Even though the CEP issued several important recommendations on discrimination against Roma in 2012,<sup>7</sup> initiated misdemeanour procedures,<sup>8</sup> court procedures<sup>9</sup> and filed one criminal complaint in cases where Roma were discriminated against, most of these actions were initiated *ex officio* or by different NGOs on behalf of Roma, not by Roma themselves.

	Total no. of complaints	No. of complaints related to ethnic discrimination of Roma	No. of complaints related to ethnic discrimination of Roma that were dismissed or withdrawn
2011	335	23 (7.8%)	10 (43.5%)
2012	465	31 (6.7%)	8 (25.8%)

The Commissioner for Equality Protection, established in May 2010, is tasked with preventing all forms, types and cases of discrimination, protecting the equality of natural persons and legal entities in all spheres of social relations, overseeing the enforcement of antidiscrimination regulations, and improving realization and protection of equality. The CEP can receive and consider complaints of discrimination, issue opinions and recommendations in concrete discrimination cases, and stipulate measures defined by the Law. In addition, the CEP is authorized to initiate judicial procedures or file offence reports in relation to discriminatory acts prohibited by the antidiscrimination regulations.<sup>10</sup>

1 European Commission, Serbia 2012 Progress Report, document available at: [http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/sr\\_report\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/sr_report_2012_en.pdf).

2 Bertelsmann Stiftung's Transformation Index (BTI), Serbia country report 2012, report available at: <http://www.bti-project.de/fileadmin/Inhalte-reports/2012/pdf/BTI%202012%20Serbia.pdf>.

3 Bulgaria, Czech Republic, France, Italy, Hungary, Serbia, Macedonia, Slovakia, Croatia, Romania.

4 Open Society Foundations, "Roma Feel Less Fear and More Hope After Census", 12 December 2012, available at: <http://www.opensocietyfoundations.org/voices/roma-feel-less-fear-and-more-hope-after-census>.

5 Commissioner for Equality Protection, *Annual Report for 2012*, (Belgrade: March 2013), p. 33, available in Serbian at: <http://www.ravnopravnost.gov.rs/sr/izveštaji/izveštaji>.

6 The Commissioner for Equality Protection of the Republic of Serbia, Notification (to the ERRC) No. 011-00-00010/2013/01, 19 March 2013.

7 Including recommendations to the City of Belgrade and City of Nis related to discrimination of Roma in the area of housing, see: Commissioner for Equality Protection, *Annual Report for 2012*, (Belgrade: March 2013), p. 61-62, available in Serbian at: <http://www.ravnopravnost.gov.rs/sr/izveštaji/izveštaji>.

8 In October 2012 the Commissioner for Equality Protection filed misdemeanour complaints against the principle of the elementary school and preschool institution in Dezeva settlement, Novi Pazar for segregation of Romani children in separate classes. See: Commissioner for Equality Protection, *Annual Report for 2012*, (Belgrade: March 2013), p. 87, available in Serbian at: <http://www.ravnopravnost.gov.rs/sr/izveštaji/izveštaji>.

9 The Commissioner for Equality Protection filed a lawsuit for discrimination against McDonald's restaurant in Novi Sad for refusing Romani children to enter the restaurant. The first instance court dismissed the claim. See: Commissioner for Equality Protection, *Annual Report for 2012*, p. 84.

10 See internet presentation of the Commissioner for Equality Protection available at: <http://www.ravnopravnost.gov.rs/en/about-us/basic-information>.

## 2 EDUCATION

Although the number of Romani children in special education has decreased over the past few years<sup>11</sup> due to an amended legal and policy framework enabling inclusive education, which was introduced in 2009 with the adoption of the new umbrella law on education,<sup>12</sup> Roma continue to be disproportionately enrolled in schools for children with developmental difficulties.

At the beginning of April 2013, the ERRC sent data requests to all 43 special elementary schools throughout Serbia requesting information on the education of Romani children for the school years 2011/12 and 2012/13. By the beginning of May 2013, 30 schools had provided the requested data.

Preliminary data analysis shows worrying results. In the year 2012/13 the number of Romani children in special schools increased by 53% compared to the previous school year, while the overall number of children decreased. In the year 2011/12, in targeted schools the overall student population was 2,375, including 306 Roma (12.8%). However, in the current 2012/13 school year the overall number of children is 2,044, including 466 Roma (22.8%). According to the 2011 census, Roma comprise 2.05% of the country's population.

There is approximately the same percentage of Romani and non-Romani girls in special elementary schools – around 40% of pupils are girls.

Three and a half years since the adoption of the umbrella Law on the Basis of the Education System (LBES<sup>13</sup>), the Ministry of Education and Science has failed to adopt a regulation on the criteria for recognising forms of discrimination in educational institutions (Article 44 paragraph 4) which would be binding for school staff, teachers and educational inspection. Such regulation is crucial for understanding, preventing and effectively combating discrimination in schools.

In addition, discrimination of Romani children in education has been highlighted by the Commissioner for Equality Protection, especially segregation of Romani children in mainstream education, either as a result of deliberate and overt discrimination or residential segregation.<sup>14</sup> After refusing to comply with the recommendation to implement desegregation measures, the CEP initiated a misdemeanour procedure against directors of the preschool institution Mladost and elementary school A.S.Leso in Novi Pazar for segregation of IDP Romani children into separate classes.<sup>15</sup>

## 3 HOUSING AND FORCED EVICTIONS

Housing remains one of the key problems for Roma in Serbia. Lack of adequate regulations, effective policies and coordination between central and local government, as well as neglect of international human rights standards on the right to adequate housing, continue to negatively impact Romani communities throughout Serbia. Informal Romani settlements are often referred to by officials as “unhygienic” settlements.<sup>16</sup> Such public discourse is offensive and prejudicial with no basis in legal norms or generally accepted classification of substandard settlements.

Forced evictions continue to take place in Belgrade, contrary to international human rights standards. Since the Belvil eviction in April 2012, at least 27 families (101 Romani men, women and children) have been evicted from informal settlements in Belgrade, including the eviction of residents of container settlements, based on criteria that the Commissioner for Equality Protection found to be discriminatory.<sup>17</sup> In its finding, the CEP elaborated that the

11 Data for the academic year 2008-2009 show that 32% of students in special schools were Roma. See: *Open Society Institute, Roma Children in Special Education in Serbia: Overrepresentation, Underachievement, and Impact on Life* (Budapest: 2010), p 70.

12 Zakon o osnovana sistema obrazovanja i vaspitanja (Law on the Basis of the Education System), (“Sl. glasnik RS” br. 72/2009 i 52/2011).

13 *Ibid.*

14 Commissioner for Equality Protection, *Annual Report for 2012*, p. 49.

15 *Ibid.*, p. 87.

16 See: internet page “Belgrade for Roma” at the official internet presentation of the City of Belgrade, available in Serbian at: <http://beograd.rs/>.

17 ERRC and Praxis, “Serbia: Romani Families Face Uncertain Future One Year After Forced Eviction of Belvil Informal Settlement”, 26 April 2013.

City of Belgrade intended to integrate Roma from container settlements not only through affirmative measures such as educational workshops or job offers, but also through repressive measures by imposing contractual provisions for unilateral cancellation of the contract for the use of mobile containers. The CEP found such provisions to be discriminatory, as they are not objective and proportionate to the aim they intend to achieve nor are they imposed on any other category living in collective accommodation (e.g. student dormitories) or social housing.<sup>18</sup>

A number of Romani families are still living in unsanitary and degrading conditions more than a year after being forcibly evicted from the Belvil informal settlement in New Belgrade (26 April 2012). Families who were forced to return to their places of registered residence (133 Romani families), mostly to small, impoverished municipalities in the south of Serbia, are in a far worse position than Romani families with a registered residence in Belgrade, who were resettled to metal containers in several locations in the city.<sup>19</sup> Families returned to the south of Serbia lacked sufficient institutional support in restoring their livelihoods and obtaining adequate housing.

Romani families living in Belgrade container settlements have certain opportunities to access more adequate and durable housing, such as city social apartments or apartments to be constructed for Roma families displaced from former the informal settlements of Belvil and Gazela<sup>20</sup> (but limited only to Roma living in Makis, Kijevo and Jabucki rit settlements). In contrast, Roma who returned to the south lack any prospects since most of the municipalities do not have a social housing policy developed or available housing units for persons in need.

In Niš, local authorities provided five families with accommodation in an abandoned warehouse, where they faced three months without water, and eight months without electricity. To date, three families (including seven children) continue to live in very difficult and unhygienic conditions incompatible with international standards on adequate alternative accommodation, as highlighted by the Commissioner for Equality Protection (CEP) in August 2012.<sup>21</sup> The City of Nis failed to comply with the CEP's recommendation to immediately take all necessary measures to secure housing for Roma living in the abandoned warehouse in line with international standards.<sup>22</sup> In addition, the affected families in Niš lack security of tenure; none of them have received any formal document regulating their stay in the facilities provided by local authorities. This makes them vulnerable to potential new evictions.<sup>23</sup>

The practice of sending families back to their places of registered residence without adequate support proved to be unsustainable, exposing individuals and families to further human rights violations. Many families that were sent back to the southern municipalities after the Belvil eviction returned to other informal settlements in Belgrade. For example, out of 23 families evicted from the Borac factory in September 2012, 13 families are former residents of Belvil settlement, while most of the remaining families had been previously evicted from informal Roma settlement in Block 72 and other locations.<sup>24</sup>

## 4 ANTI-ROMA VIOLENCE

Amendments of the Criminal Code in December 2012<sup>25</sup> introduced hate motive as a special, aggravated circumstance for sentencing when a crime has been committed with a bias motive. Apart from this, the Criminal Code contains criminal offences which incorporate a bias element: instigating national, ethnic or religious hatred and intolerance (Article 317), racial and other discrimination (Article 387), and violation of the reputation of a

18 Commissioner for Equality Protection, Opinion No. 214/2012 from 16 October 2012, available in Serbian at: <http://www.ravnopravnost.gov.rs>.

19 ERRC and Praxis, "Serbia: Romani Families Face Uncertain Future One Year After Forced Eviction of Belvil Informal Settlement", 26 April 2013, available at: <http://www.errc.org/article/serbia-romani-families-face-uncertain-future-one-year-after-forced- eviction-of-belvil-informal-settlement/4135>.

20 Delegation of the European Union to the Republic of Serbia, "For more active role of Roma nationals", 8 April 2013, available at: [http://www.europa.rs/en/projects/projektne\\_aktivnosti/2201/For+more+active+role+of+Roma+nationals.html](http://www.europa.rs/en/projects/projektne_aktivnosti/2201/For+more+active+role+of+Roma+nationals.html).

21 Commissioner for Equality Protection, Recommendation No. 1187 from 29 August 2012, available in Serbian at: <http://www.ravnopravnost.gov.rs>.

22 Commissioner for Equality Protection, *Annual Report for 2012*, p. 62.

23 ERRC and Praxis, "Serbia: Romani Families Face Uncertain Future One Year After Forced Eviction of Belvil Informal Settlement", 26 April 2013.

24 Praxis, "Statement on the Eviction of 23 Roma Families from Abandoned Factory Borac in Novi Beograd", 20 September 2012, available at: <http://www.praxis.org.rs/index.php/en/praxis-in-action/social-economic-rights/housing/item/369-saopštenje-povodom-iseljenja-23-romske-porodice-iz-napuštene-fabrike-„borac“-na-novom-beogradu/369-saopštenje-povodom-iseljenja-23-romske-porodice-iz-napuštene-fabrike-„borac“-na-novom-beogradu>.

25 Zakon o izmenama i dopunama Krivičnog zakonika, ("Sl. glasnik RS" br. 121/12 od 24.12.2012.).

nation, national or ethnic group (Article 174). Latest statistical data show that in 2010<sup>26</sup> and 2011<sup>27</sup> criminal complaints for the criminal offence stipulated in Article 317 of the CC were submitted against 128 perpetrators and against seven for the criminal offence of racial and other discrimination. In the same period, nine persons were convicted for instigating national, ethnic or religious hatred and intolerance and one for racial and other discrimination. Although in 2009 Serbia ratified the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems<sup>28</sup> the Serbian Criminal Code does not contain a specific criminal offence of public dissemination of racist and xenophobic material through computer systems, unlike some other countries in the region, e.g. Macedonia.<sup>29</sup>

Since October 2012 there have been three violent incidents, one resulting in death of a 17-year old Romani boy in Becej.

- On 6 January 2013, around 18:00, a group of skinheads beat up an 18-year-old Roma A.M. in the center of Nis. The boy was attacked from behind by three young men wearing black boots and black jackets. The police informed that A.M. received light injuries and perpetrators are unknown. No one was arrested.<sup>30</sup>
- On 17 March 2013 the body of a 17-year old Ervin Bilicki was found in front of the local bakery in Becej. Preliminary police information indicated that they suspect that the boy was murdered, since he had visible head injuries, most likely given by a blunt object. The first media releases reported that Ervin was beaten by a group of men. However, according to available information the police arrested only one suspect - a 14-year old P.P. from Becej. Although the racial motive was initially ruled out as both the victim and the suspect were considered to be of Hungarian nationality,<sup>31</sup> Ervin's father stated to the ERRC that they are Hungarian Roma and he believes that his son was murdered because of his Roma ethnicity and that P.P. is a leader of a local youth skinheads group. The case is currently pending before the Higher Court in Novi Sad. ERRC is providing legal representation to Ervin's family.
- On 3 May 2013, around 20:00, a group of young men attacked a group of Romani youth in the Dolovo neighbourhood, near Pancevo. The suspect Ivan Zurban (27) beat a Romani man Petar Banjas (20) with a wooden stick several times in the head causing him serious head injuries and loss of consciousness. Petar Banjas was immediately taken to emergency hospital where the doctors fought for his life. The police opened a search for the suspect.<sup>32</sup>
- In March 2013 the monument of a famous Romani signer Saban Bajramovic in his home town Nis was again demolished. The monument was covered in pink paint and a swastika was drawn on the plinth.<sup>33</sup> Some media report that the monument was vandalised at least five times since it was first installed in August 2010, with graffiti of Nazi crosses and the slogan "Stop Gypsy terror".<sup>34</sup>
- In November 2012, ERRC documented one case of police brutality against three Romani men in a police station in Backi Petrovac, a small town in Vojvodina.

26 Statistical Office of the Republic of Serbia, "Adult perpetrators of criminal offences in the Republic of Serbia, 2010", statistical release, 15 July 2011, available at: <http://webzrs.stat.gov.rs/WebSite/repository/documents/00/00/38/87/SK122010e.pdf>.

27 Statistical Office of the Republic of Serbia, "Adult perpetrators of criminal offences in the Republic of Serbia, 2011", statistical release, 19 July 2012, available at: <http://webzrs.stat.gov.rs/WebSite/repository/documents/00/00/73/97/sk12122011e.pdf>.

28 Zakon o potvrđivanju Dodatnog protokola uz Konvenciju o visoko tehnološkom kriminalu koji se odnos i na inkriminaciju dela rasističke i ksenofobične prirode izvršenih preko računarskih sistema ("Sl. Glasnik RS – Međunarodni ugovori", br. 19/2009 od 19.3.2009.).

29 Article 394-d, Criminal Code, ("Official Gazette of the Republic of Macedonia" No. 37/96, 60/06, 73/06, 7/08 139/08, 114/09, 51/11, 135/11, 1185/2011, 42/2012, 166/2012).

30 Blic, "Young Roma boy beaten up on Christmas Eve in Niš", 7 January 2013, available in Serbian at: <http://www.blic.rs/Vesti/Hronika/361495/Romski-mladic-pretucen-na-Badnje-vece-u-Nisu>.

31 Available at: <http://www.blic.rs/Vesti/Hronika/372620/Nadjeno-telo-mladica-kod-Zeleznicke-stanice-u-Beceju>; <http://www.blic.rs/Vesti/Hronika/372809/Cetvorica-mladica-u-Beceju-pretukla-tinejdzera-na-smrt>; <http://www.kurir-info.rs/ocajni-otac-presudicu-ubicama-svoga-sina-clanak-702571>; <http://www.blic.rs/Vesti/Hronika/372855/Pretukli-mladica-na-smrt-jer-nisu-hteli-da-se-njihova-rodjaka-uda-za-njeja>; <http://www.kurir-info.rs/uhapsenog-maloletnika-14-ne-terete-za-ubistvo-bilickog-clanak-706093>.

32 Alo, "Pretukao Roma!", 3 May 2013, available in Serbian at: <http://www.alo.rs/vesti/hronika/pretukao-roma/17893>.

33 Press on line, "Racist graffiti on Saban Bajramovic monument", 27 March 2013, available at: <http://pressonline.rs/info/srbija/267187/ponovo-oskrnavljen-spomenik-sabanu-bajramovicu-.html>.

34 Vesti online, "Opet oskrnavljen spomenik Šabanu Bajramoviću", 16 February 2011, available at: <http://www.vesti-online.com/Vesti/Hronika/117747/Opet-oskrnavljen-spomenik-Sabanu-Bajramovicu>.

- In February 2013, the Higher Court in Belgrade rendered a judgment convicting eight members of the Sima's Chetniks paramilitary group for war crimes against a group of Roma in 1992 in the vicinity of Zvornik, BiH. On 12 July 1992, armed members of Sima's Chetniks entered the village of Skočić near Zvornik, where they first tore down the local mosque and then searched Roma houses, where they beat and abused the Roma people who were living in these houses. On that day, 27 Roma, mostly women, children and elderly, were killed by the paramilitary unit with knives and guns. Zijo Ribić, who was eight years old, sustained serious injuries, but fortunately he survived the execution and managed to escape. Three protected female witnesses in this case stated that they were kept by Sima's Chetniks for three months as slaves, where they were continuously raped, beaten, humiliated, and forced to serve members of this unit. The Court did not render severe sentences to all of the accused – two members of this paramilitary group were sentenced to five years imprisonment, one to one year imprisonment and one was released from detention. The Humanitarian Law Center, which provides legal representation to one of the surviving victims, underlined that rendered minimum sentences and sentences below the legal minimum for such grave crimes are unacceptable.<sup>35</sup> This is the second judgment on war crimes against Romani civilians, putting some focus on the sufferings and prosecution of Roma during the recent Balkan wars.

<sup>35</sup> Humanitarian Law Center, "Reactions to Judgment in Skočić Case", 22 February 2013, available at: <http://www.hlc-rdc.org/?p=22538&lang=de>.