

WRITTEN COMMENTS

BY THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING SERBIA

Regarding EU Accession Progress for Consideration by the European Commission during its 2014 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. A comprehensive anti-discrimination strategy for the period 2013–2018 was adopted by the Serbian Government in June 2013.

In practice the extent of discrimination in society raises the question of the law's effectiveness. International human rights organisations and State institutions have highlighted the fact that Roma continue to be the most vulnerable minority community and are the target of verbal and physical harassment from ordinary citizens, police violence and societal discrimination.

According to the Bertelsmann Stiftung's Transformation Index Serbia 2013 Progress Report, even though Serbian officials argue that the status of Roma has improved, Roma are still victims of discrimination in education, employment, housing and health care.¹

According to the latest (2013) annual report of the Commissioner for the Protection of Equality presented to the Serbian Assembly on 14 March 2014, around 12% (81) of complaints submitted to her office during the year related to discrimination based on national or ethnic affiliation, while 34 complaints (5%) concerned discrimination on the basis of Roma ethnicity.² Information available on the Commissioner's website shows that in 2013, the Commissioner resolved eight cases of discrimination against Roma, predominantly discrimination in education or peer violence in schools.³ In six cases the Commissioner found a violation of the Law on Prevention of and Protection from Discrimination⁴ and issued recommendations to eliminate discriminatory practices; however not all of these have been fully implemented.

2 EDUCATION

For more than a decade the European Roma Rights Centre (ERRC) has monitored Roma children's access to education in Serbia. Romani children have been disproportionately represented in "special schools" for many years, an issue in terms of both quality and equality of education. However, the ERRC welcomes the fact that, in the last several years, the Republic of Serbia has taken very important steps in terms of both legislation as well as policy relating to Roma education. These steps led *inter alia* to a decrease of the percentage and overall number of Romani pupils in special education (EPD schools), but did not prevent an increase in the number of Romani pupils transferred from mainstream schools to EPD schools (see below for more details). The authorities are taking steps to reduce the use of EPD schools⁵ in general, but not significant steps to keep Roma out of these schools.

The Republic of Serbia embarked on a significant and much needed change of course in education with the adoption of the new Law on the Foundations of the Education System in 2009, providing the basis for major changes in inclusive education for Roma. The education system in Serbia, according to the new legislation, should be equal and accessible, without discrimination or separation based on, *inter alia*, including ethnicity and disability. This was urgently needed, since Romani students in Serbia lag behind their non-Romani peers in terms of school enrolment, attendance and attainment, and they are also exposed to discrimination and segregation in education, including the segregation of Romani children in the EPD schools for students with disabilities.

Four years since the adoption of the law, the promise of inclusive education remains unfulfilled for the majority of Romani children and youth in specialised institutions for students with disabilities. In order to illustrate

1 Bertelsmann Stiftung's Transformation Index (BTI), Serbia country report 2013, available at: <http://www.bti-project.org/fileadmin/Inhalte/reports/2014/pdf/BTI%202014%20Serbia.pdf>.

2 Commissioner for the Protection of Equality of the Republic of Serbia, *Annual Report of the Commissioner for the Protection of Equality for 2013*, Belgrade, March 2014, 41-42, available (in Serbian) at: <http://ravnopravnost.gov.rs/sr/lizvestaji/lizvestaji>.

3 Information available on the website of the Commissioner for the Protection of Equality, available at: www.ravnopravnost.gov.rs.

4 Law on Prevention and Protection from Discrimination, Serbia, (Official Gazette no 22/2009), available at: http://www.paragraf.rs/propisizakon_o_zabrani_diskriminacije.html.

5 Education of pupils with disabilities (formerly known as "special schools").

the extent of the phenomenon of Roma overrepresentation in such schools, the ERRC embarked on a data-collection exercise in 2013, seeking statistical information relating to the representation of Romani students in “special schools” and obtaining relevant information from 31 schools throughout the country.

The ERRC data-collection exercise, complemented by a survey conducted in ten locations across Serbia in 128 Romani households with students in EPD schools demonstrated that Romani students are still overrepresented in these schools, though their absolute number in these schools has decreased.

Official data for Vojvodina and the results of the ERRC research indicate a decrease of both the number of Romani students and of the overall number of children attending “special schools.”

Number and percentage of Romani and non-Roma students in EPD schools and classes for the education of pupils with disabilities (EPD education)

School year	Romani students (Vojvodina data)	%	All students	Romani students (ERRC research)	%	All students
2010/2011	736	28.26	2604	n/a	n/a	n/a
2011/2012	623	27.29	2300	808	23	3539
2012/2013	557	26.15	2130	690	21	3306

Schools with highest percentage of Romani children in academic year 2013/2013

School	Absolute number	% of Romani students
SPSE Vidovdan in Bor	69	73%
PS Sveti Sava in Prokuplje	23	68%
SPSE Veselin Nikolić in Kruševac	75	63%
PS Novi Beograd in Belgrade	58	40%

Indications of a decrease in new enrolments in EPD education

- The ERRC research conducted in ten locations across Serbia reveals that a total of 41 Romani students enrolled in first grade in EPD schools in 2011/12, amounting to a fifth (20%) of all such students. In 2012/13, both the absolute number of Romani new first graders (24 students) and their share among all such students (11%) became smaller. In particular the latter data indicate a positive (that is, decreasing) trend in the presence of Romani children, yet Romani children are still more likely to be in EPD education than in mainstream education.
- Further, according to ERRC research, in 2012/2013 only two Romani children were enrolled in EPD schools without the authorities having first obtained an opinion recommending enrolment from the Inter-Sectoral Commission.⁶

Underlying reasons for attending EPD schools

- According to the ERRC survey in only one-fifth of the cases (22%), it was the parent or other caregiver who took the initiative for the child to be assessed as to which type of school would be appropriate. Usually, the first steps in the direction towards “special schools” were taken following the advice of educational and medical professionals.
- The respondents’ apparent consent to “special education” was influenced by the perceived authority of the professionals involved, as well as the socio-economic factors creating obstacles relating to education of Romani students. For enrolment in an EPD school it is necessary to have the written consent of the parent or legal guardian.
- The survey results also demonstrate that, despite the explanations they gave in support of EPD schools, a majority of respondents (63%) nevertheless stated that they would prefer if their children received education in mainstream schools.

⁶ The former Commissions for Categorisation, which had decision-making powers on the type of school a student would attend, are no longer operational. Instead, the Law on the Foundations of the Education System (LFES) introduced Inter-Sectoral Commissions (ISCs). Upon a student’s enrolment in a mainstream school, and in case the student requires additional support, the school enables access to the ISC for the purpose of making an assessment of the type of additional support to be provided. Furthermore, a student can be enrolled into an EPD school only with both an opinion of the ISC supporting this move, and the consent of the student’s parents or legal guardians.

Insufficient assistance to children to stay in mainstream schools

- The practice of transferring students from mainstream schools to EPD still continues. Both the overall number and the number of Romani students transferred increased from 2011/2012 to 2012/2013.
- In 70% of cases, the interviewees confirmed that the school did not offer any additional support to their children in order to keep the student enrolled in the mainstream school instead of transferring them.
- In the cases of students transferred to EPD schools after they had spent some time in mainstream education, 41% of their parents and legal guardians were never contacted prior to the transfer about the difficulties their children were experiencing.
- Once students end up in EPD education, there is hardly any return, and only one in ten respondents attempted to transfer their children to (or back to) mainstream schools.

Limited information for parents makes it difficult for them to make informed decisions on the educational choices for their children

- A large majority of respondents (75%) to the ERRC survey said the Inter-Sectoral Commissions did not inform them of the limitations and negative consequences associated with attending EPD schools.
- 71% were not told by the commission that they had the right to reject the commission's opinion.
- Almost half of the respondents stated that they did not receive any information from the members of the Inter-Sectoral Commissions on what the assessment should actually establish.
- 10% of parents and legal guardians for Romani students of EPD schools did not know the exact nature of the schools their children were attending.
- Commission members asked as many as 41% of parents and legal guardians to sign related documentation without clarifying what the documents were about.
- Three-quarters of survey respondents said they were not told that they could be present at the commission's assessment.
- Following the assessment of the commission, two-thirds of respondents were not told about the reasons for the commission's decision that the child should be referred to an EPD school.

Treatment of Romani children in mainstream education

46% of the interviewees alleged that the treatment in mainstream schools was not good. The most common reasons given were:

- the teachers ignored the student (50%),
- the student had to sit in the back of the class (50%),
- the teachers humiliated the student in front of their peers (39%).

3 HOUSING AND FORCED EVICTIONS

Between 2009 and April 2013 the ERRC and several national NGOs registered 19 forced evictions in Serbia, affecting more than 673 Romani families including more than 2,828 individuals. Almost all forced evictions were marked by the same human rights violations, notably the failure to provide evictees with adequate (or indeed any) alternative accommodation, as Serbia has undertaken to do under the International Covenant on Economic, Social and Cultural Rights, or to consult affected communities throughout all stages and provide due process and compensation. Since April 2013 no forced evictions have been carried out, but this does not appear to reflect any change in policy.

Social housing in Serbia is still being developed pursuant to a National Social Housing Strategy. In the absence of a comprehensive legal framework and in the situation of slow implementation of the Strategy, there is no satisfactory solution to the housing problems encountered by the Roma population. The experience of the City of Bel-

grade, which is the biggest social housing provider in Serbia, shows that “about 10% of social apartments are allocated to persons of Roma ethnicity.”⁷ However, such allocation does not come close to meeting the actual need.

The Action Plan (AP) for the implementation of the National Strategy for the Improvement of the Status of Roma in the Republic of Serbia (Roma Strategy) for the period of 2009-2011 included a set of goals, measures and activities related to housing conditions including harmonising domestic legislation with the International Covenant on Economic, Social and Cultural Rights (2.1.2).

The AP for the period 2012-2015 includes the same set of measures. However, to date, none of the above measures have been implemented. Finally, following pressure from various NGOs, independent national human rights institutions and the international community, in 2013 the Government launched preparatory activities for drafting a bill on forced evictions compatible with international human rights standards. Currently, there is no available information on the results of these processes. However, the ERRC remains sceptical about the prospects of enacting a *lex specialis* on forced evictions.

The two biggest mass evictions were from informal Romani settlements in Belgrade located under the Gazela Bridge in 2009 (175 families) and in Belvil in 2012 (257 families). Some of the families have been resettled on the outskirts of Belgrade in metal containers which do not meet international criteria for adequate re-housing, while others have been forced to return to their previous places of permanent residence, usually to small and impoverished municipalities in the south of Serbia where they were provided with inadequate accommodation, usually lacking security of tenure. To date, adequate accommodation has not been provided to these families.

The ERRC welcomes an EU-funded project aimed at securing adequate and sustainable housing solutions for around 200 Romani families currently living in several container settlements in Belgrade.⁸ However, providing suitable locations with necessary infrastructure and access to public services offered by the city authorities remains a problem.⁹ The ERRC expresses concern that not enough attention is paid to avoiding the creation of ethnically segregated Romani settlements.¹⁰

In Niš, on 26 April 2012 the local authorities provided five families forcibly evicted from the Belvil settlement in Belgrade 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 accommodation¹¹. In the absence of any documents confirming their right to remain in the warehouses, they are vulnerable to potential new evictions.¹²

The practice of sending families back to their places of registered residence without adequate support exposes individuals and families to further human rights violations. ERRC research shows that many families that were sent back to the southern municipalities after the Belvil and Gazela eviction returned to other informal settlements in Belgrade or left Serbia and went to EU countries. To this day, those in Niš still have only rudimentary bathrooms without running hot water.

4 ANTI-ROMA VIOLENCE

Ethnically motivated violence and hate speech against Roma are perennial problems in Serbia. They are not limited to any particular geographic region, nor is it possible to identify a particularly prevalent group of perpetrators or specific victims. It is an enduring problem the authorities must begin to address.

7 The City Administration of Belgrade, Secretariat for Social Welfare, No: XIX-07-031-96/2012 of 24 April 2012 - Resettlement Action Plan for Belvil, p. 2.

8 More about the project “Let’s build a home together” is available at: <http://www.sagradimodom.org/>.

9 Minutes from the second Project Sub-Committee Meeting (draft), Belgrade, 28 November 2013, 5, available at: <http://www.sagradimodom.org/tekst/biblioteka/28/>.

10 Praxis, „Poverenica ukazala Gradskoj upravi Grada Beograda na potrebu pronalazanja adekvatnih lokacija za stanovanje Roma“, press release, 17. September 2013, available at: <http://praxis.org.rs/index.php/en/praxis-in-action/social-economic-rights/housing/item/707-poverenica-ukazala-gradskoj-upravi-gradabeograda-na-potrebu-pronalazanja-adekvatnih-lokacija-za-stanovanje-roma>.

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

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

The impact of hate crimes is often accentuated by the refusal of law enforcement and/or judicial bodies to acknowledge and prosecute them as such. The situation as it stands provides an environment of impunity for anti-Roma hate crimes. The Commissioner for the Protection of Equality has noted that very frequently Roma are targeted in racially-motivated attacks which are not investigated or punished properly.¹³

From May 2013 until May 2014, ERRC has recorded nine violent incidents, two of them against Romani children in primary schools:

- On 13 June 2013, after a mass brawl among two groups of ten men in the village of Jaša Tomić in Vojvodina, there was an attack on the house of a Romani family. Several people came into the house and destroyed the furniture on the first floor of the house. The family temporarily left the house and went to their relatives.¹⁴
- On 30 July 2013, in the second largest Roma settlement in Niš „Beograd Mahala“, seven or eight cars came into the settlement. Non-Roma young men came out of the cars and, according to witnesses, fired nine gunshots, shouted some names, threw stones and broke some windows. One Romani boy was injured by broken glass from a window. After the attack the residents of the settlement organised themselves and during the following nights they kept watch. Women and children were terrified.¹⁵
- On the night between 16 August and 17 August in Belgrade during the “Beer fest” festival, S.K. (21 year-old woman) and D.S. (20 year-old man), Italian citizens of Romani origin, were attacked by seven young non-Romani boys age 20-22 years. D.S. and S.K were peacefully walking towards the fair when one young man approached them and started insulting them, calling them “Gypsies”. Together with six other men they followed them several metres and then started to hit D.S. S.K tried unsuccessfully to help her boyfriend and was also injured. Both of them were kicked while they were lying on the ground. The beating stopped when the security personnel came. The injured Roma went to the Emergency Ambulance but they were refused care. They went home and in the morning went to the hospital. The police refused to take their statements in the hospital. Next day they went to the police and then they gave statements.¹⁶
- In the evening of 19 October 2013, in Novi Sad on Safarikova street, a group of skinheads nearly abducted a two year-old boy only because the child had lighter skin than his father. The father, a Romani man, was accused by skinheads of abducting the child from its biological parents. When the father threatened to call the police, the skinheads fled. First, though, they offered him 100 euro for the child. The police did not find the hooligans.¹⁷
- On 3 November 2013, residents in the social housing complex Kamendin in Belgrade organised a protest against Romani families living there. The protests started after some Roma became infected with scabies. The scabies first showed up in the “Ilija Birčanin” primary school and Roma were blamed for spreading them. The police intervened and told the Roma to go into their apartments and not to leave until the situation settled. Apparently around 200 protesters were yelling “Kill, slaughter so that the Gypsy doesn’t exist” (“Ubij, zakolji, da Cigan ne postoji”). The same night in Belgrade a group of young men attacked some Roma girls and boys insulting them based on their ethnicity.¹⁸
- At the beginning of February 2014 in village Srpski Krstur in Vojvodina, a 14 year-old Romani boy was beaten up in school. The boy was bruised all over his body. The local health care centre refused to give any kind of document confirming his injuries. According to the statement of the boy’s mother, he has been constantly abused in school and generally Romani children are being abused. The Director of the school has refused to take any measures to protect the child.¹⁹

13 Commissioner for Equality, Annual report, March 2011, available at: <http://www.ravnopravnost.gov.rs/lat/izvestaji.php?idKat=16>.

14 Press, „Posle masovne tuce u Jasi Tomicu napadnuta kuca romske porodice“, 13 June 2013, available at: <http://www.pressonline.rs/info/srbija/276332/posle-masovne-tuce-u-jasi-tomicu-napadnuta-kuca-romske-porodice.html>.

15 ERRC field research.

16 Romske Novine, “Napadnuti Romi na beer festu“, 21 August 2013, available at: <http://romskenovine.wordpress.com/2013/08/21/beograd-napadnuti-romi-na-beer-festu/>.

17 Blic, “Skinhedski hteli da Romu otmu dete jer je svetlije puti“, October 22 2013, available at: <http://www.blic.rs/Vesti/Hronika/414303/Skinhedski-hteli-da-Romu-otmu-dete-je-je-svetlije-puti>.

18 Blic, “Zemun polje: Oko 200 gradjana setalo uz povike Ubij zakolji da Cigan ne postoji!“, November 5 2013, available at: <http://www.blic.rs/Vesti/Beograd/417813/Zemun-polje-Oko-200-gradjana-setalo-uz-povike-Ubij-zakolji-da-Cigan-ne-postoji>.

19 ERRC field research.

- On 21 February 2014, the local TV Station „Marš“ in Valjevo Municipality posted on their YOUTUBE channel²⁰ a short interview about a 10 year-old boy who was beaten up by his peer from the same class and ended up in the hospital with a broken nose. In the interview, the boy's father stated that his son was beaten up because he is Roma. In newspaper articles, the boy's father added that instead of receiving an apology, he was threatened by the parents of the boy who broke his son's nose.²¹
- On 9 February 2014 in Novi Sad, a group of young non-Roma attacked members of a Romani NGO in front of their premises, but all of the young Roma present managed to escape into their premises, close the door and call the police. Police refused to provide any protection to the NGO or its members. More than a month after on 26 March 2014 around 17:00 hours four young members of the same Romani NGO were again brutally attacked in front of the NGO premises by two non-Roma boys carrying wooden sticks saying „This time you will not get away“ and beating the Roma. One young Roma man received serious head injuries and two young Roma men had light head injuries. The police came and compiled a record of the attack, including statements from eye witnesses. The investigation is ongoing. In the premises of this NGO, on a daily basis around 40 children attend creative, educational and music workshops. Due to the attack, the children are afraid for their safety and stopped coming. In response to a request from the NGO the police said that they cannot provide adequate protection to the children because they lack capacity.²²
- On 22 April 2014, unknown perpetrators threw two Molotov cocktails at a house which houses a Romani protestant church in the village of Bošnjace near Leskovac. One Molotov cocktail was thrown on the roof of the church, the other was thrown through the window and set fire to the room where church ceremonies are held. Church Pastor Mr. Nenad Durmišević stated that a group of about fifteen young men from the village were the attackers and they previously threatened to set fire to the church and to Romani houses. According to Pastor Mr. Nenad Durmišević three suspects were arrested. After a hearing at the investigate judge, they were sentenced to thirty days in prison.²³

20 The interview is available at: <http://www.youtube.com/watch?v=zvjgtDFfrk>.

21 „Pretukli decaka zato sto je Rom“, Svet, 28 February 2014, available at: <http://www.svet.rs/hronika/valjevo-pretukli-decaka-zato-sto-je-rom>.

22 ERRC documentation.

23 SR/APR/2014/1, ERRC interview with Nenad Durmišević, 23 April 2014, Bošnjace.