

ROMA RIGHTS

QUARTERLY JOURNAL OF THE EUROPEAN ROMA RIGHTS CENTRE



Justice for Kosovo

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Cover photo: Romani houses in Obilic/Obiliq, Kosovo, destroyed during pogroms in 1999.

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Update

By Dimitrina Petrova

The Editorial of issue No.2/1999 of *Roma Rights* ended with these words:

“We devote this issue to the Roma of Kosovo, who – in the circumstances – will be the last to ever read it. We cannot mail copies to them either: they are scattered all over the continent, and given Europe’s ‘hospitality’ to Roma, it will take a very long time for them to obtain mailing addresses anywhere. As to Romani readers inside Kosovo, our mail would be going to empty neighbourhoods and ruins.”

Six and a half years passed. So it is time to update. Let us try: We devote this issue of *Roma Rights* to the Roma and others perceived as “Gypsies” from Kosovo, the people hidden under the bureaucratic abbreviation RAE (Roma, Ashkali, Egyptians). In the present-day circumstances, as the talks on the final status of Kosovo are starting, they will again be the most difficult to reach. RAE are scattered throughout Europe and all over the world, and few have been fortunate to obtain a permanent address. Read the typical story of serial asylum seeking failure in the “Testimony” section in this issue.

Violence against Roma and others perceived as Gypsies in Kosovo after the end of the NATO bombing was part of a politically motivated systematic effort to “cleanse” Kosovo of non-Albanians and to bolster claims for an independent state. Almost seven years later perpetrators of crimes against humanity remain unpunished. As one can see from some of the material in this issue, unblocking the road to justice is so hard that it would take an immense effort and a very long time before we begin to see results.

Regarding “RAE” currently inside Kosovo, very few have returned to their empty and ruined

neighbourhoods. Despite efforts by the international community to resettle “RAE” returnees, the lack of genuine peace has forced most of them to leave the province again. Of those that remain, many still live the lives of IDPs – internally displaced persons dependent on external powers. “RAE” IDPs live in permanent fear, rarely agree to speak to visitors due to years of empty promises, and deplore the missed chance to emigrate.

In here comes the biggest disgrace of all, incomprehensible to any reasonable outsider. This is the case from hell known to most of those who still follow Kosovo. Roma IDPs in three camps in Northern Mitrovica have been living since the autumn of 1999 on sites heavily contaminated by lead and the UNMIK, the responsible institution in charge of the province, has failed to relocate them despite being aware of the health hazard. Over six hundred people, more than half of them children. A complicated case it may be, due to conflicting agendas, indifference, lost faith by Roma that anyone could ever care, and the eternal “lack of resources” complained of by UNMIK. An ERRC statement – one of several that have been sent out to international governmental actors – is published in this issue. The ERRC has filed a criminal complaint, too. And we as an organization are determined to continue to deal with this case as long as it takes. Negotiations are in progress and many institutions are now involved. But the fact is that as this issue is going to press, the Roma are still in the same poisoned environment, despite the combined powers, past and present, of KFOR, UNMIK, EU, OSCE, Council of Europe, UNOHCHR, UNHCR, not to mention the Kosovo authorities and all the international and domestic NGOs. And despite the new spotlight on Kosovo due to the pending official start of the status talks.

Well, this is my update. Lead poisoning causing debilitating effects on brains and a medical misery for life. Since 1999.

Whether democracy, human rights and the rule of law have made progress in Kosovo since it became a de facto western powers' protectorate depends on whom you ask. But there are some encouraging developments as well, such as the entry into force of one of the strongest and most compre-

hensive anti-discrimination laws in Europe, fully in compliance with European standards (See article by Gregory Fabian in this issue). Though shaky and untested, the machinery of democratic rule is emerging. The rights of Serbs, RAE and other minorities in Kosovo will most likely be guaranteed in whatever status solution lies ahead. But time is out for the Roma IDPs. The responsible bodies must end the current humanitarian disaster for which no future democratic heaven can justify.



Justice for Kosovo

Claude Cahn

DURING the hot period of the conflict in the former Yugoslavia, a particularly useful question was, “How is the situation?” Information about the conflict was subject to dispute over meaning among the parties to the conflict – which was everyone in the former Yugoslavia. As many have observed, the war itself became a struggle over the meaning of history in the region. Also, to the irritation of many from the former Yugoslavia, the wars of succession in Yugoslavia rapidly became globally discussed – many outside the former Yugoslavia took a keen and meaning-pregnant interest in the conflict. “How is the situation?” – a thoroughly meaningless phrase – was valuable in that it opened discussion on neutral terrain, to the best extent that that was possible. It implied no sympathy for one side or another.

In 1996, while waiting for a meeting at a Romani organisation in Vienna, I posed the question “How is the situation?” to a Romani musician from Serbia who was also waiting for a meeting. His response: “Lies, all lies.” This turned out to mean, upon further exploration, “Everything being said or written in the West about Slobodan Milosevic and the acts of the Yugoslav government is false propaganda driven by a diverse set of shadowy groups, including Freemasons and the Vatican.”

A segment of the Serbian and Kosovar Romani community, a group of people with a very sizeable diaspora in Western Europe, supported the former regime. The reasons for this are complex, but comprise approximately the following: Tito’s Yugoslavia was a multi-national federation, guaranteeing equality to all within the Socialist

framework. This was a first in the history of any entity on these territories. Socialist Yugoslavia also undertook special, promotional efforts with respect to Roma. The official histories included the Romani contribution to the partisan struggle during the civil war Yugoslavs fought under the cover of the second World War,¹ and Romani newspapers and radio stations flourished, particularly in Serbia, Kosovo and Macedonia. These facts forged a particular loyalty to Yugoslavia among Roma. It was widely perceived among Roma in the former Yugoslavia that a multi-national Yugoslavia would be a far better arrangement for Roma than any future potential status in a mono-ethnic state. The fact that anti-Romani atrocities had been committed by ethnic Albanians and ethnic Croats during World War II, and that these atrocities were very fresh in the memories of Roma in and from Yugoslavia, made this loyalty particularly vivid.

In 1989, the government controlled by Slobodan Milosevic suspended Kosovo’s autonomous status within the former Yugoslavia, ostensibly as a response to anti-regime rioting by ethnic Albanians in Kosovo, but more crucially as part of an infusion of Serbian nationalism into the business of running the Yugoslav state. As Communism collapsed, the controlling authorities in Belgrade stayed one step ahead of nationalists throughout the Federation, by jettisoning the multi-national discourse of Socialist Yugoslavia, and turning to Serbian nationalism as a mobilising force. The consequences of these moves are now well known, and include that highest form of evil, civil war. A very significant part of the Serbian and Kosovar Romani communities – people who had particularly powerful psychological

¹ To this day, settlements in Macedonia are called names such as “Sukri Sain”, the name of one Romani partisan featured in the official histories.

reasons for remaining blind to the disappearance of multi-national commitments at the state level and replacement of these with a blended version of Socialism and Serbian nationalism – preferred regime-loyalty as the possibility of remaining neutral effectively vanished. The alternative – making common cause with ethnic Albanian nationalists or allying explicitly with Albanian nationalist movements – was not attractive, and was in any case not on offer from the side of the Albanians, who were pursuing a highly exclusionary ethno-nationalist mobilisation.

Vocal support for the regime was easier for Serbian Roma not actually living in Kosovo proper (i.e., in the rest of Serbia), as well as for Serbian and Kosovar Roma in the Western European diaspora (as well as in Croatia and Slovenia). In Kosovo proper, the strategies adopted by Roma and others regarded as “Gypsies” were of necessity more complicated. While some took one side or the other (more often regime-loyalty), others pursued other options. A series of new ethnic identities – the Egyptians and Ashkalia – sprang to life on the basis of previous sub-group identities, apparently as an effort to negotiate a space on neither side of the incipient civil war.

Regime-loyalty had real implications. In the first place, in 1989, in the context of the abrogation of Kosovo’s autonomy, ethnic Albanians were purged from the Kosovo administration and replaced with those who remained regime-loyal – Serbs and Roma. Secondly, Roma came vocally to the support of the Milosevic regime in a series of demonstrations in Belgrade and elsewhere throughout the 1990s. Thus did Roma come to incur the enduring animosity of the Albanian nationalist cause, one of the most cohesive nationalist mobilisations seen in Europe since World War II.

The extent of Romani support for the Milosevic regime has not yet been examined, discussed or addressed within the Yugoslav Romani community, nor has the extent of the manipulation of Roma by the former regime been examined to any significant extent. Its impact on the diaspora has however been particularly powerful. On the night Milosevic fell

in Autumn 2000, I was at a Serbian Romani wedding in Vienna. This was a thoroughly demoralised affair because the unimaginable was transpiring: on every television, hundreds of thousands of Serbs were demonstrating on the streets of Belgrade against the government. At a stroke, the fiction of more than half a century had come to pieces.

During the implementation by the Milosevic regime of “Operation Horseshoe” in Kosovo in the early months of 1999, Roma and others regarded as “Gypsies” in Kosovo played a role. The facts are not disputed: Roma assisted the Serbian police in plundering shops to supply the military action, and they assisted the police in burying the Albanian dead. There is no common ground on the interpretation of these facts however. Roma say that the forces of the state coerced them into assisting the military operation. There was no space for resistance. Albanians regarded these acts as further evidence that Roma and other “Gypsies” had allied themselves with the enemies of the Albanian nation.

Our first inkling of onset the single biggest catastrophe to befall the Romani community since World War II came on June 5, 1999, when a group of ethnic Albanian refugees from Kosovo in a refugee camp in Skopje, Macedonia, set upon a number of Roma in the camp and made a concerted effort to beat them to death, before camp authorities intervened. By mid-June, as the UN took control of the administration in Kosovo and NATO troops and returning ethnic Albanians flooded into the province, the ethnic cleansing of Roma and others regarded as “Gypsies”, along with Serbs, had begun.

In early July 1999, the ERRC sent two teams to Kosovo to document the unfolding events. One team, comprised of then-ERRC Board Member Rumyan Russinov, then-Research and Publications Director Deyan Kiuranov and then-Operations Director Ferenc Welsch, drove through Serbia to Pristina. I flew to Skopje, Macedonia, picked up frequent ERRC collaborator Martin Demirovski. Martin is Romani, but because he has very light skin, can pass for non-Romani. We hired a taxi and were dropped off in Prizren.

My memories of the period that followed remains for me the most enduring impression I have of the potential for human evil. That statement is not intended for the sake of melodrama. Kosovo in mid-1999 and for the years thereafter has been a collective human endeavor for ends completely devoid of the beneficent, the manifestation of a society founded on the principle of the violent eradication from the sphere of the present of anyone not belonging to one closely circumscribed ethnic group. Let me try to recount some of the events of those days.

The old Romani quarter of Prizren – Terzi Mahalla – had become something of a safe zone. Possibly because of lobbying by the prominent Prizren Romani personality Haxhi-Zulfi Merxha, or possibly simply due to the wisdom of the local German KFOR commander, a pair of KFOR soldiers had been stationed during the daylight hours, prominently at an intersection in the community. The residents of Terzi Mahalla were not completely immune to attack by Albanians, but Terzi Mahalla was safer than most places, and Roma displaced from villages around Prizren were flooding into the quarter.

One afternoon, while taking testimony from Roma who had been abducted and brought for “interrogation” and torture to one of a number of informal detention centres being operated by ethnic Albanians around Prizren at that time, Martin and I were approached by an older woman in the throes of calm, contained panic; her son had been kidnapped by the Kosovo Liberation Army (KLA), taken to a detention centre, and held for a week. They had broken both his legs and released him to go back home to his village. If he told anyone, they said, they would kill him.

We decided to report the matter to KFOR, and to try to arrange for his rescue from the village. This proved more difficult than first imagined. We set off from Terzi Mahalla on foot through the streets of Prizren. We could not, however, walk with the old woman – Roma could not be seen in the company of “internationals”. Mrs. Jones – I will call her Mrs. Jones – walked around 40 metres ahead of us and we followed. A first KFOR unit sent us to the main barracks across town. Once we arrived there, we

were told to wait at the gate until someone could see us. As the sun set, we were still waiting.

We decided to tell Mrs. Jones – a very traditional-looking Romani woman – to go home; we would come and get her in Terzi Mahalla in the morning and try again. As soon as we began to exchange words with her however (our first visible contact with Mrs. Jones since we had left Terzi Mahalla), we were surrounded by a mob of approximately 25 people shouting aggressively at us, and we were quickly separated from Mrs. Jones. By common agreement, I believe ordered by no one, but obeyed by all, contact between Roma and “internationals” was not going to be tolerated in the new Kosovo.

The next morning we persuaded the German KFOR commander to part with two soldiers and a van for the purposes of rescuing Mrs. Jones’s son. “Only for two hours,” he said. We drove to Terzi Mahalla, picked up Mrs. Jones, headed out of town, and promptly got lost. KFOR only had maps of Prizren written in Cyrillic script. The KFOR soldiers could not read their maps.

We eventually arrived in the village, which was completely bedecked with Albanian flags. The Romani quarter lay behind and above the village, however, and all roads there were blocked by parked cars. Mrs. Jones sat very low in the van. The two hours allotted by the German commander had by that time expired. The two soldiers – who were not a day over eighteen, clad in a number of inches of bullet-proof combat gear and “sweating like pigs” – were in favor of abandoning the mission. We reminded them that Mrs. Jones’s son was under a death threat. They grudgingly agreed to remain.

Eventually, we persuaded the owner of one of the cars to move it – by now the curtains of the whole village were twitching – but at the bottom of the hill leading to the Romani settlement, the road was impassable; the corpse of a horse lay halfway over a massive puddle. We got out of the van. “You first,” said one of the soldiers. I began to explain that, not being military, we had no experience with ground that was potentially mined. Should they not go first? No, we should go first,

they maintained. The dispute was resolved by Mrs. Jones, who was already halfway up the hill. We cautiously followed, stepping in her tracks in the mud.

In the house lay Mrs. Jones's son, a living bruise. His legs were not, as it turned out, broken, but he was completely incapacitated from a week of beatings, and he was terrified. One of the German KFOR soldiers began wailing and clutching his own head (I am not exaggerating). After some discussion, and after ascertaining that a KFOR helicopter was not available, the soldiers managed to persuade a *Medicins sans Frontieres* van to come and evacuate Mrs. Jones's son. We set about the business of waiting. Outside the house, one of the KFOR soldiers said to me, "If any shooting starts, we'll leave you here."

After an eternity, the *Medicins sans Frontieres* van arrived, staffed by Albanian medical personnel. These began shouting at Mrs. Jones's son in Albanian. The Germans also started shouting, because they were supposed to be back at base, and they wanted to get the evacuation over with. Our communication went as follows: I translated from German into English to Martin, Martin translated from English into Romani for Mrs. Jones, and she translated from Romani into Albanian for her son, who spoke only Albanian. This procedure was reversed in the other direction. For some reason, the soldiers never seemed to comprehend that there were language difficulties and kept repeating half-hysterically, "Tell him we go now, or we go without him." The Albanian medical crew would also not stop shouting in Albanian. Pointing out that the victim had just been tortured for a week by Albanians and that shouting in Albanian was not a good idea prompted the response, "What do I care about politics?"

Eventually, Mrs. Jones, her son on a stretcher, the soldiers, ourselves and the medical personnel descended to the two vans and left the village. As we drove out of town, behind us we could see the entire Romani community following on foot. There was no way they were going to stay now that it was known that they had communicated with KFOR. Thus did we facilitate the ethnic cleansing of one village in Kosovo.

At the hospital in Prizren, we were summarily expelled from the KFOR van, which drove off in haste. Mrs. Jones's son was brought into the hospital, where he was treated rudely by staff. The doctors let him know what they thought of him. If he had gotten a beating, he must have deserved it. By nightfall, he was in Terzi Mahalla, along with the rest of the village.

Mrs. Jones's husband wanted to know what would happen to them, and when could he go back home? We advised him not to go home right now. He exploded. "I'm a musician. I played for Serbian weddings. I played for Albanian weddings. What do I care about politics?"

During this time, houses everywhere burned. For example, one or two houses burned down every night in the Aslanova Romani settlement in Prizren. The understaffed teenage German KFOR unit scrambled ineffectually after every latest case of Prizren's combusting minority architecture, as houses burned first here, then there, in around the greater Prizren area, as everywhere in Kosovo. In Aslanova, most people said the perpetrators were from the surrounding Albanian neighborhoods. Martin and I went every morning to document the latest attacks. To get to Aslanova, we took a local taxi from the centre of Prizren. We usually could not manage to get rid of our taxi drivers after arriving. They stayed around to try to listen in on what the victims and witnesses were saying, and to tell us what our opinions should be. This inability of minorities to secure autonomy or privacy to speak, without fear or threat, characterised Kosovo then, as it characterises Kosovo now.

One day we went out to Djakovica/Djakove. On the way, we passed a house just as it went up in flames. We asked the driver to stop the car and went to look. Five Albanian teenagers were in the middle of setting the living room on fire. They were laughing and posed for pictures. "He was a good Serb," they said.

When we got to Djakovica there were men driving around on flatbed trucks brandishing Kalashnikovs proudly. We spent the afternoon taking testimony from the family of Mr. Bekim

Ljalja, a man who had been picked up off the street and had disappeared.² He is dead; to this day he has not returned. We then went to meet a family who, the previous evening, had been relieved of all of their property by a group of armed men who terrorised them for most of the night. Three days later, we met the same family again in Aslanova in Prizren. The armed men had come back in the middle of the night, gang raped one of the women, and told the family they would be killed if they were still there 24 hours later. They were on their way to Italy. The eyes of the brother of the rape victim had become hard, grey and distant. He had been forced to listen to the rape from the next room.



Twenty-seven-year-old Mr Bekim Ljalja with his wife Ilkije Ljalja. Mr Ljalja was kidnapped by the KLA on June 27, 1999, from off the street in Djakovica, southern Kosovo, and according to the most recent information available to the ERRC remains missing and is presumed dead.

The gap between events in Kosovo as they were actually transpiring on the one hand, and the ways in which they were being reported elsewhere on the other, was striking. Italy – a country to which many of the expelled Roma were fleeing – provided a particularly extreme example in this regard. From the beginning of the ethnic cleansing, the Italian media played shamelessly on popular anti-Romani sentiment in Italy. For example, a front-page article in the popular Italian weekly *Panorama* of August 22, 1999, was entitled “Mama, the Gypsies are Coming!” The title-page photograph showed a rusted boat overloaded with Romani refugees from Kosovo. The primary focus of the article was on “difficulties” associated with returning Roma speedily to Montenegro, where the ports from which Kosovo Romani refugees were fleeing were located. Another article, which ran in the daily *Il Sole-24 Ore* of August 31, 1999, expanded on the difficulties of returning Kosovo Romani refugees and emphasised that “the Roma were able to pay the high price of their illegal transportation thanks to the dirty money they received by burying both Serbian and Albanian victims in mass graves.” The daily *Corriere della Sera* went so far as to complain in a headline on July 22, 1999, that “The United Nations is Against Italy” because it was not assisting with the rapid expulsion of Kosovo Romani refugees.

It might be added here that from among the various KFOR commands stationed in Kosovo, the Italians had a particularly bad reputation. It was claimed by many that Italian KFOR, competent for, among other areas, the very nasty situation in Djakovica/Djakove, was actively collaborating with the Kosovo Liberation Army, at minimum by turning a blind eye to the existence named and widely known detention/torture centres. Nothing we saw in Djakovica/Djakove, where there appeared to be no law and order at all, led us to conclude that these allegations might be false.³

² Information on this case, as well as extensive other materials from ERRC field research, were published in *Roma Rights 2/1999*, “Roma in the Kosovo Conflict”, available at: <http://www.errc.org/cikk.php?cikk=800>, as well as in a compilation of ERRC materials on Roma rights in Kosovo for the year 1999, copies of which are available by contacting the ERRC.

³ The reputations of individual KFOR commands are, it must be noted, not necessarily reliable. For example, British KFOR, responsible for, among other areas, Pristina, was widely praised for their professionalism, and it was often observed that decades of engagement in urban areas as a result of



Evacuating “Mrs Jones’s” son – July 1999, outside Prizren.

PHOTO: ERRC

The ethnic cleansing continued throughout Kosovo, more-or-less unchecked, for the next years. It was punctuated from time-to-time by particularly revealing crimes, such as the killing in 2000 of four Ashkali men within 24 hours of returning, within the framework of a voluntary return program, to their homes in the village of Dashevc/Dosevac. For the most part, however, the ethnic cleansing has been maintained through subtler means, such as the destruction by grenade in the middle of the night of the foundations of houses being built for minority returns. No one misinterprets the message of such acts.

Over time, the above matters have been significantly complicated by the actions and inactions

of the United Nations Interim Administration Mission in Kosovo (UNMIK) and the fact of immunity from prosecution – and therefore from true accountability – for members of the administration. These issues are evident in the matters leading to ERRC filing, on September 2 of this year, a request for criminal investigation into the long-term exposure to lead poisoning of hundreds of displaced Roma in the northern Kosovo town of Mitrovica as a result of their placement in camps located in extremely toxic environments, events detailed at length in this issue of Roma Rights. The fact of implication of UN administrators in Kosovo in human rights abuses has complicated the ERRC’s work in Kosovo. Should we criticise the UN, knowing that

the situation in Northern Ireland meant that the British KFOR brought better training and skills to policing Kosovo. However, British KFOR watched during the wholesale destruction and looting by ethnic Albanians of the Romani settlements in Pristina.

this plays into the hands of Albanian nationalists seeking to discredit the UN administration? Will our criticism be misused by forces in the US and elsewhere which wish the UN only ill?

In recent years, nothing has happened. By this I mean that there is an international infrastructure, the staff of which come and go (often burning out fast), time passes, and little changes on the ground. Because the situation in Kosovo is durably bad as a result of the determination of its majority inhabitants to live in an ethnically pure state, the international agencies governing Kosovo took the decision to cease monitoring activities in Kosovo, thus effectively ending the flow of public information on the situation in Kosovo. Having expelled by vicious means the greater part of the minority communities from Kosovo and hounded the remains into an oppressed, self-distorting compliance, the ethnic Albanians now wait for independence, occasionally (when the independence agenda appears to be stagnating) provoking crises such as the March 2004 episode of mass anti-minority violence. The international powers comply. Commitments to ensure the voluntary return of all, in safety and dignity, to place of origin, are not seriously acted upon. Minorities seeking to return to their homes are told quietly by their once and future neighbors, "You can return. But don't even dream of staying."

Meanwhile, time passes. Because time passes, questions arise: six years have elapsed; surely things must be getting better; should it not be time for the Albanians to manage their own affairs?

Because so much time has passed, the West moves to expel the Kosovo Romani refugees. Six years have elapsed; it is time to go home. Surely things must be better there by now. The international governors of Kosovo comply with the wishes of those German officials whose sentiments are guided by the view that "the German people will never accept these Gypsies." In April 2005, UNMIK officials signed a memorandum jointly with the German government, agreeing to the "forced return" of Ashkalia and Egyptians and certain categories of Roma. Other countries follow Germany's lead.

The expellees tend not to stay. They prefer the risks of renewed flight than anything on offer in Kosovo.

There has been no justice in the matter of the ethnic cleansing. Even in the particularly striking crimes – such as the Dashevc killings noted above – perpetrators have not been prosecuted. The authorities claim that no one will talk, and that they have no leads, so they are powerless to act. At the same time, pressure is building on the remaining Ashkali families from Dashevc, currently in camps for the displaced in Kosovo Polje/Fushe Kosove and Plementina/Plementin, to return to Dashevc. No one offers security guarantees, except the same people sheltering the killers, or possibly the killers themselves.

In the absence of any meaningful international commitment to justice for Roma, Ashkalia and Egyptians in Kosovo, the ERRC has attempted to fill a small part of a massive gap by monitoring to the best of our ability, engaging consultants when we could, sending field missions periodically and urging, as a core element of our long-term commitments, that the ethnic cleansing not be permitted to stand. To date, our efforts have secured little, because a system of powers – including a number of Western states, international institutions, and the ethnic Albanian Kosovar authorities – with the firm backing of the Kosovar Albanian public – has thwarted the fundamental right to justice for human rights harms.

It is time for justice for Kosovo. It is time for the perpetrators of the ethnic cleansing to finally reap the consequences of their acts. Kosovo is not seriously prepared for any form of autonomous status until authorities there can demonstrate their commitment to a multi-cultural future for the province by prosecuting those who have persecuted minorities in Kosovo, among them Roma, Ashkalia, Egyptians and Serbs. These are mundane thoughts. They should be self-evident. At present, justice is so far from the agenda of the players concerned that it is hard to imagine that it will ever be delivered.

Seeking Accountability for Gross Human Rights Violations Against the Roma in Kosovo

Yael Fuchs¹

THE NUREMBERG TRIBUNAL is widely regarded as the birthplace of international criminal justice and the beginning of the end of blanket impunity for crimes against humanity and war crimes.² For the Roma of Europe, however, it was another venue in which the atrocities they suffered were marginalised, if not largely ignored. The Tribunal failed to comprehensively address the massive atrocities committed against Roma by the Nazis.³ The group indictment⁴ and various prosecutors' statements did note that "Gypsies" had been victims of

genocide and medical experiments;⁵ however, no Romani witnesses were called, and nobody was called to testify specifically on behalf of the Romani victims. As such, the Tribunal's final judgment is silent as to the Roma,⁶ and no war crimes reparations have ever been paid to the Roma as a people.⁷

The Roma have suffered discrimination and violence for as long as they have been in Europe. Most of the violence has been met with impunity, stemming from a lack of attention to their plight, lack of resources, lack of access to domestic legal

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² The Nuremberg Charter abrogated the act of state doctrine, which had insulated government officials from criminal prosecution in foreign or international courts; it also effectively abolished the defense of superior orders, and rejected domestic law as a defense to an international crime. These "Nuremberg principles" were adopted by the United Nations General Assembly in 1946, and are now generally considered part of customary international law. See Charter of the International Military Tribunal, Aug. 8, 1945, 59 Stat. 1546, 82 U.N.T.S. 284. See also U.N. GAOR, 1st Sess., pt. 2, at 188, U.N. Doc. A/61/Add.1 (1946).

³ The number of Roma deaths in the Holocaust has been estimated at between 220,000 and 500,000. See Sinti and Roma: Victims of the Nazi Era, United States Holocaust Memorial Museum, at: <http://www.ushmm.org/education/resource/roma/RomaSBklt.pdf>.

⁴ International Military Tribunal Indictment No. 1, in *1 Nazi Conspiracy and Aggression*, Office of United States Chief Counsel for Prosecution of Axis Criminality, Washington, DC: Government Printing Office (1946) at 32 (charging that the defendants "conducted deliberate and systematic genocide ... in order to destroy particular races and classes of people and national, racial, or religious groups, particularly Jews, Poles and Gypsies and others.") Available at: <http://www.yale.edu/lawweb/avalon/imt/proc/count3.htm>.

⁵ See, for example, Opening Statement for the Prosecution by Brigadier General Telford Taylor, 9 December 1946, from Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10. Nuremberg, October 1946-April 1949. Washington D.C.: U.S. G.P.O., 1949-1953, at <http://www.ushmm.org/research/doctors/telford.htm>. This was the opening statement in *United States v. Karl Brandt et. al*, "The Medical Case."

⁶ *Nazi Conspiracy and Aggression, Opinion and Judgment*, supra note 4.

⁷ Ian Hancock Genocide of the Roma in the Holocaust. Excerpted from *Encyclopedia of Genocide* (1997) by Israel W. Charny (ed.), reprinted by the Patrion Web Journal, at <http://www.geocities.com/Paris/5121/genocide.htm>. See also Christian Pross, *Paying for the Past: The Struggle over Reparations for Surviving Victims of the Nazi Terror* 52-55 (1998) (describing the political maneuverings around German reparations and the exclusion of many groups for political, social, administrative reasons).

systems, as well as widespread discrimination within those legal systems.

This article discusses the legal merits and practical feasibility of advocating for a crimes against humanity prosecution at the International Criminal Tribunal for the Former Yugoslavia (ICTY), the first international war crimes Tribunal since Nuremberg, in response to violence against Roma⁸ in Kosovo. The author argues that the ICTY Office of the Prosecutor could find sufficient evidence to indict former members of the Kosovo Liberation Army for crimes against humanity based on violence committed against Roma in 1998 and the summer of 1999. Such a prosecution would contribute to ongoing efforts to hold individuals accountable for crimes against Roma and deal with broader patterns of abuse against the Roma.

International criminal justice seeks to meld the goals of domestic criminal justice systems – deterrence and retribution – with broader transitional justice objectives. Tribunals such as the ICTY and the International Criminal Tribunal for Rwanda, along with quasi-judicial institutions such as South Africa’s Truth and Reconciliation Commission, seek not just to punish, but to contribute to national reconciliation, promote the rule of law in regions that were torn apart by violence, and create an accurate historical account of past atrocities.

At the most immediate level, prosecution at the ICTY would serve to punish and hold accountable those responsible for gross violations against Roma. Given the historical lack of redress, a prosecution could also serve a deterrent purpose by signaling that violence against Roma will no longer be tolerated. Prosecution would also establish a historical record of the crimes that occurred during the war, and perhaps serve as the basis for reparations programs or other forms of restitution to the victims of violence.

On a wider scale, prosecution at an international tribunal would make crimes against Roma more widely known, fighting the ongoing problem of invisibility of the Roma in the social, political and legal spheres.

To date, the ICTY Prosecutor has indicted three individuals in connection with crimes against the Roma in Kosovo. The charges against Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj, were filed on March 4, 2005.⁹ The three former Kosovo Liberation Army (KLA) officers were charged with war crimes and crimes against humanity committed against Serb, Albanian and Romani civilians who were perceived to be not supporting the KLA. When the charges were filed, Haradinaj was the Prime Minister of Kosovo. He resigned in February 2005, after the charges were officially announced.

Among other crimes, the indictment accuses the three men of abducting and torturing three Romani men in Pejë/Pec. The Romani men were beaten, cut, had salt rubbed into their wounds, and were then wrapped in barbed wire. They are all missing and presumed dead.¹⁰

This indictment is a watershed in the struggle to combat impunity for crimes against Roma. It is the first time in the tribunal history that individuals were charged specifically with crimes against Roma. Of its thirty-seven counts, eight deal with Romani victims. For the first time, the names of Romani victims are listed in a document of an international tribunal, and the crimes committed against them are described in a public record.

So there is now one indictment on record, but the ICTY’s “exit strategy” may prove an obstacle to further prosecutions. The UN Security Council has instructed the ICTY to complete its work by 2008, and in an effort to comply with this deadline, the Office of the Prosecutor (OTP) announced that it

⁸ This article uses the term “Roma” to refer collectively to a number of groups in Kosovo, including Ashkali, Egyptians, Gorani and others considered “Gypsies” by the ethnic Albanian majority in Kosovo. See Emily Shaw, *Unprotected: Attacks Continue against Kosovo’s Romani Minorities*, ERRC Field Report, 3 Nov 2000, at www.errc.org/rr_nr3_2000/field_report.shtml.

⁹ Case IT-04-84-I, *Prosecutor v. Haradinaj, Balaj, Brahimaj (indictment)* 24 February 2005, at: <http://www.un.org/icty/indictment/english/har-ii050224e.htm>.

¹⁰ *Haradinaj Indictment*, par 64.

will not be taking on any new investigations. Overcoming the exit strategy may entail either convincing the prosecutor to take on a new investigation, or else, assuming that an investigation is ongoing, working to ensure that the OTP follows through on this investigation and issues additional indictments.

As the OTP winds down its work, politics may prove another concern for those pushing for more indictments of Albanians for crimes against Roma. On one hand, the OTP has been sensitive to accusations that its indictments are politically motivated, that is, that the prosecutor issues indictments against Serbs or Albanians in order to achieve a balance of blame, rather than based purely on the merits. As such, additional indictments against Albanians for crimes against Roma, even if viable on the merits, may not fit into the OTP's plan. On the other hand, an overwhelming majority of the indictments to date have been against Serbs, and the OTP wants to counter perceptions that the ICTY is an anti-Serb institution, both for the sake of its legacy, and to ensure continued cooperation with the Serbian government.

The ICTY and its Response to Date

Today, organisations working on behalf of Roma, such as the European Roma Rights Centre, have started to take legal action through domestic and regional courts in the pursuit of accountability. With the ever-increasing interest

in international justice mechanisms and the proliferation and codification of international law addressing crimes against humanity, it is worthwhile to explore the possibilities of additional avenues to complement their efforts. The ICTY provides one such avenue.

The UN Security Council established the ICTY in 1993 by a resolution finding the existence of widespread humanitarian law violations in the former Yugoslavia and directing the creation of the ICTY as a means to contribute to the restoration of peace in the region.¹¹ Its mandate is established in the Statute of the International Tribunal.¹²

Prior to the Haradinaj indictment, there had been no indictments at the ICTY for crimes against Roma in Kosovo. The Chief Prosecutor had announced on March 21, 2001 that her office had opened an investigation into "activities against Serbs and other minorities in Kosovo by unidentified Albanian armed groups from June 1999 until the present...."¹³ Roma were not explicitly named as victims of violence even in this statement, thus underscoring the continued invisibility of crimes against this population.

Half a year earlier, in her address to the Security Council, the Prosecutor did specifically mention crimes against Roma. She acknowledged receiving "passionate pleas to investigate allegations of continuing ethnic cleansing against the remaining Serb and Roma population."¹⁴ Asking the Council

¹¹ *UN Security Council Resolution 827, adopted 25 May 1993. See also <http://www.un.org/icty/glance/index.htm>.*

¹² *Statute of the International Tribunal for the Former Yugoslavia, (adopted 25 May 1993 by Resolution 827) (as amended 13 May 1998 by Resolution 1166, 30 November 2000 by Resolution 1329, 17 May 2002 by Resolution 1411) [hereinafter ICTY Statute].*

¹³ *Press Release, Statement by the Prosecutor, Carla Del Ponte, March 21, 2001. Available at: <http://www.un.org/icty/latest/index.htm>. Since that time, the OTP has issued one indictment against Kosovar Albanians for crimes against humanity and violations of the laws of war involving violence against Serb and Albanian civilians in Lapusknik/Llapushnik Prison Camp of the KLA in the municipality of Glogovac. Glogoc. This indictment covers crimes committed during from May to July 1998, and does not mention minorities as victims. Thus it seems that this indictment is not a result of the investigation announced on March 21, 2001, and it likely that an additional investigation into crimes committed from June 1999 is ongoing. Case IT-03-66-I, Prosecutor v. Limaj, Blala, Musliu, Murtezi, (indictment) 24 January 2003, amended 7 March 2003 at: <http://www.un.org/icty/indictment/english/lim-ai030307e.htm>.*

¹⁴ *Address to the Security Council by Carla Del Ponte, Prosecutor of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, to the UN Security Council, The Hague, JL/P.I.S./542-e., 24 November 2000.*

to modify the Tribunal statute to cover the alleged crimes (see section on the “armed conflict” jurisdiction requirement, below), Del Ponte expressed her office’s belief in the importance of pursuing these allegations:

We must ensure that the Tribunal’s unique chance to bring justice to the populations of the former Yugoslavia does not pass into history as having been flawed and biased in favour of one ethnic group against another. Besides, if we obtain this morally justified and necessary extension of our mandate, the Tribunal might become a deterrent factor against the ongoing ethnic-cleansing campaign in Kosovo.¹⁵

Historically, however, the ICTY has indicated that it did not intend to be “the main investigatory and prosecutorial agency in Kosovo,” and Del Ponte had stated that “[t]he vast majority of crimes committed during the armed conflict will have to be dealt with by the local Kosovo police and judiciary, currently under the mandate of the [UNMIK].”¹⁶ This statement was made before the OTP received information and requests for investigations into the “reverse ethnic cleansing,” and so does not preclude the OTP’s interest in investigating and prosecuting egregious cases of violence against Roma. Still, as will later be discussed, it may be worthwhile to explore the possibility of redress within the Kosovo legal system.

Potential Case at the ICTY for Violence against Roma Minorities in Kosovo

According to Article 1 of the ICTY Statute, the ICTY has the authority “to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 in accordance with the provisions of the present Statute.”¹⁷ When instances of violence against Roma are viewed in the aggregate, rather than as isolated events, it is possible that attacks against Roma in Kosovo rise to the level of crimes against humanity.

Reported Abuses against Roma in Kosovo

During the Kosovo conflicts, both Kosovar Albanians and Serbs targeted the Roma. The worst anti-Romani violence occurred directly after the end of the NATO bombing in June 1999, following the repatriation of ethnic Albanians from refugee camps in neighboring countries.¹⁸ Many Roma fled from Kosovo for fear of violence, and many have not returned.¹⁹

In most accounts, the attacks on Roma have been explained as retribution by Albanians for alleged Romani collaboration in Serb brutalities.²⁰ The Humanitarian Law Center reported that during the

¹⁵ *Ibid.*

¹⁶ *Statement by Carla Del Ponte, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, on the Investigation and Prosecution of Crimes Committed in Kosovo, September 29, 1999.*

¹⁷ *ICTY Statute, Article 5.*

¹⁸ See *Quarterly Journal of the European Roma Rights Centre. Roma in the Kosovo Conflict 2 (1999)* [hereinafter *ERRC, Kosovo Report*], available at: <http://www.errc.org/cikk.php?cikk=800>.

¹⁹ *The population of Roma in Kosovo was estimated at between 6,000 and 7,000 in 1999, compared to 1991 Yugoslav census figures of 30,000 to 40,000. Carlotta Gall, “Kosovo War Over, Gypsies Are Left Amid Vengeful Neighbors”, New York Times, July 11, 1999. See also Human Rights Watch, Abuses Against Serbs and Roma in the New Kosovo 6-7 (August 1999), available at: <http://www.hrw.org/reports/1999/kosov2/> [hereinafter *HRW, New Kosovo*]. Other sources claim that approximately 80,000 of a reported 150,000 of Kosovo Roma have fled. See Marcus Gee, “Kosovo Gypsies Live in Fear of Albanian Revenge”, *The Globe and Mail*, March 23, 2000, at: <http://www.ess.uwe.ac.uk/Kosovo/Kosovo-Closure16.htm>.*

²⁰ *HRW, New Kosovo*, at 5; see also John McIntyre, “Kosovo Gypsies Under Threat,” *BBC News*, 5 July 1999, at news.bbc.co.uk/1/hi/world/europe/386755.stm. Humanitarian Law Center, *Kosovo Roma: Targets of Abuse and Violence (1 December 1999)*, available at: http://www.hlc.org.yu/english/Ethnic_Minorities/Kosovo/index.php?file=177.html [hereinafter *HLC, Kosovo Roma*].

conflict, many Roma were forced to assist Serbian forces: “[t]he Serbian police and local authorities forced Roma civilians, including minors, to bury the bodies of Albanian civilians and KLA members, to dig trenches for the military, and to pillage and destroy ethnic Albanian property.” But the HLC report states that those Roma who did collaborate with the Serbs, either voluntarily or under compulsion, fled Kosovo at the end of the bombing; whereas those that remained “believed they had no reason to fear retaliation by returning ethnic Albanian refuses as they had not taken part in any crimes.”²¹ In other words, chances are that those Roma that remained and faced the harshest retribution were those who did not collaborate. These allegations have perpetuated a long-running cycle of ostracism, violence, fear, and impunity.²²

Several organisations have documented cases against Roma in Kosovo, including the ERRC, the Organisation for Security and Cooperation in Europe (OSCE), the United Nations High Commissioner for Refugees (UNHCR), Human Rights Watch, Amnesty International, regional non-governmental organisations, and international journalists. The documented crimes include killing, expulsion, harassment, intimidation, house-burning, and abduction.²³ The situation was especially grave in the areas of Gjakovë/Đakovica and Fushë Kosovë/Kosovo Polje, where there were larger concentrations of Roma.²⁴

Both the OSCE and Human Rights Watch have concluded that violence against Roma, especially following the end of the NATO bombing, consisted of more than just isolated instances of revenge attacks, but was part of a politically-motivated, systematic effort to “cleanse” Kosovo of non-Albanians and to bolster claims for an independent state:

Criminal gangs or vengeful individuals may have been involved in some incidents since the war. But elements of the KLA are clearly responsible for many of these crimes. The desire for revenge provides a partial explanation, but there is also a clear political goal in many of these attacks: the removal from Kosovo of non-ethnic Albanians in order to better justify an independent state.²⁵

Some of the most egregious documented instances of violence are listed below. This list is in no way comprehensive. The cases listed below are meant to provide the facts to which international humanitarian law may be applied to determine whether prosecution is appropriate.

Killings

✧ The HLC reported that Halil Muzija was killed on June 16, 1999, in Brestvenik village near Pejë/Pec. According to witness statements,

²¹ HLC, *Kosovo Roma. The Haradinaj indictment makes repeated references to “real or perceived forms of collaboration” between Serbs and Roma civilians.*

²² See Amnesty International, *Prisoners in Our Own Homes: Amnesty International’s Concerns for the Human Rights of Minorities in Kosovo/Kosova*. EUR 70/010/2003 (29 April 2003) [hereinafter, *Amnesty, Prisoners*]. (“Their fear is reinforced by continuing impunity for both those who perpetrated violations and abuses of international human rights and humanitarian law during the period of armed conflict, and those responsible for the abuses which have continued since the end of the war.”).

²³ See e.g. ERRC, *Kosovo Report*, supra note 18; Organization for Security and Cooperation in Europe, “As Seen, As Told”, 2nd part, Report by OSCE Mission in Kosovo/Mission for Democratic Institutions and Human Rights, (December 6, 1999) [hereinafter *OSCE, As Seen*]; United Nations High Commissioner for Refugees and the Organisation for Security and Cooperation in Europe, *Preliminary Assessment of the Situation of Ethnic Minorities in Kosovo, July 1999*, available at: <http://www.reliefweb.int/w/rwb.nsf/0/146e11a23ec47c12c1256bfb0037fa4e?OpenDocument>; HRW, *New Kosovo*, supra note 19; Human Rights Watch, *Under Orders: War Crimes in Kosovo* (2001) [hereinafter *HRW, Under Orders*]; Amnesty, *Prisoners*.

²⁴ OSCE/UNHCR, *Preliminary Assessment*, at 2.

²⁵ HRW, *Under Orders*, at 14; OSCE, “As Seen, As Told”, Part 2, at <http://www.osce.org/kosovo/documents/reports/hr/part2/07a-regional-gnjilane.htm>. See infra notes 67-69 and accompanying text.



House in the Aslanova neighbourhood of Prizren, destroyed by arson, July 1999.

PHOTO: ERRC

“several KLA members came to the victim’s home and demanded that he turn over his rifle on pain of death. Though Halil did not possess a firearm, he was nonetheless taken away by the KLA men. ‘The next day, at sunrise, about 5 a.m., Halil’s wife went to look for him. She found his body some 300 meters from the house. There were chains around his neck and it looked to her that he had been tied to a car and dragged behind it. There were bloodstains on the road. He also had three stab wounds.’”²⁶

✧ According to HRW, Roma in Gjakovë/Đakovica reported that Ibish Beqiri, sixty years old, was abducted by unknown assailants in the beginning of July [1999], and his body was later discovered in Gramocel. The ERRC

reports that three Roma from the town of Gjakovë/Đakovica are believed to have been killed in the town since early June [1999].²⁷

Abductions, Detention and Abuse

✧ The HLC reported two instances of torture of Roma by KLA members in Pejë/Pec. The first man escaped from his home, where he was confined after having been severely beaten, and was ultimately taken to the hospital by an Italian KFOR patrol.²⁸

✧ HRW reported testimony from Roma in the Gjakovë/Đakovica camp that eight Roma men had been abducted by men in KLA uniforms in the end of June and July.²⁹

²⁶ HLC, *Kosovo Roma*, at 7.

²⁷ HRW, *New Kosovo*, at 10 (internal citations omitted).

²⁸ HLC, *Kosovo Roma*, at 8.

²⁹ HRW, *New Kosovo*, at 13.

- ✧ On June 18, 1999, German KFOR troops raided a police station in Prizren, which had been occupied by the KLA. It was reported that a total of 15 detainees, including “several Roma” had been held there. “The German officer who led the raid said the victims had told German troops that members of the KLA had detained them for allegedly looting the homes of ethnic Albanians.” German officers took the names of 25 KLA members and turned the members over to the local KLA commander.³⁰
- ✧ HRW also reported the case of a twenty-three year old Romani man, who was beaten and abducted by KLA soldiers on June 21 in the Pristina neighborhood of Vranjevci.³¹

Rape

- ✧ ERRC documented two cases of rape of Romani women by persons in KLA uniform in Gjakovë/Đakovica.³²
- ✧ The HLC also reported the rape and beating of two Romani women – a mother and daughter – by a group of alleged KLA members in Vitina. The daughter reported that after she was raped, the men “said we were to go and not to come back ever.”³³

Destruction of Property

- ✧ In Gnjilane/Gjilan, following the arrival of OSCE, it appeared that a systematic effort was made to force Roma out of their homes by arson attacks, looting and the destruction of property.³⁴

- ✧ HRW reported that “[a]ccording to Roma interviewed in Gjakovë/Đakovica, about thirty Roma homes in the Brekoc neighborhood were burned within three hours on July 12. Men in KLA uniform told them to leave their homes a few days before the burning took place.”³⁵

Applicable Law

This section presents the legal requirements for a crimes against humanity prosecution at the ICTY, and analyzes whether the elements of the crimes would be fulfilled in light of the facts described above. First the jurisdictional requirements are discussed, followed by the chapeau, that is, general, elements of a crime against humanity. Finally, this section explores which specific crimes might have been committed.

Jurisdictional Elements:

The first question is whether the ICTY would have jurisdiction over the abuses committed against Roma discussed above. Article 1 of the ICTY Statute establishes the Tribunal’s general jurisdiction: the ICTY “shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 . . .”³⁶ The other jurisdictional requirements are temporal and territorial jurisdiction, subject-matter jurisdiction, and the requirement of a nexus to armed conflict.

● Temporal and Territorial Jurisdiction

According to Article 8 of the ICTY Statute, the territorial jurisdiction of the ICTY extends to the

³⁰ *Ibid.*, at 11. The incident was also reported by *CBC*, *Reuters*, *Daily Telegraph*, and the *Washington Post*.

³¹ *Ibid.*, at 13.

³² *European Roma Rights Centre*, “Press Statement: The Current Situation of Roma in Kosovo,” July 9, 1999, 1.

³³ *HLC, Kosovo Roma*, at 9.

³⁴ *OSCE*, “As Seen, As Told”, Part 2, at: <http://www.osce.org/kosovo/documents/reports/hr/part2/07a-regional-gnjilane.htm>.

³⁵ *HRW, New Kosovo*, at 16.

³⁶ *Statute of the International Tribunal*, Adopted 25 May 1993 by Resolution 827, as Amended 17 May 2002 by Resolution 1411, Article 1, at: <http://www.un.org/icty/legal/doc/index.htm> [hereinafter *ICTY Statute*].

territory of the former Socialist Federal Republic of Yugoslavia, and the temporal jurisdiction extends “to a period beginning on 1 January 1991,” with no specified end date.³⁷ Thus crimes against Roma in Kosovo that occurred after 1999 would fall under the territorial and temporal jurisdiction of the ICTY.

- Subject Matter Jurisdiction

The subject matter jurisdiction of the ICTY covers grave breaches of the 1949 Geneva Conventions, violations of the laws or customs of war, genocide, and crimes against humanity. Crimes against Roma committed in Kosovo are most likely to fall under Article 5: crimes against humanity. This article states that the ICTY “shall have the power to prosecute persons responsible for crimes committed in armed conflict, whether international or internal in character, and directed against any civilian population,” including, in relevant part, murder, imprisonment, torture, rape, persecutions on racial grounds, and other inhuman acts.³⁸ The chapeau elements of crimes against humanity were most recently set out by the ICTY Appeals Chamber in the case of *Prosecutor v. Kunarac*:

- there must be an “attack”;
- the acts of the accused must be part of the attack;

- the attack must be widespread and systematic; and
- the principal offender must know of the wider context in which his acts occur and know that his acts are part of the attack.³⁹

These elements are discussed below, in Section 2 (Crimes against Humanity: Common Elements).

- Armed Conflict Requirement

It is likely that the Tribunal would find that the final jurisdictional requirement – that there must be a nexus between the crimes and an armed conflict – would be met in the case of the violence against Roma in June 1999.⁴⁰ The ICTY Appeals Chamber has held that “[t]he armed conflict requirement is satisfied by proof that there was an armed conflict; that is all that the Statute requires, and in so doing, it requires more than does customary international law.”⁴¹ Given the flexibility with which the Tribunal has interpreted this requirement, in addition to statements by the Chief Prosecutor asserting jurisdiction, there is a good chance that the Tribunal would maintain that an armed conflict existed during the period in question because of the continuing violence in Kosovo following the end of the NATO bombing.⁴²

³⁷ *Ibid.* Article 8.

³⁸ *Ibid.* Article 5.

³⁹ *Prosecutor v. Kunarac, et al. Case, IT-96-23 & IT-96-23/1-A (Judgment of the Appeals Chamber), (12 June 2002), par. 85.*

⁴⁰ *ICTY Statute, Article 5. See also Prosecutor v. Kunarac, supra note 35, at par. 83-85 (citations omitted) (ruling that the acts need not be closely related to the armed conflict: “the requirement contained in Article 5 of the Statute is a purely jurisdictional prerequisite which is satisfied by proof that there was an armed conflict and that objectively the acts of the accused are linked geographically as well as temporally with the armed conflict.”) This requirement is unique to the ICTY. Customary international law does not impose the armed conflict requirement, and the Rome Statute of the ICC also does not require any relationship between crimes against humanity and armed conflict. In the Tadic case, the ICTY noted that “customary international law may not require a connection between crimes against humanity and any conflict at all.” See Tadic, Case No. IT-94-1-AR72, at par. 141. Tadic, No. IT-94-1-A, P 251 (Int’l Crim. Trib. Former Yugo., App. Chamber, Jul. 15, 1999).*

⁴¹ *Tadic, No. IT-94-1-A, P 251 (Int’l Crim. Trib. Former Yugo., App. Chamber, Jul. 15, 1999). See also Foca Trial Judgement, where the Trial Chamber states that “[t]he requirement that there exists an armed conflict does not necessitate any substantive relationship between the acts of the accused and the armed conflict.”*

⁴² *See Sonja Boelaert-Suominen, The International Criminal Tribunal for the former Yugoslavia and the Kosovo Conflict, International Review of the Red Cross, No. 837,217. (March 31, 2000) (stating*

In Tadic, the ICTY Appeals Chamber ruled that the application of international humanitarian law applies “from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached.”⁴³ The ICTY seems to consider the formal end of hostilities in Kosovo to have taken place on June 20, 1999, by which time all Serbian and Yugoslav security forces had withdrawn from Kosovo.⁴⁴ On June 10, the Security Council passed Resolution 1244, and NATO and the Governments of Serbia and the Federal Republic of Yugoslavia concluded the Military Technical Agreement. On June 12, in accordance with the agreement, NATO strikes stopped, the Yugoslav Army and Serbian police (and paramilitaries) began a phased withdrawal from Kosovo, and KFOR entered the province.⁴⁵ However, as demonstrated by the very violence at issue here, in addition to widespread violence against Serbs in Kosovo, a “general conclusion of peace” had not been achieved by that date.

Additionally, and perhaps more importantly, the Chief Prosecutor has made a series of statements asserting jurisdiction over crimes committed in Kosovo after the NATO bombing. In a press con-

ference on March 21, 2001, the Chief Prosecutor said that “the continuing violence in each area [Kosovo, southern Serbia and Macedonia] does indeed satisfy the legal criteria for the definition of ‘armed conflict’ for the purposes of crimes set out in the statute of the tribunal.”⁴⁶ On October 10, 2003, Del Ponte announced to the Security Council that her office was investigating crimes occurring through 2001.⁴⁷ While Del Ponte’s statements do not carry the force of law, they are a good indication of the Tribunal’s willingness to reject any challenge to its jurisdiction to crimes that occurred in Kosovo beginning in June 1999.

However, it must be noted that these statements indicate a marked reversal from Del Ponte’s original interpretation of the “armed conflict” requirement. In her November 2000 address to the Security Council, Del Ponte requested that the Council modify the Tribunal’s statute to omit the “armed conflict” requirement, stating that “as the Tribunal’s Statute is presently drafted, the requirement that crimes are linked to an armed conflict effectively precludes my Office from dealing with on-going crimes in Kosovo. They lie outside the Tribunal’s jurisdiction.”⁴⁸

that “...there may be some uncertainty as to the precise date of the end of the ‘armed conflict’ in Kosovo. Yet...it would be impossible to prejudge the temporal limits to the Tribunal’s jurisdiction. Its mandate may include crimes committed against individuals or populations after the formal end of hostilities in Kosovo, and even after the armed conflict, as a matter of law, ceased to exist.”)

⁴³ *Tadic, No. IT-94-I, Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction, Par. 70.*

⁴⁴ *Both the Milosovic et. al. and the Pavkovic et. al. indictments for crimes in Kosovo cover the period “beginning on or about 1 January 1999 and continuing until 20 June 1999.” Prosecutor v. Milosovic et al., No. IT-99-37-PT (Second Amended Indictment) 29 October 2001, Prosecutor v. Pavkovic et al., No. IT-03-70 (Initial Indictment) 2 October 2003.*

⁴⁵ *For a more detailed chronology, see HRW, Under Orders, at 453-54.*

⁴⁶ *Press Release, Office of the Prosecutor, 21 March 2001, FH/P.I.S./578e. In a prior press release, the OTP declared that “the ICTY has jurisdiction over all serious violations of international humanitarian law committed in the territory of the former Yugoslavia, including Kosovo, since 1991. This jurisdiction includes offences committed before and after the formal end of the NATO bombing campaign on 20 June 1999.” Press Release, Office of the Prosecutor, 24 July 1999, JL/P.I.S./422-e.*

⁴⁷ *Press Release, Address by Ms. Carla Del Ponte, Chief Prosecutor of the International Criminal Tribunal for the Former Yugoslavia, to the United Nations Security Council. FH/P.I.S./791-e (October 10, 2003), available at: <http://www.un.org/icty/latest/index.htm>. [hereinafter Del Ponte 10/10/03].*

⁴⁸ *Address to the Security Council by Carla Del Ponte, Prosecutor of the International Criminal Tribunals for the Former Yugoslavia and Rwanda, to the UN Security Council, The Hague, JL/P.I.S./542-e., 24 November 2000. See also HRW, Under Orders, supra note 23, at 489, stating that the “withdrawal of Serbian and Yugoslav forces from Kosovo and the cessation of the NATO bombing campaign on June 12, 1999, ended the state of armed conflict in Kosovo.”*

Perhaps in an attempt to avoid a legal battle over this issue, the Haradinaj indictment covers crimes committed between March and September 1998.⁴⁹ To date, no indictments have been issued covering post-June 1999 crimes, so the question remains an open one.

Crimes against Humanity: Common Elements

Again, the criteria listed in the chapeau of the crimes against humanity article are: (i) there must be an “attack”; (ii) the acts of the accused must be part of the attack; (iii) the attack must be directed against any civilian population; (iv) the attack must be widespread or systematic; and (v) the principal offender must know of the wider context in which his acts occur and know that his acts are part of the attack.⁵⁰

- “Attack”

“Attack” is defined as “a course of conduct involving commission of acts of violence.”⁵¹ Also, “the attack in the context of a crime against humanity is not limited to the use of armed force; it encompasses any mistreatment of the civilian population.”⁵² As the Tadic Trial Chamber stated, the expression “directed against any civilian population” ensures that generally, the attack will

not consist of one particular act, but of a course of conduct.”⁵³ The attack can consist of the aggregation of acts in multiple municipalities.⁵⁴

In Kosovo, Roma were subject to widespread discrimination and harassment prior to and during the conflict. Following the conflict, they were targets of harassment, intimidation, beatings, abductions, rapes and killings. The continuous threat to Roma is demonstrated by the fact that the UNHCR has ruled that Roma in Kosovo are in continued danger, and that repatriation of refugees to Kosovo must be on a strictly voluntary basis.⁵⁵ This element overlaps with the requirement that the attack be “systemic or widespread,” and so will be elaborated upon below.

- Nexus of acts and the attack

The alleged criminal acts of the accused must not be isolated, but rather constitute part of the attack.⁵⁶ The Kunarac Trial Chamber held that this nexus consists of: (i) the commission of an act which, by its nature or consequences, is objectively part of the attack; coupled with (ii) knowledge on the part of the accused that there is an attack on the civilian population and that his act is part of the attack, or at least could risk being part of the attack.⁵⁷ This knowledge element,

⁴⁹ *Haradinaj, indictment at par. 14.*

⁵⁰ *Kunarac, Appeals Judgment at par. 85.*

⁵¹ *Prosecutor v. Krnogelac, Case IT-97-25, Judgment 15 March 2002 at par 54, citing Kunarac Trial Judgment, par 415.*

⁵² *Kunarac, Appeals Judgment, at par 86.*

⁵³ *Prosecutor v Tadic, Case IT-94-1-T, Decision on the Form of the Indictment, 14 Nov 1995, par 11.*

⁵⁴ *Kunarac, Trial Judgment, at par. 570 (finding that “there was an extensive attack by the Serb forces targeting the Muslim civilian population in the area The attack encompassed the municipalities of Foca, Gacko and Kalinovik.”)*

⁵⁵ *UNHCR Position on the Continued Protection Needs of Individuals in Kosovo, January 2003, at: <http://www.reliefweb.int/w/rwb.nsf/0/146e11a23ec47c12c1256bfb0037fa4e?OpenDocument>. See also Council of Europe, Forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states, 22 October 2003, at: <http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/cffed5f88cddf63c1256dc800324772?OpenDocument> (noting that the security of Roma in Kosovo cannot be guaranteed), also on file with author.*

⁵⁶ *Krnogelac. at par 55.*

⁵⁷ *Kunarac, Trial Chamber Judgment, at par. 418, 434 (citations omitted).*

coupled with the intent to commit the underlying offense, constitutes the *mens rea* requirement of crimes against humanity. The knowledge requirement, however, does not entail knowledge of the details of the attack.⁵⁸ As to this subjective element, it appears that constructive knowledge, as is, that the perpetrator should have known of the attack, is not sufficient.⁵⁹ However, as the Tadic Appeals Chamber noted, the motives of the accused for taking part in the attack are irrelevant, and a crime against humanity may be committed for purely personal reasons.⁶⁰

Applying this rule to the reported rapes at Gjakovë/Đakovica, for example, the Prosecution would have to prove both that the rapes were part of the attack on the Romani population, as well as the requisite mental element, i.e. that the perpetrators knew of the broader attack on the Romani population. In the Kunarac case, this was proven by evidence of the accused's level of authority, access to both official and anecdotal information, and the extent of his participation in the crimes in question.⁶¹ The attack does not have to be limited to one area, and so the Prosecution could argue that the rapes were objectively part of the attack on Roma that occurred throughout Kosovo. Additionally, since there were numerous acts of violence in Gjakovë/Đakovica, it might be possible to prove that an individual rapist, especially if the perpetrator were a KLA member, knew of the other instances of violence. The Kunarac Court also noted that the accused clearly targeted victims of a particular ethnicity because of their ethnicity, and expressed through physical and verbal aggression, "his view that the rapes against the Muslim women were one of the many ways in which the Serbs could assert their superiority and victory over

the Muslims."⁶² This goes to both the objective and subjective elements. The ethnic-based crime objectively constitutes part of the attack, and any ethnic slurs or other ethnically-based statements could go to show that the perpetrator intended his act to be part of a strategy of intimidation of the Romani population.

- Victims are civilians

The most recent explication of this element was provided by the Krnogelac court, which stated that "[t]he victims of the acts must be civilians and the attack must be directed against a 'civilian population'. . . . The definition of civilian is expansive, including individuals who at one time performed acts of resistance as well as persons hors de combat when the crime is perpetrated."⁶³

In the case of the crimes in question, the Romani targets were members of a civilian population. A defense team may well contest this assertion, lodging the typical justification that Roma collaborated in Serbian atrocities, and are therefore combatants. It would have to be established that the victims in question were not in fact combatants. In the case of a crime being committed against a Romani person proven to have collaborated with Serbian forces, the question remains as to whether forced cooperation makes one a combatant, and if so, whether it would be appropriate to charge the offender with violations of the laws of war.

- Attack must be widespread or systematic

An essential element of proving a case is establishing that the attacks on Roma in Kosovo were not just isolated incidents, but rather part of

⁵⁸ *Kunarac, Trial Chamber Judgment at par. 434 (citations omitted).*

⁵⁹ *See Antonio Cassese, International Criminal Law, Oxford University Press (2003) 82, 172-175. But see Kayishema and Ruzindana Trial Judgment, International Criminal Tribunal for Rwanda, at par. 134 (stating that "actual or constructive knowledge of the broader context of the attack...is necessary to satisfy the requisite mens rea element of the accused.")*

⁶⁰ *Tadic, Appeals, at paras. 248 and 252.*

⁶¹ *Kunarac, Trial Chamber Judgment at paras. 582-83.*

⁶² *Ibid., at 583.*

⁶³ *Krnogelac. at par. 56 (citations omitted).*

a larger pattern. ICTY jurisprudence has made repeatedly clear that the attack must be widespread **or** systematic, rather than widespread **and** systematic. Furthermore, “only the attack, not the individual acts of the accused, must be widespread or systematic.”⁶⁴

As the Krnogelac Trial Chamber explained, “[t]he adjective ‘widespread’ connotes the large-scale nature of the attack and the number of victims, while ‘systematic’ refers to the organized nature of the acts of violence and the improbability of their random occurrence.”⁶⁵ In determining whether the attack was widespread or systematic, the court may engage in “a relative exercise, in that it depends upon the civilian population which, allegedly, was being attacked.”⁶⁶ This is especially important in Kosovo, considering that a large percentage of the Romani population fled for fear of violence.

Again, the UNHCR determination of the ongoing danger facing Roma is indicative of the widespread nature of the attacks, and the number of attacks in a short period of time provides further evidence. Human Rights Watch’s reports suggest that the violence against minorities in Roma was systematic, motivated by the desire to remove non-ethnic Albanians from Kosovo.⁶⁷ Human Rights Watch reported that “[i]n numerous cases, direct and systematic efforts were made to force Serbs and Roma to leave their homes. . . . Roma have been driven from their homes in Pristina

and elsewhere by intimidation and other harassment.”⁶⁸ The OSCE also reported that “[i]n Gnjilane/Gjilan, following the arrival of OSCE, it appeared that a systematic effort was made to force Roma out of their homes by arson attacks, looting and the destruction of property.”⁶⁹

In their report, Human Rights Watch emphasised that they have “no evidence, however, of a coordinated policy to this end of the political or military leadership of the former KLA;”⁷⁰ however, it is important to note that, in ICTY jurisprudence, there exists no requirement of a plan or policy.⁷¹

Elements of Potential Underlying Offenses

The ICTY lists the following crimes as crimes against humanity when they also satisfy the chapeau elements discussed above: (a) murder; (b) extermination; (c) enslavement; (d) deportation; (e) imprisonment; (f) torture; (g) rape; (h) persecution on political, racial and religious grounds; (i) other inhumane acts. Based on the abuses documented, it appears that potential charges might include murder, torture, rape, persecution, and potentially, other inhumane acts.

● Murder

In ICTY jurisprudence, the constituent elements of murder are 1) unlawful conduct which intended to kill another person or to cause this

⁶⁴ *Kunarac*, at par. 96.

⁶⁵ *Krnogelac*, at par. 57.

⁶⁶ *Kunarac*, at par. 95.

⁶⁷ *HRW, Under Orders*, at 454-55.

⁶⁸ *Ibid.*

⁶⁹ OSCE, “As Seen, As Told”, Part 2, (1999), at: <http://www.osce.org/kosovo/documents/reports/hr/part2/07a-regional-gnjilane.htm> (see specifically section (b): Systematic Forced Eviction of Roma from Gnjilane/Gjilan Region).

⁷⁰ *Ibid.*

⁷¹ *Kunarac, Appeal Judgment*, at par. 98 (holding that “[t]his Trial Chamber is satisfied that there is no requirement under customary international law that the acts of the accused person (or of those persons for whose acts he is criminally responsible) be connected to a policy or plan) (citations omitted). *Tadic, Trial Judgment*, at par. 654.

person grievous bodily harm and 2) which was in fact a substantial cause of the death of the victim.⁷² The *mens rea* requirement is the intent to kill or the intent to inflict serious injury in reckless disregard of human life.⁷³

In the case of the killings described above, a successful prosecution may depend largely on the evidence available to identify the perpetrator.

- Rape

The Kunarac Trial Chamber defined the *actus reus* of rape in international law as:

i) the sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) of the mouth of the victim by the penis of the perpetrator; (ii) where such sexual penetration occurs without the consent of the victim... The *mens rea* is the intention to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim.⁷⁴

The Kunarac court emphasised that there is no requirement that the victim resist.⁷⁵ The *mens rea* is the intention to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim.⁷⁶

The Prosecutor could issue an indictment for rape as a crime against humanity in both of

the cases documented above.⁷⁷ Considering the multiple attacks in Đakovica/Đakova, it might be easier to prove the *mens rea* of crime against humanity, i.e. that the perpetrator knew of the attack. The fact that the women in Vitina were told by the alleged KLA members to “go and not to come back ever” would provide proof of the systemic nature of the attack.

- Torture

The Kunarac Appeals Chamber confirmed the Trial Chambers holding that torture, under international law, must contain the following three elements:

i) the infliction, by act or omission, of severe pain or suffering, whether physical or mental;

ii) this act or omission must be intentional;

iii) it must aim at obtaining information or a confession, or at punishing, intimidating, humiliating or coercing the victim or a third person, or at discriminating, on any ground, against the victim or a third person.⁷⁸

In regards to the abuses listed above, the Prosecutor may be able to charge a member or members of the KLA in Pejë/Pec with torture in connection to both the killing of Halil Mizija in Pejë/Pec and the additional instances of torture reported by the HLC. In the case of Mizija, the evidence seemed to show that the victim had been dragged by a car

⁷² *Kupreskic, Trial Judgment, at par. 560. See also Cassese, supra note 59, at 74 (defining murder in international criminal law as intentional killing, whether or not premeditated).*

⁷³ *Ibid., at par. 561.*

⁷⁴ *Kunarac, Trial Judgment, at par. 460. This definition modifies the one put forth by the Furundzija Trial Chamber, which, rather than focusing on the absence of consent as a violation of sexual autonomy, defined rape as occurring “by coercion or force or threat of force against the victim or a third person. Furundzija, Judgment, par. 185.*

⁷⁵ *Kunarac, Appeals, at par. 128.*

⁷⁶ *Kunarac, Appeals, at par. 127.*

⁷⁷ *See supra, notes 7-8 and accompanying text.*

⁷⁸ *Kunarac, Appeal Judgment, at par. 142-48. This finding modified the holding of the Furundzija Trial Appeal Chamber, which included a fourth element, namely the presence of an official or other authority-wielding entity. See Prosecutor v. Anto Furundzija, Case IT-95-17/1, Appeals Judgment, 21 July 2000, par. 111.*

and had been stabbed prior to his death, thus constituting torture. Depending on the circumstances, rape and other forms of sexual assault may also fall within the definition of torture.⁷⁹ The Kunarac Appeals Chamber explained that rape necessarily implies severe pain and suffering. It also stated that the only the act of rape need be intentional, i.e. there is no requirement that the accused intended to cause severe pain and suffering. Furthermore, in the instances of rape discussed above, as in Kunarac, the rapes were committed with the intent to intimidate and discriminate, thus satisfying the third element.⁸⁰ As such, the Prosecutor may also be able to indict for torture the perpetrators of the rapes discussed above.

- Persecution

The Kupreskic Trial Chamber defined persecution as having the following elements:

- i) those elements required for all crimes against humanity under the Statute;
- ii) a gross or blatant denial of a fundamental right reaching the same level of gravity as the other acts prohibited under Article 5;
- iii) discriminatory grounds.⁸¹

In elaborating on the meaning of (ii), that is, in seeking to explain which rights may form the basis

of a persecution charge, the Court explained that persecution can include such acts as those included in Article 5, as well as other discriminatory acts, involving attacks on political, social, and economic rights.⁸² The Court declined to enumerate the applicable rights, but instead defined persecution “as the gross or blatant denial, on discriminatory grounds, of a fundamental right, laid down in international customary or treaty law, reaching the same level of gravity as the other acts prohibited in Article 5.”⁸³ The court also noted that the alleged acts “must not be considered in isolation but examined in their context and weighed for their cumulative effect.”⁸⁴ In Kupreskic, the Court found that the comprehensive destruction of Bosnian Muslim homes and property constituted persecution.⁸⁵

In the case of the attacks against Roma in Kosovo, the systemic destruction of property could provide grounds for an indictment of persecution.⁸⁶ In Kupreskic, the Court found that “[t]he purpose of the attack was to destroy as many Muslim houses as possible, to kill all the men of military age, and thereby prompt all the others to leave the village and move elsewhere.”⁸⁷ Similarly, the destruction of Romani homes throughout Kosovo was intended to intimidate and force the Roma population to leave the vicinity.

As they did in Kupreskic, a defense might argue that “a broad interpretation of persecution would be a violation of the principle of legality (*nullum*

⁷⁹ See *Prosecutor v. Dragan Nikolic, Case No. IT-94-2-R61, Review of the Indictment pursuant to Rule 61 of the rules of Procedure and Evidence, 13 September 1996 (holding that rape and other forms of sexual assault may fall within the definition of torture).*

⁸⁰ *Kunarac, Appeals, at par. 151 (citing Celebici Trial Judgement, paras 480 and following, which quotes in this sense reports and decisions of organs of the UN and regional bodies, in particular, the Inter-American Commission on Human Rights and the European Court of Human Rights, stating that rape may be a form of torture).*

⁸¹ *Prosecutor v. Kupreskic et al., Case IT- IT-95-16, Judgment, 14 January 2000, par. 627. The Court provided a thorough review of the jurisprudence of persecution as a war crime. Ibid. at par. 567-636.*

⁸² *Ibid., at par. 615.*

⁸³ *Ibid. at par. 621.*

⁸⁴ *Ibid. at par. 615.*

⁸⁵ *Ibid. at 630-31.*

⁸⁶ See *supra*, notes 27-28 and accompanying text.

⁸⁷ *Kupreskic, at par. 336.*

crimen sine lege). In that case, the defense argued that “[p]ersecution should be narrowly construed, so as to give guidance as to what acts constitute persecution and to prevent possible abuses of discretion by the Prosecution.”⁸⁸ As discussed above, the Chamber rejected this argument and convicted on the persecution charge, and so it seems that a persecution charge would be feasible.

Conclusion Regarding the Legal Merits

It appears that the legal merits of a crimes against humanity charge for crimes against Roma in Kosovo following the NATO bombing would be strong. The ICTY could find that the jurisdictional and chapeau elements are satisfied. The most controversial and thus important requirement to establish is likely to be the chapeau element that the attack be widespread or systematic. Additionally, the elements of several of the constituent crimes would be satisfied in light of the crimes documented by numerous human rights groups.

Pragmatic Issues: What are the potential political issues that would affect whether the Prosecutor of the ICTY would support such a case?

There are several political factors that could affect whether the ICTY would undertake an investigation of crimes against Roma or prosecution of persons who have committed such crimes.

Evidentiary Problems

The feasibility of bringing a successful case may depend in large part on the state of the available evidence, including the files currently possessed by and obtainable by organizations such as ERRC, Amnesty International, the OSCE, Human Rights

Watch, the Humanitarian Law Center, in addition to local organizations. If the OTP determines that additional investigation is required, finding uncorrupted evidence in the field might prove to be difficult.

ICTY “Exit Strategy”

United Nations Security Council Resolution 1503 called for the ICTY to establish an exit strategy. The Prosecutor was instructed to complete all remaining investigations by 2004, and set the goal of completing all trials by the end of 2008 and all appeals by the end of 2010.⁸⁹

The Chief Prosecutor decided to focus remaining investigations solely on the most senior perpetrators. As such, she announced to the Security Council on October 10, 1993, that her Office plans on completing 13 investigations involving “individuals who held the highest possible levels of responsibility, for very serious crimes committed in the former Yugoslavia, and involving most of the parties to the conflicts spanning from 1991 to 2001.”⁹⁰ Due to confidentiality concerns, it is impossible to find out if any of these 13 investigations involve crimes against the Roma in Kosovo. One noteworthy point is that Del Ponte specifically said that the investigations cover crimes that occurred up until 2001. Given her assertion of jurisdiction over Kosovo following July 12, 1999, and her previous statements,⁹¹ there is some possibility that one of these ongoing investigations may cover crimes against the Roma in Kosovo. Del Ponte indicated that not all of these investigations will necessarily lead to indictments.⁹²

The OTP suspended an additional 17 investigations that were not considered to be “top priority.” Those cases will most likely be referred

⁸⁸ *Ibid.*, at par. 584.

⁸⁹ *Tribunal President Theodor Meron, in his October 10, 2003 address to the UN Security Council, forewarned the Council that the 2008 deadline would, in all likelihood, not be met. Press Release, Address of Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia, to the United Nations Security Council. J.L.P.I.S./790-e. 10 October 2003. Available at: <http://www.un.org/icty/latest/index.htm>.*

⁹⁰ *Del Ponte 10/10/03, supra note 47.*

⁹¹ *See International Response section, supra.*

⁹² *See Del Ponte Press Release, supra at note 52.*

to domestic courts for further investigation and prosecution. In her statement, Del Ponte listed the various national courts to which those investigations would be sent, and none of the cases were to be referred to Kosovo, those suggesting that none of these 17 investigations cover crimes against Roma in that territory.⁹³

Despite the formal exit strategy, it might still be possible to convince the OTP of the importance of investigating and prosecuting individuals for the crimes described herein. Additionally, if a relevant investigation is currently underway, NGOs can work to make sure that it is followed through, and that if the ICTY decides to refer it to the Kosovo courts, it is transferred in an effective and responsible way as to ensure completion.

Witness Protection Fears

As is the case for all prosecutions at the ICTY, witness' fears of reprisal attacks may hamper successful prosecutions. There have been reports of alleged reprisal attacks in connection with testimony given against former KLA members in Kosovo courts, and the same fears that keep many from testifying in those local courts may keep witnesses away from the ICTY.⁹⁴

At the same time, the ICTY seems far better equipped to deal with witness protection issues than the Kosovo courts. The ICTY has taken on an obligation of providing protection for victims and witnesses.⁹⁵ The ICTY Rules of Evidence and Procedure create a Victims and Witnesses Unit, which is charged with: "(i) recommend[ing] protective measures for victims and witnesses in

accordance with Article 22 of the Statute; and (ii) provid[ing] counseling and support for them, in particular in cases of rape and sexual assault."⁹⁶ Rule 75 of the Rules of Procedure and Evidence provides that a Judge or Chamber may "order appropriate measures for the privacy and protection of victims and witnesses," including:

- ✧ expunging names and identifying information from the Tribunal's public records;
- ✧ non-disclosure to the public of any records identifying the victim;
- ✧ giving of testimony through image- or voice-altering devices or closed circuit television; and
- ✧ assignment of a pseudonym; [or]
- ✧ closed sessions...; [or]
- ✧ appropriate measures to facilitate the testimony of vulnerable victims and witnesses, such as one-way closed circuit television.⁹⁷

Either tribunal personnel or NGO representatives would have to ensure that potential witnesses are aware of and seek the available protections. Otherwise, witness protection fears may seriously impeded a successful prosecution.

Conclusion

The Office of the Prosecutor could find sufficient evidence to indict former members of

⁹³ *Ibid.*

⁹⁴ See Emily Shaw, *Unprotected: Attacks Continue Against Kosovo's Romani Minorities*. European Roma Rights Center field report, (2000), at: www.errc.org/rr_nr3_2000/field_report.shtml (reporting that many attacks against Roma in Kosovo go unreported for fear of reprisal attacks; OSCE and UNHCR, *Tenth Assessment of the Situation of Ethnic Minorities in Kosovo 13*, March 2003; ABA/CEELI, *Significant Legal Developments in Kosovo, May 2003*, at: <http://www.abanet.org/ceeli/countries/kosovo/may2003.html>).

⁹⁵ Art 22 of the ICTY statute states that the Tribunal shall... provide for the protection of victims and witnesses." (emphasis added).

⁹⁶ ICTY Rules of Procedure and Evidence, Part 3, Section 5, Rule 34, adopted 11 Feb 1994, last amended 17 July 2003, available at: <http://www.un.org/icty/legaldoc/index.htm>.

⁹⁷ ICTY Rules of Procedure and Evidence, Rule 75.

the Kosovo Liberation Army for crimes against humanity based on violence committed against Roma in summer 1999. Based on press statements and reports, it appears that the OTP has already launched an investigation into crimes against Roma in Kosovo, but it is unclear as to whether this investigation is ongoing, and whether it will result in an indictment. Considering confidentiality concerns, it would be very difficult for an organization such as the ERRC to determine whether an investigation is ongoing, or whether the OTP initiated an investigation and later dropped it. Based on the ICTY's exit strategy, it does not seem that the OTP would be willing or perhaps even able to initiate any new investigations.

Regarding future action, the ERRC may want to try to determine if an investigation is ongoing at the ICTY, and if the ERRC may have additional evidence or information that would assist the OTP. Additionally, the ERRC, through its contacts in Kosovo, might be able to encourage individuals to cooperate with investigators.

It would be useful to monitor the current state of prosecutions in Kosovo, and to push for a case to be brought before one of the special panels of international judges. The ERRC might be able to lobby for increased witness and victim protection provisions, and better implementation of existing provisions within the Kosovo judiciary.

The ERRC may also want to consider additional avenues within the international criminal justice system, including the International Criminal Court (ICC). The ICC has jurisdiction over war crimes, crimes against humanity, and genocide occurring after July 1, 2002, the date the ICC statute entered into force.⁹⁸

End note by Dianne Post, ERRC Legal Director

A further forum in which to pursue crimes committed against the Roma in Kosovo is before

the International Criminal Court ("ICC"). Many of the alleged crimes took place after the U.N. took over operation of Kosovo. Although it is admittedly a legally difficult argument, U.N. officials may be brought before the ICC pursuant to Article 27 of the Rome Statute of the ICC and Article 19 of the Negotiated Relationship Agreement between the International Criminal Court and the United Nations ("Negotiated Agreement"). Article 27 of the ICC statute requires that immunities do not apply and Article 19 of the Negotiated Agreement requires that the U.N. undertake all measures necessary to cooperate with the ICC, including waiving any privileges and immunities.

An action against U.N. officials in the case of the Roma may come under the rubric of "crimes against humanity," in accordance with Article 7 of the ICC Treaty. Section 1(h) requires the ICC to adjudicate cases involving "persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender."⁹⁹ In the case of the Roma, there is evidence to indicate that, while other groups in Kosovo have been removed from areas of suspected health emergencies, the Roma have not.

For those actions that took place before the U.N. took over management of Kosovo, Kosovo's current legal limbo makes it impossible to sue either Serbia or Albania. When status is determined, actions could be requested against the respective countries.

Another possible remedy for crimes against humanity could lie in the International Court of Justice in connection with pending cases. Bosnia & Herzegovina filed an "Application of the Convention on the Prevention and Punishment of the Crime of Genocide" against Serbia and Montenegro to the International Court of Justice on 20 March 1993. Croatia filed under the same Convention against the same parties on 2 July 1999. Both cases ask for Serbia and Montenegro to be held accountable under the

⁹⁸ See generally <http://www.icc-cpi.int/php/show.php?id=history>.

⁹⁹ Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9*, Art. 7, para 1(h).

Convention during the Balkan wars. The hearing on the claim by Bosnia & Herzegovina is set to begin on 27 February 2006. Neither claim mentions Roma but if evidence could be provided that they were specifically targeted, they could seek, through the attorneys for the respective countries, to be included in the actions.

Links to Selected Documents

Statute of the ICTY: <http://www.un.org/icty/basic/statut/stat2000.htm>.

Amnesty International, Prisoners in our own Homes: Amnesty International's Concerns for the Human Rights of Minorities in Kosovo/Kosova. EUR 70/010/2003 (29 April 2003): <http://web.amnesty.org/library/index/engneur700102003>.

European Roma Rights Centre links to its publications on Roma in the Kosovo Crisis: <http://www.errc.org/publications/indices/kosovo.shtml>.

Human Rights Watch, Under Orders: War Crimes in Kosovo (2001): <http://www.hrw.org/reports/2001/kosovo>.

Human Rights Watch, Abuses Against Serbs and Roma in the New Kosovo (August 1999): <http://www.hrw.org/reports/1999/kosov2>.

Humanitarian Law Center, Kosovo Roma: Targets of Abuse and Violence (1 December 1999): http://www.hlc.org.yu/english/Ethnic_Minorities/Kosovo/index.php?file=177.html.

Implementation of the Anti-discrimination Law in Kosovo: A Plan in Need of Execution

By Gregory Fabian¹

Introduction

In March 2003, the Office of the Prime Minister of the Government of Kosovo committed itself to the promulgation of a comprehensive anti-discrimination law by forming a Drafting Group of legal experts from Kosovo, organized by the Office of Legal Support Services within the Office of the Prime Minister. The Drafting Group was assisted in its work by representatives of the Human Rights Department of the OSCE Mission in Kosovo (OMiK) and the Advisory Office on Good Governance within the Office of the Prime Minister, with the support of the Office for Returns and Communities and the Office of the Legal Advisor to the SRSG within the United Nations Interim Mission to Kosovo (UNMIK).

The Group set out to draft an anti-discrimination law which would conform to European Union standards, in compliance with Section 5.7 of the Constitutional Framework of Kosovo which requires that “The Provisional Institutions of Self-Government shall be responsible for aligning their legislation and practices in all areas of responsibility with relevant European and international standards and norms, with a particular view to facilitating closer economic, social, and other ties between the people of Kosovo and other Europeans, and in awareness of that respect for such standards and norms will be central for the development of relations with the Euro-Atlantic community.”

The draft anti-discrimination law which was produced served three basic functions. First, it consolidated and strengthened existing law on discrimination by conforming it to international and European anti-discrimination laws and standards. Second, it promoted uniformity in the adjudication of a variety of forms of discrimination, including equality in the field of employment, in access to social and public services, education, housing, social security, supplies of goods and services, housing, etc. for a variety of vulnerable groups including ethnic, religious and linguistic minorities, women and children, the mentally and physically disabled, internally-displaced persons, etc. Finally, it provided effective legal remedies for victims of most forms of discrimination, and effective, proportionate, and dissuasive sanctions to address violations.

Enactment of the Anti-discrimination Law

On 19 September 2004 the Anti-discrimination Law as adopted by the Assembly of Kosovo

(ADL) entered into force after its promulgation by the Special Representative to the Secretary General on 20 August 2004.² The ADL substantially complies with the European Union’s Council Directive 2000/43/EC of 29 June 2000 implementing

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² United Nations Interim Administrative Mission in Kosovo (UNMIK) Regulation No. 2004/32 of 20 August 2004 On the Promulgation of the Anti discrimination Law adopted by the Assembly of Kosovo.

the principle of equal treatment between persons irrespective of racial or ethnic origin (RED), and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation prohibiting discrimination on the grounds of religion or belief, disability, age or sexual orientation (FED).

The Kosovo Government, though, has significantly expanded the scope of the ADL from the protection afforded in the RED and FED. For example, while the RED prohibits direct or indirect discrimination based on racial or ethnic origin, Article 2 of the ADL prohibits direct or indirect discrimination based on any ground. Second, while the RED is limited in the scope of the rights which are protected, Article 4 of the ADL prohibits direct or indirect discrimination in access to and enjoyment of any right set forth by law.

In particular, certain additional rights specified under Article 4 which are particularly important to the Roma, Ashkali and Egyptian communities in Kosovo include fair treatment before tribunals and all other organs administering justice, personal security, participation in public affairs including the right to vote and be voted for, and access to public places.

The ADL is also unique in two aspects which, while they are important for all persons, will be particularly important for the Roma, Ashkali and Egyptian communities in Kosovo. First, the ADL provides that segregation as defined in Article 3(f) shall be deemed to be discrimination in violation of the principle of equal treatment as defined in Article 2(a). Second the ADL provides in Article 9.4 that all monies collected through the imposition of penalties on those who have violated the Law shall be placed in a fund for the purposes of supplying free legal assistance to any natural or legal person whose right to equal treatment is violated.

The Status of Implementation Measures

On 8 December 2004, the Office of the Prime Minister and OSCE Mission in Kosovo Human Rights Department Non-discrimination Section conducted an Anti-discrimination Law Workshop

in which government representatives, members of civil society, and members of the international community participated. The Workshop was conducted by the Office of the Prime Minister as a measure of compliance with Article 13.2 of the ADL which requires that the Government conduct a public awareness programme with regard to the ADL. The Workshop also received electronic and print media coverage within Kosovo.

The Workshop was aimed at identifying the needs for creation of relevant by-laws required for an effective implementation of the ADL in Kosovo as stipulated in Article 12.3 of ADL.

In addition to plenary sessions, the Workshop included Working Group Sessions in which the participants provided recommendations on the following subjects:

Working Group 1 – Responsible Actors for Implementation of ADL and Future Steps Advisory Office on Good Governance of the Office of the Prime Minister (AOGG), OSCE and Office of the High Commissioner for Human Rights in Kosovo, moderators

Working Group 2 – Procedure of Claims for Discrimination Cases Office of the Prime Minister and OSCE, co- moderators

Working Group 3 – Strategies on information campaigns for promotion of the ADL Council for the Defense of Human Rights and Freedoms (Kosovan NGO) and OSCE, co-moderators.

Seminar on the Kosovo Anti – discrimination Law for Judges and Lawyers

On 7 and 8 February 2005, the Kosovo Judicial Institute in collaboration with the OSCE Mission in Kosovo Human Rights and Democratisation Departments sponsored a seminar on the Kosovo Anti discrimination Law for Kosovan judges and lawyers. The presenters included a Judge from the Bulgarian Court of Cassation who spoke about the challenges to implementing the new comprehensive anti-discrimination law in Bulgaria which is based upon the RED. The seminar

included group work by the participants on case studies to illustrate the application of various provisions of the ADL to fact patterns.³

Among the materials distributed to the participants was a document entitled “Handbook on Recognising Discrimination under the Kosovo Antidiscrimination Law.” The Handbook, while it is targeted at the general public, was well received for its general information value by the participating judges and lawyers. It was authored by Jean Garland, former Legal Director at the ERRC, who was hired as a consultant by the OSCE Mission in Kosovo’s Democratisation Department to draft the Handbook.

Governmental Caveat on ADL Workshop Recommendations

The Government of Kosovo has stipulated that due to the complexity of recommendations which the Working Groups in the ADL Workshop produced, the necessary level of involvement of governmental actors, and budget implications, the following recommendations shall be approved by the Office of the Prime Minister prior to implementation:

General Recommendations (All Groups) regarding ADL Implementation

General Recommendations from all Working Groups were as follows:

1. An Anti-discrimination Law Implementation Working Group should be established and should meet at least once every two weeks in order to develop a Comprehensive Implementation Plan (CIP) which would implement the following recommendations, and take other measures to implement the ADL as needed. Most importantly, the Working Group should coordinate the efforts of all actors in the implementation process.
2. The structure of the CIP cannot be monolithic. Working Group members should represent and

serve as focal points for all parts of society to ensure comprehensive implementation. For example focal points should be established among governmental actors representing various aspects of the executive, legislative and judicial branches, b. members of civil society; c. representatives of the private sector; d. members of Kosovo’s various ethnic communities, e. labor unions, and f. any other interested parties.

3. It will be necessary to create a framework which coordinates all possible means available to claimants to enforce the ADL e.g. the courts, any available mediation services, Communities and Mediation Committees, free legal services offered by NGOs, legal aid services in general, etc.
4. The unit within the AOGG, which would lead the implementation of the ADL workshop recommendations, should be strengthened with additional human resources to enable an effective accomplishment of the recommendations.

Specific Recommendations of Each Working Group

Working Group 1 - Responsible actors for implementation of ADL and future steps

The following groups were considered to be key actors in the ADL implementation process:

1. Department of Justice (DOJ) – the DOJ is conducting a review of the implications of the ADL and its effect on the justice system. Its proposed Civil Rights Unit will serve a prosecutorial function and will primarily be concerned with discrimination claims regarding civil and political rights but claims regarding economic and social rights also could be a focus of its work (to be determined).
2. Administrative bodies – there will be a training requirement for appropriate representatives of municipal departments and ministries who will be in charge of the implementation of the ADL

³ *At the invitation of the organizers, the author participated as a presenter and a working group moderator at both the Anti-discrimination Law Workshop and the Seminar on the Kosovo Anti-discrimination Law.*

- within the policies and procedures of all levels of government. Training should stress the practical application of the provisions of the ADL to complaints filed by a. governmental employees and b. users of public services (i.e. the general public).
3. Judicial bodies – The judiciary will be a primary actor in the implementation of the ADL. Its importance in ensuring that the enforcement mechanisms within the ADL are accessible to all people in Kosovo cannot be overstated. In turn, training of the judiciary as to how to apply the ADL within the legal system in Kosovo will be essential. (See also recommendation on the Kosovo Judicial Institute below).
 4. The appropriate branches of government within the Provisional Institutions for Self-Government (PISG) shall have multiple responsibilities in the implementation of the ADL including but not limited to: a. ensuring that judicial and/or administrative procedures are available and that rules on sanctions are laid down, b. ensuring that organisations can institute or support actions on behalf of a claimant or claimants with their consent, and by protecting persons against victimization, c. taking measures to share the burden of proof, e.g. developing means to establish direct and indirect discrimination such as situation testing, scientific studies, and samples, d. disseminating information on existing antidiscrimination law and providing training to civil servants on the ADL, e. developing specialised bodies for the promotion of equal treatment, f. establishing policy and procedures to provide for positive action in the case of vulnerable or disadvantaged groups, g. establishing a dialogue among stakeholders (e.g. social partners, NGOs, the two sides of industry, etc) in order to foster equal treatment. h. the abolishment of provisions contrary to the principle of equal treatment in existing legislation, rules governing profit-making and non-profit-making associations, collective agreements, contracts, etc.⁴
 5. NGOs under Article 7.6 of ADL can institute or support legal actions on behalf of a claimant or claimants for the enforcement of obligations under the ADL. Further they will serve an importance function in disseminating information to rights holders regarding the protections that the ADL affords. They also can form a partnership with government (while maintaining their independence) to implement and enforce the ADL.
 6. While it does not provide free legal services, the Ombudsperson Institution will serve an important function in investigating claims of discrimination, gathering information to identify systemic discrimination, and in the performance of other parts of its mandate in order to implement and enforce the ADL.
 7. The Kosovo Judicial Institute will be a key player in providing training to judges and lawyers on the application of the ADL to claims of discrimination. Additionally, it can play a key role in coordinating and standardizing any training activities sponsored by other international agencies or professional organizations within the legal community, e.g. the Kosovo Chamber of Advocates.
 8. The Kosovo Chamber of Advocates will also play a key role in facilitating and/or providing continuing legal education to lawyers on the application of the ADL in terms of both its substantive and procedural provisions.

Working Group 2 - Procedure of claims for discrimination cases

1. According to members of the legal community who were in attendance, administrative procedures under the applicable law are in place and will facilitate the adjudication of claims of discrimination under the Anti-discrimination Law (ADL) made against public actors. The procedure for the adjudication of claims against private actors, though, in the private

⁴ See Jan Niessen, *Making the Law Work: The Enforcement and Implementation of Anti-discrimination Legislation*, paper presented at the Danish EU Presidency Conference on the Implementation of the Antidiscrimination Directives into National Law, Copenhagen, 14-15 November 2002.

- sector must be resolved. A thorough evaluation of procedures for both civil and criminal cases must be undertaken to determine they are effective in allowing for the application of the provisions of the ADL to complaints of discrimination.
2. Judges and lawyers must be trained as to the application of the ADL and particularly on the jurisprudence of the European Court of Justice and its application to complaints of discrimination, as well as other international and domestic anti-discrimination legal provisions.
 3. A needs assessment must be done in order to determine the nature and scope of training for judges and lawyers. It was noted that there is a particular need to train newly appointed judges. KJI should spearhead the effort in association with international agencies such as Department of Justice, OHCHR, etc.
 4. All relevant actors who are involved in the implementation of the ADL must draw up an implementation plan which coordinates the role of all players. Further, the Office of the Prime Minister should spearhead this effort, and international agencies and members of civil society should also participate in the implementation plan.
 5. Once a strategic implementation plan is drawn up a budget should be established to support it and the budget should be established as a line item within the Kosovo Consolidated Budget.
 6. The issue of whether specialised regional tribunals are needed to hear claims of discrimination as opposed to their adjudication in the ordinary courts must be resolved. The representatives of the legal community in Kosovo believed the ordinary courts would suffice while the representatives of the Department of Justice believed such tribunals should be considered. It was a concern that given the comprehensive nature of the ADL, the potential number of discrimination cases and the number of persons from the courts and the legal community involved in its implementation should be considered before making any decision on this matter.
 7. A policy framework for first and second instance bodies who will decide on discrimination claims (e.g. representatives of municipal departments and ministries who will decide on claims) must be developed so that all governmental policies and procedures will be ADL-compliant and the representatives must be trained as how to apply the ADL in their decisions on claims.
 8. Legal commentaries will have to be drafted by scholars within the judiciary and the legal community as a whole in order to clarify and amplify both the substantive and procedural aspects of the ADL provisions within the Kosovo legal system. For example, a commentary should be written to clarify what constitutes “facts from which it may be presumed that there has been direct or indirect discrimination” under Article 8.1 re: the shifting of the burden of proof.
 9. **Re: Bodies for the Promotion of Equal Treatment** The potential list of bodies that may receive, investigate or otherwise deal with discrimination complaints must be established. Further while the concept of an Equal Treatment Center was eliminated from the final draft of the ADL, a comprehensive framework must be established to coordinate the work of all bodies who may be involved to any extent in the resolution of complaints of discrimination such as courts, mediation bodies, Communities Committees, the Ombudsperson Institution, etc.
 10. A comprehensive list of functions which must be performed by bodies who promote equal treatment must be drawn up (e.g. providing free legal assistance, mediation services, etc.) and a framework must be established to determine their inter-relationship.
 11. The proposed Civil Rights Unit within the Department of Justice can provide access to justice for vulnerable groups. The Unit would serve a prosecutorial function regarding claims of discrimination.
 12. Policy guidelines for the formation of specialised bodies to promote equal treatment should be employed in order to formulate a cohesive

framework for such bodies which serves to coordinate their individual functions. ECRI's General Policy Recommendation No. 2 – specialised bodies to combat racism, xenophobia, anti-Semitism and intolerance at national level as well as various publications which summarise country practices coordinating the work of such specialized bodies.⁵

Working Group 3 – Strategies on information campaigns for promotion of ADL

1. The overall information strategy for promotion of the ADL should be drafted. The strategy should include, but not be limited to, the following recommendations.
2. All of the persons within the public institutions responsible for the implementation and enforcement of the ADL shall be identified and trained. Due to a large number of persons targeted with the training, the training of trainers from relevant institutions should be organized. As a result, the trainers shall conduct the training in their respective institutions.
3. The Information Coordination Body (ICB) responsible for coordination of all the ADL public information efforts should be created. This Body could be a part of the bodies mentioned in the recommendations of the Working Group 2. The ICB as a central institution should have its representation at the municipal level. Both central and municipal ICBs could be composed from civil servants and members of civil society.
4. The information campaign shall be carried out using all existing media in Kosovo (TVs, radios, newspapers) at the central and local levels. Additionally, it should also include series of debates, seminars, roundtables, lectures and cultural activities at central and local levels conducted by public institutions and civil society.
5. Therefore, there is a need for the production of professional TV and radio spots on the ADL. Also, the ADL should be published and the ADL manual, explaining how to use the ADL to fight discrimination, should be created. Furthermore, the information posters and leaflets should be produced and disseminated throughout Kosovo. The worth of consideration is the creation of a web page devoted for the ADL. This website could be a sub-site of the OPM website and it could include the ADL in all available languages, promotion materials and information on the events connected to the ADL information campaign.
6. The Ministry of Education, Science and Technology should include the Nondiscrimination issues into the educational curricula.
7. All information materials should be produced in all languages spoken in Kosovo, including the sign languages and the Braille's alphabet. The materials should be adjusted for the particular target groups. Also, special attention shall be paid to target the private sector.
8. The budget for above activities shall be identified and allocated.
9. Civil society, including the youth groups, should be involved at each stage of the information campaign.

Conclusion

In May 2005, the OMiK Human Rights Department's Non-discrimination Section drafted a document entitled "Anti-discrimination Law Comprehensive Implementation Action Plan." The Government's execution of such a plan will be crucial to the successful implementation of the ADL.

As of the time of the drafting of this article, the Office of the Prime Minister is working on a draft Administrative Instruction to provide a structure for implementation of the Anti-discrimination Law. The Instruction is intended to provide practical rules, and physical facilities for dealing with

⁵ See for example, PBLs Ramboll Management, *Specialised bodies to promote equality and/or combat discrimination, Final Report, Executive Summary, May 2002, www.pls-ramboll.com*. This paper was drawn up on behalf of the European Commission.

discrimination complaints, to provide independent legal assistance during case review, to collect information and create independent surveys regarding discrimination, to publish independent reports and provide recommendations on any matter related to discrimination, and generally to provide protection for any complainant regarding any form of discrimination.

The Anti-discrimination Law in Kosovo is, in a *de jure* sense, probably one of the most progressive anti-discrimination laws in Europe if not the world, and the Government and the Assembly of Kosovo should be recognized for their accomplishments. But promulgation of the Law is only one of three steps which the Government must take in the process of promoting equality and combating discrimination. The other two steps are first of all to inform the people of the availability of the ADL as a tool to protect them against discrimination and to empower them to use it, and secondly to empower the judiciary and the legal community as a whole to use the law on behalf of the people they serve.

Further, it is essential that the principle of equal treatment is imbedded in the policies and procedures of all branches of government, and that the ADL protections are made available to both employees and beneficiaries of all branches of government. These steps require the government to provide information and training

on the ADL to both rights-holders in society and duty-bearers in government.

To date, there have been no cases adjudicated under the ADL despite its entry into force on 19 September 2004. This is a serious concern, particularly considering the daily discrimination suffered by members of vulnerable and disadvantaged groups such as the Roma, Ashkaelia, and Egyptian Communities in Kosovo and others.

The implementation of the ADL provides an important opportunity for the Government of Kosovo to demonstrate its democratic development and its ability to govern. More importantly, it provides the people of Kosovo with a most effective *de jure* remedy to protect them against discrimination in all its forms. But ultimately the Government will be judged by two indicators regarding the ADL, the extent to which the government implements it, and the extent to which all people and especially those who are most vulnerable are able to avail themselves of its protections.

Thus the Government of Kosovo will not be judged by the quality of the ADL in a *de jure* sense and its plan for implementing it. Rather it will be judged by the extent to which the plan is executed and the extent to which the ADL becomes an effective remedy in a *de facto* sense for all in Kosovo, and especially for those who are most vulnerable, such as members of the Roma, Ashkali and Egyptian communities.



In the Aftermath of Ethnic Cleansing: Continued Persecution of Roma, Ashkalis, Egyptians and Others Perceived as “Gypsies” in Kosovo

Memorandum of the European Roma Rights Centre

The memorandum following below was presented at a hearing at the European Parliament on 27 June 2005. The hearing was organised by MEPs Kallenbach and deGroen.

Introduction

Six years ago, after the end of the NATO bombing of former Yugoslavia, Roma Ashkalis, Egyptians and others regarded as “Gypsies” (“RAE”) were violently cleansed from their homes in Kosovo by means of arson, mass destruction of houses, killings and rape. Today, persecution of the members of these communities continues, manifested in their systematic exclusion from access to fundamental human rights. Racial discrimination against RAE communities in Kosovo is pervasive, depriving tens of thousands from even a bare minimum of dignity. Anti-Gypsy sentiment among the majority is widespread, ranging from assaults on RAE individuals to verbal abuse and dissemination of defamatory images, including images stigmatising RAE as perpetrators of crimes against Albanians, in the media.

Living in an atmosphere of persistent threats to their security, unprotected against massive exclusion from jobs and denial of access to income sources, exposed to extremely substandard and hazardous living conditions; marginalised in the public sphere, the RAE communities today experience levels of oppression which render the necessity of providing them with international protection unquestionable. Oppression of RAE is further aggravated by failure of the United Nations administration to bring to justice the perpetrators of even the most egregious crimes committed against RAE since June 1999.

A brief summary of some particularly extreme issues facing Roma, Ashkalis, Egyptians and others considered as “Gypsies” in Kosovo follows:

Failure to Provide Just Remedy for Gross Violations of Fundamental Human Rights: RAE are denied the right to compensation for the violent crimes committed against them immediately after the end of the NATO bombing in June 1999 and the following years. In the course of the ethnic cleansing campaign, ethnic Albanians kidnapped and severely physically abused and in some cases killed Roma, Ashkalis and Egyptians; raped women in the presence of family members; and seized, looted or destroyed property en masse. Whole Romani settlements were burned to the ground by ethnic Albanians, in many cases while NATO troops looked on.¹ In the following years numerous RAE returnees were targeted for violent assaults such as the brutal killing of four Ashkali returnees in Dashevc/Doševac in November 2000, the numerous explosions causing deaths and destruction of newly rebuilt houses for returnees. The perpetrators of these crimes have not been brought to justice to date. The ethnic cleansing of the RAE remains totally unremedied.

¹ Detailed documentation of the crimes committed against Roma, Ashkalis and Egyptians in that period is available from: http://www.errc.org/Archivum_index.php.

Continuing Violence, Intimidation, and Harassment: After several years during which UN officials and others assured the public that the worst violence in Kosovo was over; after Germany, Italy, Sweden and other states, considering Kosovo to be safe, terminated the international protection of many RAE and started their forceful repatriation to Kosovo, the renewal of mass violence against minorities in Kosovo in March 2004, demonstrated that forces in Kosovo intent on expelling non-Albanian minorities continue to control the course of events. Several hundreds of Roma and Ashkalis were targeted for violent attacks; at least 75 houses belonging to Romani and Ashkali families were set on fire. In Vushtrri/Vucitrn alone, some 70 houses belonging to Ashkalis were burned and destroyed.

Roma, Ashkalis, Egyptians and others considered as “Gypsies” in Kosovo today live in a state of pervasive fear, nourished by routine intimidation and verbal harassment, as well as by occasional racist assaults by Kosovo Albanians. Most of these incidents remain unreported to the authorities due to lack of trust and fear of retaliation, reinforced and affirmed by the awareness among RAE that there has been no justice delivered in connection with the massive wave of violent crimes committed against them, and indeed that the persons primarily responsible for these crimes are the new powers in Kosovo.

A Vacuum of Protection against Discrimination: Roma, Ashkalis, Egyptians and others considered as “Gypsies” in Kosovo are subjected to exclusion and marginalisation as a result of systematic racial discrimination. RAE remain the only communities which still live in camps for internally displaced in inhuman conditions; levels of unemployment and impoverishment among them are grossly disproportionate compared to the rest of the Kosovo population; housing conditions are markedly inferior; access to social and public services is seriously restricted. The impact of racial discrimination against RAE is particularly visible in the exercise of:

- ❖ *The Right to Return in Safety and Dignity:* Numerous Roma, Ashkalis and Egyptians remain in internal displacement throughout Kosovo and outside Kosovo unable to return due to fear for their security; due to failure of the authorities to rebuild their houses and ensure other necessary conditions for a dignified return; due to failure of the authorities to ensure that the legal owners of houses can reclaim their property which had been illegally occupied. Most poignantly, the failure of authorities in Kosovo to ensure access to fundamental rights of RAE has been demonstrated by the continuing exposure in the last six years of some 700 RAE individuals in the IDP camps in Northern Mitrovica and Zveçan to lead poisoning.
- ❖ *The Right to Work:* Discrimination against Roma, Ashkalis and Egyptians in employment is massive: With the privatisation of the Kosovo enterprises, hundreds of RAE are excluded from jobs; other opportunities for access to income sources are also largely unavailable to them; RAE involvement in the civil service is token. Discrimination in employment condemns large numbers of RAE to degrading poverty. Severe impoverishment of RAE families is also a major obstacle for access to education and health care.
- ❖ *The Right to Adequate Housing:* For numerous families housing is extremely substandard in marked contrast to housing conditions of any other ethnicities currently in Kosovo. In a number of RAE neighbourhoods, located on the margins of towns, individuals are exposed to serious health risks due to lack of basic facilities and their access to employment, education and public services is severely restricted.

The conditions described above deter tens of thousands of individuals from returning to their homeland. Out of a community of about 150,000 individuals before 1999, the estimated number

of RAE in Kosovo today is 30,000-35,000. In addition to the hundreds of thousands of individuals who fled persecution in 1999-2000, several dozens of Ashkali families left Kosovo after the March 2004 pogroms. A number of voluntary and forced returnees with whom the ERRC recently spoke were preparing to leave the province. Many of these individuals are threatened to become victims of human trafficking and other gross human rights violations. Forced returnees in 2003 and 2004 have left Kosovo in a matter of months after their forced repatriation. For many RAE, the only reason to remain in Kosovo is reportedly lack of money to arrange their leaving the province. The underlying cause of these issues is the persecution of Roma, Ashkalis, Egyptians and others regarded as “Gypsies” in Kosovo, a persecution undertaken under the auspices of international administration in Kosovo.

The European Roma Rights Centre (ERRC) has conducted a number of field missions to Kosovo after the end of the NATO bombing. Beginning in June 1999, the ERRC has undertaken regular documentation of violent crimes against RAE committed by Kosovo Albanians, crimes including murder, rape, arson and destruction of property and looting, all undertaken with the intention and effect of enforcing the ethnic purity of Kosovo as a place for ethnic Albanians only. Most recently, in the period May 25-June 5, 2005 the ERRC carried out field research in Kosovo to assess the human rights situation of the RAE minorities,² as a result of renewed efforts by Western governments to assert that there are no major human rights issues in Kosovo which might obstruct the agenda of forcible expulsion of refugees from Western Europe. In these most recent documentary undertakings, the ERRC spoke with voluntary returnees and forced returnees to Kosovo; RAE community leaders, including municipal officials, in the following Kosovo municipalities: Prishtinë/Priština, Fushë Kosovë/Kosovo Polje, Ferizaj/Uroševac, Pejë/Pec, Gjakovë/Đakovica, Shtimje/Štimlje, Prizeren, and Obiliq/Obilic. The ERRC also met representatives of the United Nations Mission in Kosovo (UNMIK), the Organization for Security and Co-operation in Europe (OSCE), the United Nations High Commissioner for Refugees (UNHCR), the United Nations High Commissioner for Human Rights (UNHCHR) and the Kosovo Ombudsperson. Officials of these institutions acknowledged continuing violations of the rights of RAE individuals in Kosovo. Mr Kilian Kleinschmidt, head of the UNMIK Office for Returns and Communities, told the ERRC: “The real issue is the high levels of discrimination. Access to social services on a non-discriminatory basis is not working now.”³ These are, however, apparently considered issues of not such compelling urgency as to preclude forcible return. A recent report of UNMIK to the Council of Europe reinforces the tendency to downplay the gravity of the human rights situation of RAE communities in the post-conflict period in Kosovo. In one particularly flagrant instance of understatement, the violent expulsion of RAE and other minorities from Kosovo in the aftermath of the NATO bombing is described as “mass departure of non-Albanians from Kosovo.”⁴ The ERRC observes that the reasons for such approach have nothing to do with the actual situation in Kosovo. Rather, they are driven by the priority of Western European countries to expel as many Kosovo refugees as possible, regardless of the actual threats to their fundamental human rights in Kosovo and regardless of the degrading treatment they will experience as a result of such expulsions.

² *The ERRC is grateful to Ms. Frederika Sumelius, for her voluntary assistance accompanying the May-June 2005 ERRC field research mission in Kosovo.*

³ *ERRC interview, May 30, 2005, Prishtinë/Priština.*

⁴ *See Report Submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) Pursuant to Article 2.2. of the Agreement Between UNMIK and the Council of Europe related to the Framework Convention for the Protection of National Minorities, Strasbourg June 2, 2005, p. 4.*

On the basis of field research conducted in May-June 2005 as well as other recent research, the ERRC present the following concerns:

Continuing Failure to Prevent Exposure to Extremely Hazardous Conditions

In June 1999, the Roma from Fabricka neighbourhood on the south bank of the Ibar River in Mitrovicë/a were driven away from their homes and the houses in the community burned to the ground. In response to the refugee crisis the UNHCR established three camps for the RAE IDPs in northern Kosovo – Cesmin Lug and Kablar camps in Mitrovicë/a municipality and Žitkovac/Zhikoc camp in Zvečan/Zveçan municipality. The IDP camps in question were set up near a toxic waste site, in the vicinity of the Trepca mine, and were reportedly meant to shelter the persons placed there for only several weeks. Six years later, however, around 700 RAE remain in the camps, where they have lived since 1999. These persons are constantly exposed to very high levels of lead and other metals and toxins. In July 2004, the World Health Organisation (WHO) conducted an environmental health risk assessment for lead and heavy metal contamination in the Mitrovica region revealing extremely harmful blood lead levels (“BLLs”) in Romani residents of the camps. In fact, the first random blood testing for lead poisoning for Mitrovica area was first carried out in August-September 2000 by Dr. Andrey Andreyev, a Russian consultant to the UN. He submitted a report in November 2000 to UNMIK and the World Health Organisation (WHO), which revealed that the only dangerous levels he found were in the RAE IDPs camps and recommended the evacuation of those camps.⁵ In spite of this report, there was no reaction to this situation. Indeed, UNMIK authorities suppressed the report, and refused to allow its distribution.

WHO conducted further blood tests at the IDP camps in July 2004. Lead has chronic multi-system effects in the human body, but the most significant effect is on IQ levels where meta analysis of numerous studies shows increases in blood lead from 10 to 20 micrograms/dl was associated with a decrease of 2.6 IQ points. These impacts are irreversible. According to the 2004 WHO report, out of a total of 58 children tested, 34 were found to have BLLs above acceptable levels. The report states that: “Twelve children were found to have exceptionally high levels. Six of them possibly fall within the range described by the United States Agency for Toxic Substances and Disease Registry (ATSDR) as constituting a medical emergency (=> 70 ug/dl). (Our instrumentation is only able to read up to 65 micrograms per deciliter).”⁶

Jenita Mehmeti, a four-year-old Ashkali girl died in the Žitkovac/Zhikoc camp after being treated for two months in a Serbian hospital for lead poisoning, in July 2004. Her two-year-old sister, Nikolina, shows similar symptoms and has been in and out of hospital in Belgrade for treatment. However, without immediate evacuation, medical treatment will likely have little effect.

A second WHO report produced in October 2004 noted that the Roma case is urgent. According to the report, Romani children have consistently had the highest blood levels in the entire population sampled. 88.23% of soils in the camps are unsafe for human habitation and for gardening and are a major source of exposure to the Roma population.

Despite being aware of the extreme health hazards persisting in the area of the camps, UNHCR, UNMIK and local government officials have failed to take actions to ensure the safety of the

⁵ Document on file with the ERRC.

⁶ Document on file with the ERRC.

affected families. Moreover, the Mitrovica municipality and other authorities in Kosovo have failed to provide conditions for the return of the Mitrovica Roma to the Fabricka neighbourhood. Several building projects in the neighbourhood aimed at facilitating return of the expelled persons have been reportedly destroyed by grenade or arson, with the intention and effect of enforcing fear of return among the Roma concerned. To their credit, the Roma currently residing in the three camps for displaced persons have not wavered in their demand to return to the neighbourhood, causing some frustration among those who have sought to impose a compromise ghettoising solution of placement in substandard housing elsewhere.

Denial of the Right to Return to Place of Origin in Safety and Dignity

To date, authorities in Kosovo have failed basically to comply with UN Security Council Resolution 1244 and assure the safe and unimpeded return of RAE refugees and displaced persons to their homes in Kosovo. As of June 2005, numerous persons belonging to RAE communities remain in internal displacement inside Kosovo. Some of them feel that return to their old neighbourhoods would be unsafe, and these are currently completely deserted. Many are unable to return to their previous homes which have been destroyed and not rebuilt or are now illegally occupied by other persons. Roma in internal displacement live in extremely substandard conditions in prefabricated houses in the IDP camps; crowded in the houses of relatives; or occupying houses of RAE currently outside Kosovo. RAE IDPs are denied the right to return as a result of numerous factors:

- ✧ Individuals are unwilling to return to their old places of residence because they believe them to be unsafe. Some of these – such as the Dalmatinska neighbourhood in Prishtinë/Priština, for example – are now completely deserted by their former RAE inhabitants and occupied by Kosovo Albanians – but housing in other parts of Kosovo is unavailable;
- ✧ proceedings for reinstating the legal owners of houses which have been illegally occupied are slow, and enforcement is ineffective;
- ✧ Reconstruction of houses is unduly delayed and in some instances altogether stalled;
- ✧ Individuals cannot prove title to the land on which their houses used to be due to lost or invalid property ownership documents;
- ✧ Social housing is unavailable;
- ✧ Municipalities have failed to allocate land for construction of houses;
- ✧ Municipalities want to use land where RAE houses were located for more lucrative purposes and propose unacceptable for RAE solutions to housing;

The ERRC is not aware of any data about the number of displaced RAE; in several municipalities visited by the ERRC, however, the numbers of displaced RAE reported by local community leaders ranged between 2-3 families to several dozens of families.

The IDP camp Plemetina, near Obiliq/Obilic, built in 1999, remains standing and inhabited until today, despite commitment of the Kosovo authorities to dismantle the camp by mid-2005. According to Bajrush Berisha, leader of the RAE communities in the camp, the camp is currently

home to 116 families or about 464 persons which originate from five Kosovo municipalities. According to Mr Berisha, only two out of the five municipalities have so far allocated land to build houses for the Roma. Even in those places where land had been allocated, however, reportedly no construction of housing has started. The explanation by authorities for the failure to provide durable housing is “lack of donors”. According to local RAE, in the whole Obiliq/Obilic municipality there are around 50 reconstructed houses of RAE out of about 1,000 houses destroyed in 1999-2000.⁷

In Fushë Kosovë/Kosovo Polje municipality, according to the local community leader Mr Mefail Mustafa, there are at least 70 internally displaced RAE families. These people have found a solution to their housing situation by occupying the empty houses of relatives or other RAE persons who are outside Kosovo. The displaced families reportedly include around 20 families who in 2001 voluntarily returned, assisted by the UNHCR, but were not brought to their original places of residence – many of them came from Prishtinë/Priština, for example. According to information provided to the ERRC by Rexhep Hyseni, community leader, in the whole municipality more than 200 houses belonging to RAE have not yet been rebuilt. Around 144 houses have been rebuilt thus far.⁸

In Gjakovë/Đakovica, according to Nexhip Qehaja, head of the municipal office for communities, around 15 RAE families currently in Montenegro, cannot return to their homes which were destroyed and have not yet been rebuilt. These families, as well as many other families in Gjakovë/Đakovica do not possess property ownership documents and therefore cannot prove ownership of the land, while the municipality claims that the land is municipal property.⁹

In some instances the construction of RAE houses has been stalled and the families of returnees have to live with relatives or other persons. Abdullah Presheva neighbourhood of Gjilan/Gnjilane used to have a population of about 4,000 Roma before 1999 of whom today there are about 250 individuals. Out of 360 Romani houses, some 290 were destroyed. According to Ms Shpresa Agushi, local community leader, about 20 out of 30 Romani families who recently returned to Gjilan/Gnjilane currently live in rented accommodation. The construction of 30 houses for Roma families from Abdullah Presheva neighbourhood in Gjilan/Gnjilane, was reportedly suspended with only 9 houses rebuilt or reconstructed. The rebuilding of the houses, which started in mid-2004 and for which reportedly total of Euro 1,500,000 had been donated by the Dutch government and the municipality, stopped reportedly due to lack of money to complete the rebuilding. RAE leaders from Gjilan/Gnjilane expressed the belief that there had been misuse of money and that part of the money was spent for the reconstruction of Albanian houses in neighbouring villages, despite the fact that the project was specifically meant for houses of Roma in Abdullah Presheva. Although part of the amount (reportedly Euro 800 per family) also covered expenses for legalisation of the property ownership documentation of all the thirty families, according to RAE representatives, the amount of Euro 1,500,000 should have been enough to complete the project.¹⁰

Roma from Abdullah Presheva also reported thefts of building material for the reconstruction of Romani houses. In at least one instance, the investigation into alleged thefts conducted by the

⁷ ERRC interviews, May 26, 2005, Plemetina camp.

⁸ ERRC interviews, May 28, 2005, Fushë Kosovë/Kosovo Polje.

⁹ ERRC interview, June 2, 2005, Gjakovë/Đakovica.

¹⁰ ERRC interviews, June 4, 2005, Gjilan/Gnjilane.

Kosovo Police Service (KPS) has reportedly been biased. According to the testimony of Seburan Ramadani to the ERRC, on an unspecified date in March-April 2005, he reported to the KPS some thefts of building material and equipment for his house. Mr Ramadani told the ERRC that he lived across the street from the place where the reconstruction of his house was ongoing. He stated that he observed that some material which used to be stored near the house was missing and that a boiler which was installed the previous day had disappeared on the following day. When he reported the thefts to the police, he was allegedly accused of having committed the thefts himself and was told that he might be brought to court. According to his testimony, there is a pending investigation against him for theft.¹¹

Another example of failure to guarantee the right to return has been reported to the ERRC in Pejë/Pec. The Crystal neighbourhood in the town used to be the home of more than 100 RAE families. Currently only 2-3 families live in the neighbourhood. Most of the houses were burned and destroyed in 1999-2000. According to a local official, in 2002 the then UNMIK administrator of the municipality had promised to clean the area and start rebuilding the houses but failed to fulfil the promise. According to the same source, donors have been overwhelmingly reluctant to fund projects for rebuilding houses fearing that the houses would be vandalised. In 2003, for example, two RAE houses were reportedly rebuilt and immediately after that burned down. At least 10 RAE families currently live with relatives in Pejë/Pec while waiting the municipality to act on their request for rebuilding their houses. In this as in other cases reported to the ERRC, the municipality reportedly insisted to build blocks of flats rather than individual houses for the RAE families. RAE representatives believe the reason behind such proposal is the interest of the municipality to use the land for more lucrative purposes, regardless of the fact that RAE had lived for several decades on that land.¹²

Ineffective Procedure for Reclaiming Illegally Occupied Houses

Many RAE reported to the ERRC that they are denied access to their houses which in most of the cases have been occupied by Kosovo Albanians. According to RAE, proceedings before the UN Housing and Property Directorate (HPD) Claims Commission – the organ which has jurisdiction over claims raised by persons who were the owners or occupancy right holders of residential real property and who do not enjoy possession of the property, are lengthy and sometimes decisions are not effectively executed. For example, Alihajdar Krekaqe, 53, from Prizren owned a house in the town. In July 1999, while he and his wife were in their house, four persons in uniforms of the Kosovo Liberation Army (KLA) broke into the house, tried to strangle Alihajdar with an electric cord and forced the family to leave. Alihajdar Krekaqe complained to the German KFOR in Prizren, who responded to him that the Albanians would leave his house within one month. As of June 2005, the family has nevertheless been unable to repossess their property and rents a house for Euro 100 per month in Prizren. Alihajdar filed a complaint with the HPD on November 9, 2001. As of the end of May, 2005 there has been no decision on his case. In the meantime, he filed a complaint with the Ombudsperson's institution in September 2002, as well as sought assistance from the municipality of Prizren. According to Mr Krekaqe, each time he inquired about the status of his claim with various authorities, he was told that "his complaint is being processed".¹³

¹¹ ERRC interview, June 4, 2005, Gjilan/Gnjilane.

¹² ERRC interview with D.N., June 1, 2005, Pejë/Pec.

¹³ ERRC interview, May 31, 2005, Prizren.

In another case, the ERRC interviewed the daughter of a RAE woman who used to live in Dalmatinska neighbourhood in Prishtinë/Priština. After the end of the air strikes in Kosovo, as a result of repeated attacks and intimidation by Kosovo Albanians, the RAE woman had to leave the house and move to live with her daughter in Pejë/Pec. Shortly afterwards, she left Kosovo, authorising her daughter to regain possession of her property in Dalmatinska neighbourhood. In July 2003, her daughter reported the case to the HPD. In December that year the HPD issued a decision allowing the daughter to repossess her mother's property. The occupiers were evicted by the Kosovo police but reoccupied the house shortly afterwards. A second eviction apparently had not discouraged the occupiers, who reoccupied the house for a third time. As of the time of the ERRC research, the house had reportedly been still occupied and the owner was unable to sell it for that reason.¹⁴

In many instances, owners of occupied residential property are afraid to reclaim their property due to continuous intimidation by the occupiers. For example, in Gjakovë/Đakovica, a local community leader told the ERRC that one RAE individual who is currently in Montenegro, has his house occupied but is afraid to reclaim it because the occupier – a Kosovo Albanian teacher, accused the RAE individual of collaboration with the Serbs and contributing to the death of the teacher's two sons who were killed by Serbian military. According to the RAE representative in the municipal office for communities, Mr Xhevdet Neziri, currently there are at least around 10 occupied houses of RAE in the town of Gjakovë/Đakovica.¹⁵

Denial of Access to Social and Economic Rights

Discrimination in Access to Employment

Exclusion of RAE individuals from jobs and other sources of income is massive and has resulted in severe deprivation of many families. Although unemployment in Kosovo is generally high, in the case of RAE minorities it is close to 100% in many places. Apart from an insignificant number of individuals in the civil service and the municipal offices for communities, very few other have permanent employment. The situation is radically different as compared to the times before 1999, when many RAE worked for various Kosovo enterprises. Discriminatory exclusion of RAE from employment is systematic all over Kosovo. According to testimonies of RAE in all municipalities visited by the ERRC, RAE (as well as minorities in general) are entirely or nearly entirely excluded from the workforce after the privatisation of Kosovo enterprises.

For example, Mr Gani Elshani, 45, used to work in a pharmaceutical factory in Prizren for 18 years together with other RAE. In 2004, when the privatisation of the factory started, he was released together with the other workers. When the factory started working again, Mr Elshani was not employed with the explanation that there had been a reduction in the workforce. According to him, none of the other RAE workers were employed after the privatisation of the factory either. In Shtimje/Stimlje municipality, according to a local community leader, currently there are reportedly 7 individuals who have permanent employment – 2 are in the municipal office, 2 are teachers and 3 are cleaners. Around 50-60 RAE from Shtimje/Stimlje municipality worked in factories before 1999. None of them has reportedly been re-employed after the privatisation of the factories. Roma are being denied

¹⁴ ERRC interview, June 1, 2005, Pejë/Pec.

¹⁵ ERRC interview, June 1, 2005, Gjakovë/Đakovica.

both high skilled and low skilled jobs. For example, a professional operator of a milling machine in Gjakovë/Đakovica found it impossible to get back to work in 2000 despite the fact that, according to the testimony of a local community leader, the whole town knew the person for his high professionalism. According to Mr Qerim Gara, RAE representative in the Fushë Kosovë/Kosovo Polje municipal office for communities, none of several dozen of low skilled labourers (cleaners, repairmen) in the Kosovo parliament is RAE. Mr Gara also told the ERRC that in 2004, around 30 RAE applied for a job as a driver at Prishtinë/Priština airport. Many of them had finished high school, one was a university student. None of them was given a job.

According to a number of RAE community leaders, as in all other areas, the employment of RAE is not of concern for the Kosovo authorities. For example, an activist from Gjilan/Gnjilane told the ERRC that, according to unofficial information given to her by a municipal official, positions announced for minorities are usually meant to be filled by Kosovo Serbs.

High levels of unemployment and lack of access to social benefits have resulted in severe deprivation of numerous RAE families. Families with unemployed persons are reportedly entitled to Euro 52 per month per person, given that they have children under five. Persons above the age of 65 receive Euro 37 per month. These amounts are extremely inadequate especially where families have several children at school age. In Obiliq/Obilic, the ERRC spoke with Ms Mihone Krasniqi, 53, who lives together with another 17 members of her family in their newly rebuilt house. None of the family members work and only three of them receive social benefits. The income of the 18 persons is around Euro 150 per month, total. Ms Krasniqi's husband and elder sons do occasional physical work earning 3-4 Euros per day. The family of Ms Krasniqi was part of a voluntary return project together with another 20 RAE families in 2001. According to Mr Jetulah Bajrami, leader of the returnee community, most of the people are unemployed and do not have money to buy food. Some collect food leftovers from garbage containers. There have been reportedly several cases of people who got sick as a result of eating food from the garbage. Mr Bajrami as well as a number of other RAE returnees felt that the organisations which arranged their return to Kosovo had been unfair to them. In his words, "they would promise everything to make us agree to return, and after that no one cared about us". "It is not enough to have a house to live normal life. You cannot eat the house", said Mr Berisha Hajrush, who returned in December 2004 from Macedonia to Fushë Kosovë/Kosovo Polje. He also told the ERRC that "after several months living in Kosovo, he realised that the decision to return was a big mistake" and he has decided to sell his house and leave for Zagreb, where he used to live in the mid-1980s.

The economic situation of the families in the Plemetina camp is also very difficult. Most of the families in the camp live on social aid. About 6-7 families, however, do not qualify for social aid and live on whatever they can earn doing occasional, mostly physical work, outside the camp.

Extreme impoverishment of the RAE families is reportedly a major obstacle for many parents to send their children to school. Some 87 children of 1-4 grades go to classes organised in the Plemetina camp. Some 20% of the students in the higher grades who are supposed to attend the Albanian school in Obiliq/Obilic, however, cannot attend because their parents cannot support them.

Extremely Substandard Housing Conditions

Numerous RAE families in Kosovo are confined to inhumane housing conditions in marked contrast to housing conditions in the rest of the province. Such for example is Bata neighbourhood

in Pejë/Pec, home to some 120 families. There is no sewage and running water; some parts of the neighbourhood do not even have roads. The houses are tiny, many are dilapidated and in many cases cramped, housing family members from several generations. RAE had lived in this place for 3-4 decades. None of them, however, has property documents and the municipality claims ownership of the land. According to local RAE leaders, the municipality refuses to build infrastructure insisting that the families should be moved in social housing. The prospect of building social housing however, is unclear. About 50-60 houses in Bata neighbourhood were destroyed in 1999-2000. Local leaders told the ERRC that after huge pressure exercised by them, 10 houses were rebuilt.

In Gjakovë/Đakovica, the Colonia neighbourhood is home to about 117 RAE families. According to Nexhip Qehaja, none of the families have property ownership documents although the people had been living there for several decades. The families in this neighbourhood, located near the city dump site, live in extremely substandard conditions – in dilapidated houses of one or two rooms with over 10 individuals crammed into one room; there is no sewage; many families do not have electricity and running water; children play on the dumpsite, while their elderly siblings and parents collect food leftovers, tin cans and other garbage to sell in order to buy food. The municipality reportedly refuses to undertake any infrastructure projects in the neighbourhood because it is planning to remove the RAE families from there. Around 10 houses in the neighbourhood are destroyed. Some houses are empty and a number of families have moved to live there. There is fear and panic that when the owners of the empty houses return many people would have no place to go. Similar is the situation in Sefës neighbourhood, which is home to around 3,000 people. Some of the families in this neighbourhood have contract for purchase of land which however, are invalid and not recognised by the municipality.

Continuous Intimidation and Harassment

A sense that they live in a state of danger and precariousness remains very high among RAE in Kosovo. Many RAE told the ERRC that it was hard to believe that ethnic violence would not erupt again, particularly after the experiences of March 2004. In the event of such violence, RAE told the ERRC that they did not believe they would be effectively protected. The largest non-Serbian community which was subjected to a violent arson attack in March 2004 – some 70 Ashkali families from Vushtrri/Vučitrn – is now outside Kosovo or in internal displacement inside and outside Kosovo. According to Hamid Zymeri, one of the few individuals who returned to Vushtrri/Vučitrn in April 2005, after the burned houses were rebuilt, only six Ashkali families returned. Over 50 newly built houses are reportedly currently empty. Mr Zymeri himself described his life in Vushtrri/ Vučitrn after the pogroms as “home-prison”.¹⁶

The ERRC met RAE individuals who noted a general decline in the number violent racist attacks taking place. Most persons with whom we spoke, however, described a situation of numerous invisible barriers which RAE are afraid to cross: people do not leave their neighbourhoods in the dark; do not travel alone; fear of retaliation deters many from reporting human rights violations cases to police or other authorities. Verbal harassment and intimidation have been described as routine practices. A number of recent racist assaults on RAE individuals were also reported to the ERRC. According to the testimony of a RAE representative in the Plemetina IDP camp, a day or two before May 6, 2005, Ramiz Šabani, 16-year old boy from the camp, was attacked by Kosovo Albanians outside the camp. The

¹⁶ ERRC interview, May 29, 2005, Vushtrri/ Vučitrn.



Romani house destroyed by ethnic Albanians, July 1999, Pristina. "UÇK" is Albanian for "Kosovo Liberation Army".

PHOTO: ERRC

boy, who was riding a bicycle, was reportedly knocked down by several people and beaten. About a week later another youth from the camp had been allegedly intimidated by Kosovo Albanians in the vicinity of the camp who told him that they would deal with him when he goes out of the camp.

In another instance, according to the testimony of a RAE community leader in Shtimje/Stimlje, on an unspecified date in 2004, Gazmend Jakupi, 21, from the same town, was beaten by a group of Albanians. Gazmend, together with another RAE youth, was walking through an Albanian quarter where a large group of people had gathered for a funeral ceremony. The two youths were reportedly physically attacked by the group. The ERRC was not able to meet Gazmend Jakupi, who had reportedly left Kosovo in April 2005.

In Prishtinë/Priština, the ERRC spoke with Agim Stolla, 51, whose twenty-year old son Mexhit Stolla, was reportedly attacked and beaten by a group of 15-16 Kosovo Albanians in mid-April 2005. The boy sustained light injuries in the head and the body. The incident took place not far away from a place where the boy used to sell empty Coca-Cola cans. According to the testimony of Mr. Stolla, the boy had been intimidated several times by the people and these eventually attacked him. He stated that he believed the attack was racially-motivated. The incident was reported to the police, however Mr Stola told the ERRC that since he knew the parents of some of the attackers, he did not want to press charges. At a meeting with some of the parents of the attackers and the police, he stated that he forgave the perpetrators. Mr Stolla also told the ERRC that the police requested from him the X-ray of his son taken after the attack, as well as his medical certificate in order to make copies. He provided these, but these documents had not been returned to him as of May 28, 2005, when the ERRC spoke with him.

In Prizren, according to the testimony of Admir Paličko, an activist of Initiative 6 Romani non-governmental organisation, a Romani youth Ramo Mandinki, 17, was attacked by Albanians and hit with the handle of a shovel around May 26, 2005. The man reported the case to the police and was allegedly told that if he had more problems with the individuals who attacked him, they would be put in prison. According to Osman Osmani, leader of the Initiative 6 NGO, Romani children are often harassed and chased away by Albanian children from a sports facility in the town where the Roma go to play football. According to Mr Osmani, many Roma are afraid to walk in the streets of the town at dark.

Security concerns, especially in the case of Romani families, continue to pose obstacles for the integration of Romani children in education. According to Ms Shpresa Agushi, Romani children in Gjilan/Gnjilane, most of whom speak Serbian, are reportedly afraid to attend the Serbian school in the town fearing problems with Albanians. Some 90 Romani children attend a separate Roma-only school organised for them in Abdullah Presheva neighbourhood. The school was organised in private houses starting from February 2000. In the period 2000-2003, however, many Romani children did not attend any school. Romani children who lived outside Abdullah Presheva neighbourhood were reportedly not provided with an escort to the improvised school in the neighbourhood. They did not go to the Serbian school either being afraid to be seen attending a Serbian school by their Albanian neighbours.

Marginalisation in Public Life

RAE are underrepresented in elected positions and have a token participation in civil service. There are three members of parliament and four members of the municipal assemblies. Inadequate participation of RAE in public administration apparently affects the communities' access to financial resources available from the municipal budgets. Many RAE representatives with whom the ERRC spoke, claimed that RAE receive disproportionately low portions of the municipal funds from the so called Fair-Share Financing mechanism – a special budget allocated proportionately to the percentage of all minorities in each municipality. The major portion of this budget reportedly goes to other minorities. The distribution of the funds is done on the basis of projects submitted by the municipal community offices. The budget is then approved by the Board of Directors of the municipality. Usually, RAE are symbolically represented in the board or not presented at all. For example, in Pejë/Pec out of 12 directors of the various departments, only one is RAE.

Although the UN Standards on Kosovo require that each municipality which has a non-Albanian majority should involve representatives of the non-Albanian minorities, some municipalities are still reluctant to do so in the case of RAE. For example, in Giljan/Gnjilane, where there are about 500 Roma, the only Romani representative in the office for communities is reportedly not paid by the municipality but by an NGO. All other minority representatives in that office are reportedly paid by the municipality. In some instances there are major discrepancies between the proportion of the RAE minority in a given municipality and the number of their representatives in comparison to other minorities. According to information provided by Mr Osman Osmani, leader of the Prizren-based non-governmental organisation Initiative 6, about 5,500 RAE in the Prizren municipality have one representative in the municipal office for communities, while about 270 Serbs have two representatives.

Conclusions

In a recent interview with the ERRC, Mr Nowicki, Ombudsperson of Kosovo, stated that “There are no conditions for long-term security in the province.”¹⁷ With regard to the actual and expected forced returns of RAE from a number of European countries, his comment was as follows: “The answer to the question whether Kosovo is prepared to accept people is ‘no’.”¹⁸ The Ombudsperson’s concerns, expressed also in open calls to western European governments to suspend deportations of RAE to Kosovo, as well as the ERRC findings presented in this Memorandum, stand in contrast to the recent UNMIK report to the Council of Europe on the implementation of the Framework Convention for the Protection of National Minorities, the provisions of which are directly applicable to Kosovo. The report presents very significant understatements and other distortions and omissions about the past, as well as about and ongoing abuses against RAE communities. What it has to say about the rights of RAE is reduced to a list of the geographic locations with RAE communities, compounded with explanations that the “withdrawal of the Yugoslav forces triggered not only movement of the Serb population but also the departure of Kosovo Roma.” Most notably, in its special section entitled “Incidents of ethnically motivated violence in Kosovo, June 1999 - April 2005”, the report fails to mention even a single incident of the series of violent crimes committed against RAE after the end of the NATO intervention.¹⁹ The absence of any information about past, current or future investigations and prosecutions of the massive wave of ethnically-motivated crimes committed against RAE in this period is indicative of current priorities for Kosovo: no matter what the factual situation on the ground may be, authorities there will describe it in the most positive possible terms, because they are under pressure from Western governments to allow the expulsion of minorities to Kosovo, and to move quickly toward “final status” for Kosovo.²⁰

The ERRC deplors the lack of an impartial and objective presentation of the persistent human rights violations in the UNMIK report, as well as other, similar information being made available now. The corruption of UN authorities, as indicated by these developments, into instruments in the service of whitewashing the human rights situation in Kosovo, is among the saddest chapters in the development of events in Kosovo, events which today as yet appear to have few prospects for resolution.

Forced returns of RAE in the past several years, especially from countries such as Germany, Sweden, and Italy have never ceased. Most recently, on April 26, 2005, the German state and the UNMIK made the so called “Agreed Note” according to which between 300-500 Ashkalis and Egyptians will be forcefully returned per month from Germany to Kosovo by the end of 2005. Regarding Romani communities, the Note says: “In view of expected improvements of the situation of Roma in Kosovo, UNMIK agrees to the possibility of allowing the return of criminal offenders of the Roma community who have been sentenced to imprisonment for at

¹⁷ ERRC interview, June 3, 2005, Prishtinë/Priština.

¹⁸ ERRC interview, June 3, 2005, Prishtinë/Priština.

¹⁹ See Report Submitted by the United Nations Interim Administration Mission in Kosovo (UNMIK) Pursuant to Article 2.2. of the Agreement Between UNMIK and the Council of Europe related to the Framework Convention for the Protection of National Minorities, Strasbourg June 2, 2005, p. 76-84.

²⁰ The records of a German Interior Ministers meeting of November 2004, leaked to the ERRC, is indicative of what kinds of pressures UN authorities in Kosovo are under. The meeting concludes with a resolution to recommend that the German Foreign Ministry be urged to proceed quickly to final status negotiations for Kosovo, so large numbers of expulsions to Kosovo may proceed.

least 2 years or to several prison sentences amounting to a total of at least 2 years and who are not in need of protection.”²¹

Given the apparent failure of the UNMIK and the Provisional Institutions of Kosovo government to guarantee access of RAE to fundamental rights on a non-discriminatory basis, the forced returns are bound to provoke a wave of catastrophic human rights deprivation.

The threats to the human rights of the forced returnees are reinforced by the fact that they are apparently not entitled to any aid upon their repatriation. The ERRC met a number of forced returnees, experiencing serious obstacles to access fundamental rights: they had no employment and social aid and were relying on aid from relatives; some of them had no access to their houses; children did not speak the languages spoken in Kosovo and could not attend school. For example, Mr Sadri Ramadani, 47, together with his wife and two children, was returned from Sweden to Belgrade on March 26, 2005. Mr Ramadani’s request for permanent residence in Sweden was rejected, despite evidence that his wife and daughter had undergone serious post-traumatic disorders and were treated in psychiatric hospital in Sweden. Mr Ramadani went to Kosovo, in Gjilan/Gnjilane, where he originates and where some of his relatives still live. At the time of the ERRC interview with him, Mr Ramadani did not have access to his own house, which had been illegally occupied. Mr Ramadani’s son, Arben Ramadani, 13, reportedly spoke only Romani and Swedish, and could not attend Serbian or Albanian schools for that reason (education in Romani language is unavailable in Kosovo).²² In another case, Mr I.H., was deported with his family from Germany on December 9, 2004 to Podujevë/o. Mr I.H. has a 12-year old daughter born in Germany, who went to school in Germany and reportedly spoke little Albanian. The girl suffered serious trauma upon return to Kosovo and the whole family left Kosovo to go to Novi Sad, Serbia and Montenegro, shortly after their return, to plan their departure to an EU country.²³

Forced returnees increasingly will have to rely on the Kosovo authorities to settle their lives back in Kosovo. According to the UNMIK Office for Returns and Communities, UNMIK is currently transferring responsibilities to and building capacity of the Provisional Institutions of the Kosovo government to deal with returns. It is unclear how long this process will take. Even if such mechanisms are in place, however, the persistence of high levels of anti-Gypsy sentiment, the widespread discrimination against RAE, compounded by lack of functioning safeguards against discrimination, as well as the almost total absence of rule of law in Kosovo today, render virtually impossible the integration of RAE minorities in the Kosovo society in the near future.

In view of the present human rights situation of the RAE communities in Kosovo, the ERRC urges the representatives of the international community and the Provisional Institutions of the Kosovo government to act within the powers available to them to ensure that:


- ✧ Prompt and impartial investigations into all acts of violence to which Romani, Ashkali and Egyptian individuals and other persons regarded as “Gypsies” in Kosovo have been subjected are carried out; all perpetrators of racially-motivated acts of ethnic cleansing are brought swiftly to justice and victims or families of victims receive adequate compensation; justice is done and seen to be done;

²¹ *Document on file with the ERRC.*

²² *ERRC interview, June 4, 2005, Gjilan/Gnjilane.*

²³ *ERRC telephone interview with Mr I.H., May 29, 2005, Prishtinë/Priština and interviews with his relatives, May 29, 2005, Podujevë/o.*

- ✧ Individuals guilty of the persecution of Roma, Ashkalis, Egyptians and other persons regarded as “Gypsies” in Kosovo are swiftly brought to justice via the International Criminal Tribunal for the Former Yugoslavia, or through other mechanisms;
- ✧ Sustained efforts are undertaken by all authorities in Kosovo and involved in the administration of Kosovo to ensure that no discussions of Kosovo’s final status are embarked upon until such a time as all stakeholders achieve durable and lasting consensus in practice that Kosovo is a multi-cultural society in which all individuals can freely exercise in practice all of their fundamental human rights;
- ✧ Any forced returns of Kosovo Romani, Ashkali or Egyptian individuals to Kosovo, or to the rest of Serbia and Montenegro are rendered impossible and impermissible until such a time as authorities in Kosovo are able to demonstrate durable and lasting security and freedom from racial discrimination for all in all parts of the province.



Alarming Facts about Roma Camps in North Mitrovicë/a: Lead Poisoning of Romani Children

Andi Dobrushki and Jeta Bejtullahu¹

WALKING in the Romani camp in Žitkovac/Zhikoc, three year-old Nikolina does not understand the Standards for Kosovo,² the division of the Mitrovicë/a town, the return of the Internally Displaced Persons (IDPs), nor does she imagine that she had a home other than the dirty huts where she lives and plays today. But she can understand that she is not well because she is teased for walking funny and behaving like a zombie.

Žitkovac/Zhikoc, situated 2 kilometers away from the Trepca mines, used to be a toxic wasteland. Nikolina, like many children born in these camps, is exposed to lead poisoning and as a result of high levels of lead in the blood she suffers from memory loss, vomiting and difficulty walking. At the time of the European Roma Rights Centre/Humanitarian Law Centre (ERRC/HLC) visit to the camp in May 2005, Nikolina was being treated for lead poisoning in Belgrade. Her parents were distressed because her sister Gjenita had died two years ago from an illness having the same symptoms.

According to Habib Habibi, the Zitkovac camp representative:

Here in this camp there are 40 families and 180 people altogether. The majority of the camp residents are children. Until now we had 40

cases of kids with lead poisoning. There are also pregnant women suffering from this illness. One child died in 2004 when she was only 3 years old. Her name was Gjenita Mehmeti. I am not sure of what she died of, but I also know that her sister Nikolina is very sick.³

The camps of Zitkovac, Cesmin Lug and Kablare were built in the summer of 1999 by UNHCR when Roma, Ashkali and Egyptian community members were driven away from their homes in Kosovo, and settled in the northern part of Mitrovica. The camps were an ad hoc response to the flow of Roma refugees and were meant to be there for only a few weeks. But six years have passed and the camps are still there, with camp dwellers more devastated and impoverished, and their children facing serious health problems. A large number of the approximately five hundred people in these camps come from the Roma Mahalla (settlement) in the southern part of Mitrovicë/a, burned down in June 1999 by Albanians.

According to the testimony of Paul Polansky of the Kosovo Roma Foundation:

In November 1999, as a representative of the Society for Threatened Peoples, I warned the head of mission of the High Commission for Refugees in Prishtina that the location for the

¹ Andi Dobrushki is a staff attorney at the ERRC. Jeta Bejtullahu is Director of the Pristina-based office of the Humanitarian Law Center (HLC). This article is based on ERRC/HLC research in the camps for internally displaced persons in the northern part of the Kosovo town Mitrovicë/a in April-May, 2005.

² The Standards for Kosovo are a set of targets that Kosovo must meet in order for the talks about the future political status of Kosovo to begin. The Standards for Kosovo were launched by Special Representative of the Secretary general of the UN Harry Holkeri and Prime Minister of Kosovo Bajram Rexhepi on 10 December 2003. They were agreed between the Kosovo provisional institutions of self-government and UNMIK, and were approved by the United Nations Security Council. The document is available at: http://www.unmikonline.org/standards/docs/leaflet_stand_eng.pdf.

³ ERRC/HLC interview with Habib Habibi, April 24, 2005.

camps appeared to be on toxic waste lands, in the shadow of slag heaps from the extensive Trepcia mines. But the commission went ahead with construction, claiming they would be used for only 45 days.⁴

Another reason for the deadlock in the solution of these problems is rooted in the division of administrative responsibilities in Kosovo. Since Roma at Zitkovac are considered Internally Displaced Persons (IDPs) rather than refugees, they do not fall under the mandate of the UNHCR but are the responsibility of the United Nations Interim Administration Mission in Kosovo (UNMIK) and local structures.

The World Health Organisation (WHO) was among the first to alert authorities in Kosovo on the emergency of the issue. In July 2004, the WHO conducted an environmental health risk assessment for lead and heavy metal contamination in the Mitrovicë/a region. In fact, a random blood testing for lead poisoning for the Mitrovicë/a area was first carried out in August-September 2000 by Dr. Andrej Andrejew, a consultant to the UN. He submitted a report in November 2000 to

the UNMIK and the WHO, which revealed that the only dangerous levels he found were in the Roma IDP camps. He recommended the immediate evacuation of the people from those camps.⁵ In spite of this report, there was no reaction to this situation until WHO conducted more blood tests at the IDP camps in July 2004.

According to the July 2004 report produced by the WHO, lead has chronic multi-system effects in the human body, but the most significant effect is on IQ levels where meta-analysis of numerous studies shows increases in blood lead from 10 to 20 micrograms/dl was associated with a decrease of 2.6 IQ points. These impacts are irreversible.⁶

Out of a total of 58 children tested, 34 were found to have blood lead levels (BLLs) above acceptable levels. The report states that: "Twelve children were found to have exceptionally high levels. Six of them possibly fall within the range described by the United States Agency for Toxic Substances and Disease Registry (ATSDR) as constituting a medical emergency (\Rightarrow 70 ug/dl). (Our instrumentation is only able to read up to 65 micrograms per deciliter)."⁷

⁴ *Published in the International Herald Tribune, April 26, 2005.*

⁵ *See Sandra Molano, Andrej Andrejew. First Phase of Public Health Project on Lead Pollution in Mitrovica Region. November 2000. A copy of the report is on file with the ERRC.*

⁶ *World Health Organisation. Preliminary report on Blood Lead Levels in North Mitrovica and Zvecan, July 2004. Document on file with the ERRC.*

⁷ *Ibid. According to the US-based international public service non-governmental organisation National Safety Council (NSC), there are many different health effects associated with elevated blood lead levels. Young children under the age of six are especially vulnerable to lead's harmful health effects, because their brains and central nervous system are still being formed. For them, even very low levels of exposure can result in reduced IQ, learning disabilities, attention deficit disorders, behavioral problems, stunted growth, impaired hearing, and kidney damage. At high levels of exposure, a child may become mentally retarded, fall into a coma, and even die from lead poisoning. Within the last ten years, children have died from lead poisoning in New Hampshire and in Alabama. Lead poisoning has also been associated with juvenile delinquency and criminal behavior.*

In adults, lead can increase blood pressure and cause fertility problems, nerve disorders, muscle and joint pain, irritability, and memory or concentration problems. It takes a significantly greater level of exposure to lead for adults than it does for kids to sustain adverse health effects. Most adults who are lead poisoned get exposed to lead at work. Occupations related to house painting, welding, renovation and remodeling activities, smelters, firing ranges, the manufacture and disposal of car batteries, and the maintenance and repair of bridges and water towers, are particularly at risk for lead exposure. Workers in these occupations must also take care not to leave their work site with potentially contaminated clothing, tools, and facial hair; or with unwashed hands. Otherwise, they can spread the lead to their family vehicles and ultimately to other family members.

When a pregnant woman has an elevated blood lead level, that lead can easily be transferred to the fetus, as lead crosses the placenta. In fact, pregnancy itself can cause lead to be released from the bone, where lead is stored – often for decades – after it first enters the blood stream. (The same

The US Center for Disease Control and Prevention (CDC) has set a “level of concern” for children at 10 micrograms per deciliter. At this level, it is generally accepted that adverse health effects can begin to set in. However, recent medical research provides new evidence that there could well be very harmful effects occurring at even lower levels of exposure, even as low as 5 micrograms of lead per deciliter of blood. In other words, science is now telling us that there is in fact no level of lead exposure that can be considered safe.⁸

Even small amounts of lead can harm a child’s brain, kidneys and stomach. Lead poisoning can slow a child’s development and cause learning and behavioral problems.

A child may have lead poisoning and not feel sick. Or the child may have stomach aches, headaches, a poor appetite or trouble sleeping, or be cranky, tired or restless.

A third camp, Kablare, one hundred meters from Cesmin Lug, was also occupied in January 2000. No blood testing has been done in this third camp, although many children there also show symptoms of lead poisoning, such as loss of memory, loss of coordination, vomiting and convulsions.

Children conceived in these camps are born with high levels of lead poisoning which are likely to cause either death between the ages of two and six or irreversible brain damage. Jenita Mehmeti, a four-year-old Ashkali girl died in the Zitkovac camp after being treated for two months in a Serbian hospital for lead poisoning, in July 2004. Her two-year-old sister, Nikolina, has demonstrated the same symptoms and has been in and out of

hospital in Belgrade for treatment. However, without immediate evacuation, medical treatment will have no effect. Every day children pass in these camps is a punishment and will mark their life (if they manage to survive) forever.

The second report produced by the WHO in October 2004 signalled alarm that the Roma case was urgent because the blood lead results from the National Institute for Public Health and Environment in the Netherlands (RIMV) confirmed the WHO results of July. According to the report, Romani children have consistently had the highest blood levels in the entire population sampled. 88.23% of soils in both camps are unsafe for human habitation and for gardening. It is obvious, the report continues, that soil contamination is a major source of exposure to the Romani population. In the Zitkovac camp some soils were 100.5 times over and above recommended levels. For the Cesmin Lug camp, the situation is even worse with levels exceeding 359.5 times the safe limits.⁹

The WHO recommendations for immediate evacuation of the children, relocation of the camps, and immediate treatment, however, were not taken into consideration.

Following the WHO October 2004 report, in November 2004, the ERRC sent a letter of concern to the UNHCR, the UNMIK and the responsible Zvecan authorities, expressing alarm that despite being aware of the extreme health concerns posed by the location of the camps, the UNHCR, the UNMIK and local government officials had failed to take actions to ensure the safety of the affected families. No action had been taken to move the affected Romani families.¹⁰

process can occur with the onset of menopause.) Once the lead is released from the mother’s bones, it re-enters the blood stream and can end up in the fetus. In other words, if a woman had been exposed to enough lead as a child for some of the lead to have been stored in her bones, the mere fact of pregnancy can trigger the release of that lead and can cause the fetus to be exposed. In such cases, the baby is born with an elevated blood lead level. Exposure to lead is estimated by measuring levels of lead in the blood (in micrograms of lead per deciliter of blood). For more information please refer to: <http://www.nsc.org/library/facts/lead.htm>.

⁸ See National Safety Council.

⁹ World Health Organisation. Kosovo. “Capillary Blood Lead Confirmation and Critical Lead-Related Health Situation of the Roma Camps Children.” October 22, 2004. Document on file with the ERRC.

¹⁰ Available at ERRC website <http://www.errc.org>.

There have been few efforts to inform the Roma about the issue of lead poisoning risking the lives of their children. Some doctors in the north Mitrovicë/a hospital have gone far enough



Zitkovac, March 2005. Romani children playing behind the barracks, no more than five hundred meters from the mine tailings.

PHOTO: ERRC

to even blame low hygiene as causing the illness.¹¹ The Ministry of Health of Kosovo, failed to raise the issue as an emergency health problem. Since the 2004 WHO reports, a number of task forces on risk management, relocation and temporary housing have been established; WHO has initiated a special program on lead and health; and UNICEF has joined in educational efforts. While work started on clearing land in August 2005 for medical evacuation, this work was stopped when

the land was found to be unsuitable, and no further plans to continue were made public.

The Link with the Return Issue

Initially, the municipal structures in Mitrovicë/a claimed that there was no land available they could allocate for relocating the camp into a safer territory in the north. Although the WHO and the International Committee of the Red Cross (ICRC) demanded an immediate evacuation of the camps on grounds of health, UNMIK Office of Returns and Communities (ORC) decided to link the lead poisoning to the return to the Roma Mahalla. They proposed to the Special Representative of the Secretary General of the UN (SRSG) to convince the Roma to voluntarily return to land next to the Roma Mahalla.¹²

On the other side, the Romani leaders in the camps were skeptical and considered the proposals that had been made to them with suspicion. As one Romani person explained it:

We have asked to be relocated and they have offered to put us in containers in the Roma Mahalla in the south of Mitrovicë/a. We have not accepted that because we wanted a long-term solution. We will only agree to the reconstruction of our houses exactly on the land where they were. However, many of us have no documentation for the land or the houses. Now the municipality is asking for these documents in order to rebuild the houses. They want to move us 200 meters away from the river bank, where the municipality would like to build a park. We will not accept this. The best solution for us is to be transported to western countries.¹³

The municipal structures in south Mitrovicë/a, on the other hand, see this issue only as a return issue of the Roma, Ashkali, Egyptians (RAE) to

¹¹ See Institute for War and Peace Reporting (IWPR) report, "Illness Plagues Camps for Displaced Communities", dated April 14, 2005, available at: http://www.iwpr.net/index.pl?archive/bcr3/bcr3_200504_551_2_eng.txt.

¹² Action Memorandum of the UNMIK Office of Returns and Communities (ORC), dated March 6, 2005, on file with the ERRC.

¹³ ERRC/HLC interview with H.H., April 24, 2005.

the Roma Mahalla. For months, UNMIK, municipal structures in south Mitrovicë/a and RAE representatives were involved in negotiations about the reconstruction of the Romani homes in the Mahalla.

Elizabeta Bajrami, representative of the RAE communities working in the south Mitrovicë/a municipality, commented:

The municipality is trying to move us away from our Mahalla. According to their project, the municipality will rebuild the homes of the Roma who possess land and property documents but some of these will be meters away from the riverbank. For those who have no papers, the municipality will build two big buildings with apartments. You know, the project looks good but we are being moved away from our land. The people blame me that their land will be taken, and they are right.¹⁴

The project that both UNMIK and the RAE representatives support was put forward by the Danish Refugee Council (DRC). The DRC project provided for the reconstruction of all the houses as they were before the war broke out, without changing the original location.

Despite disagreements on the reconstruction, another issue appears to loom over this complicated case. It was the Albanian majority that drove away the RAE in June 1999, thus many RAE are concerned about their security and freedom of movement if returned to south Mitrovicë/a.

After weeks of negotiations, on April 18, an agreement was signed by UNMIK, UNHCR, OSCE and the Mitrovicë/a Municipal Assembly President creating pre-conditions for the return of former residents of the Roma Mahalla to their homes. The municipal structures agreed to changes in their project: "As a municipality, we agree to build their houses exactly where they used to be, although this project does not fulfill urbaniza-

tion conditions. The houses will be located at the very edge of the river bank where there is always a possibility of floods," said Fejzullah Haxhani, the new director of the Urbanisation Department of the Mitrovicë/a municipality.

While the UNMIK and the Provisional Institutions of Self-Government in Kosovo (PISG) structures have so far addressed this issue only in respect to the return of the Roma to their Mahalla in the southern part of Mitrovicë/a, they have failed to engage in the problem from the health perspective. Despite serious warnings and recommendations by WHO for immediate evacuation in October 2004, not only was the issue neglected, but there was also a lack of public information about the alarming facts.

At the time of the ERRC/HLC visits to the camps on March 24, 2005, a four-month-old baby, Robert, looked like a newborn because of a growth disorder. His mother thought that lead poisoning had affected her and consequently the baby during her pregnancy. Robert has been falling in and out of a coma. The ICRC has offered to cover the costs for his treatment in Belgrade since neither the UNMIK nor the PISG responded adequately.

The Humanitarian Law Center and European Roma Rights Centre support the position of the WHO and ICRC and have requested immediate evacuation of the camps, as well as immediate treatment of the children affected by lead poisoning. The reconstruction of the Roma Mahalla will take time, and the agreement between the authorities in Mitrovicë/a and the international institutions to do that does not release these authorities from the obligation to secure a healthy environment for the Roma in the camps. UNMIK, PISG and the Mitrovicë/a municipal structures should take measures to evacuate the children to a safer place and offer treatment and accommodation until the Roma have homes to return to. It is the duty of the power-holders to act to save lives.

¹⁴ ERRC/HLC interview April 24, 2005.



Everyone Fiddles while the Roma Burn

Dianne Post¹

THE SOLUTION to the lead poisoning in three camps for internally displaced Roma in Kosovo is complicated by differing agendas. Local government does not want to give Roma prime land to replace the destroyed village. Some Roma originally from Kosovo but now in Western Europe do not want the Roma Mahalla rebuilt because it might mean they are forcibly returned. Serbs do not want the move to be successful because it will be one more step toward Kosovo independence. Local Roma do not want to move twice from the current camp to another and then finally to the Mahalla. Further, some believe that if they move to yet another “temporary” camp and the health effects are ameliorated, the international spotlight will be turned off, and they will spend another six years or forever before the Mahalla is built. Some Roma “leaders” are making public statements that there is no lead poisoning contrary to all scientific information. Women in the camps who desperately want to move for the health of their children are being ignored by local and international communities alike and often by their husbands. UNMIK claims that lack of money is stalling the rebuilding of the Mahalla. In all these political machinations, individual Roma, especially children, are becoming sick and dying or suffering irreversible brain damage.

Everyone fiddles while the Roma burn

This situation presents difficult issues for a legal resolution because the law, while very useful, is not a precision tool, and lawyers must represent

the desires and best interest of their individual clients yet from a political standpoint, no one wants to injure the interest of the community at large. Therefore, after careful consideration, ERRC plans a multi-prong legal strategy. However, every option is fraught with factual and legal difficulties.

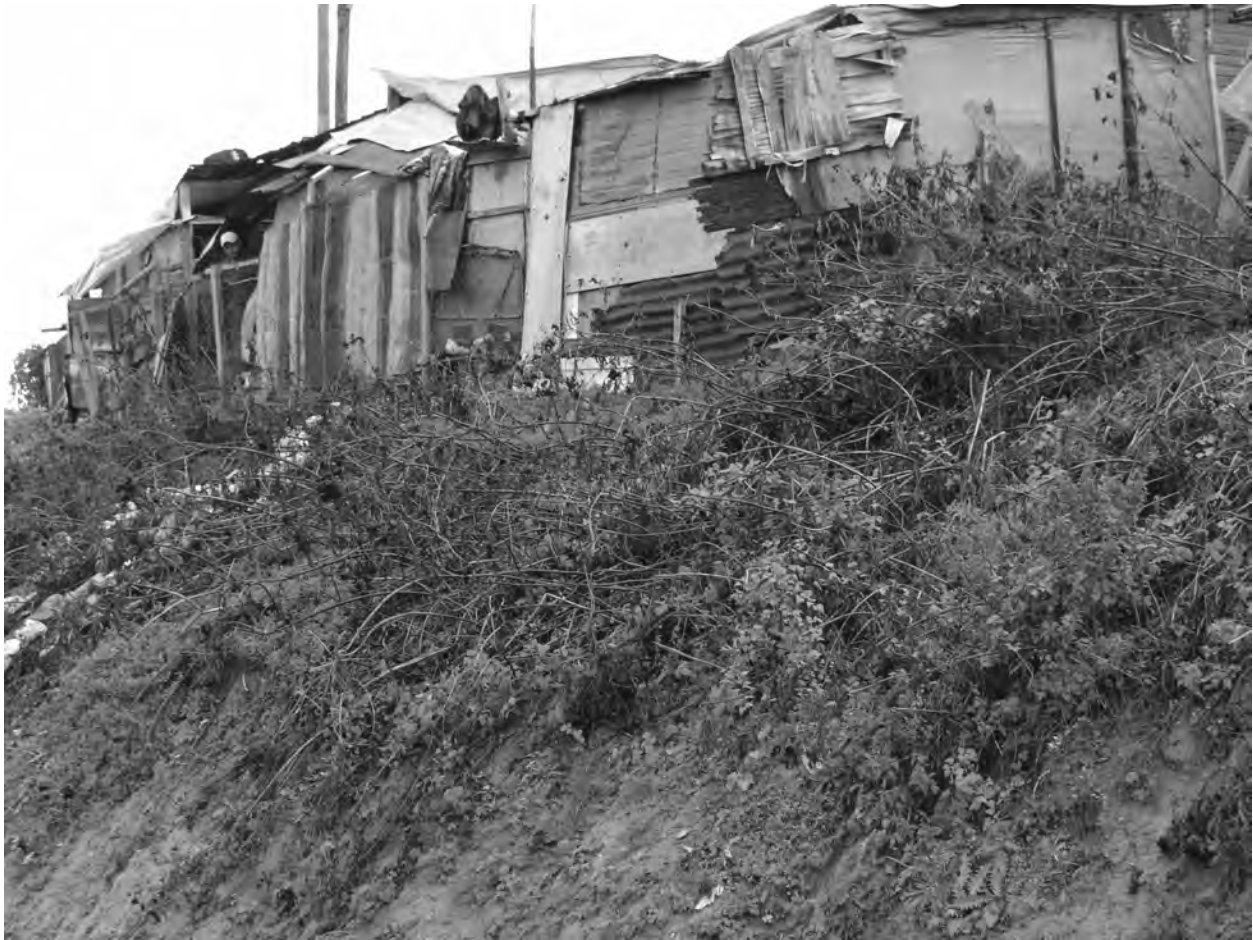
First, the ERRC has asked the Secretary General of the UN to remove UNMIK immunity so they, as the main responsible organ, can be sued. The blanket immunity granted by their own laws has already been heavily criticised by the Kosovo Ombudsperson and OSCE as being in violation of international law.²

Second, on behalf of individual clients who have lost property in the Mahalla, claims can be filed under the UNMIK claims commission. However, this commission will only adjudicate disputes between two persons claiming the same property or perhaps, as in one case, issue a decision that in fact the person did have property in the Mahalla that was destroyed. No compensation, restitution or rebuilding can be ordered from the commission so the remedy is not a very practical one. However, the Civil Rights Program has now been contracted by UNHCR to gather documentation regarding the property claims in the former Mahalla.

Third, local authorities retain jurisdiction under certain laws, e.g. anti-discrimination, public health and environment. Their actions – or more properly inactions – clearly show a pattern of discrimination, failure to apply the public health law to Roma and failure to enforce the environmental law when it

¹ Dianne Post is Legal Director of the ERRC.

² See for example, *Ombudsperson Institution in Kosovo, Special report No 1, “On the compatibility with recognised international standards of UNMIK Regulation No. 2000/47 on the Status, Privileges and Immunities of KFOR and UNMIK and Their Personnel in Kosovo (18 August 2000) and on the implementation of the above Regulation”, available at: <http://www.ombudspersonkosovo.org/doc/spec%20reps/pdf/sr1.pdf>.*



Cesmin Lug. Hanging on to the rough edge.

PHOTO: ERRC

negatively impacts Roma. In at least two cases, facts suggest a malpractice action against the hospital. Unfortunately, many of those affected still fear using the local courts because of harassment and violence. A request for a criminal investigation against “unknown perpetrators” was filed 2 September 2005 in Pristina asking the general prosecutor to investigate and bring appropriate charges. If those identified have immunity because of local or international law, waiver can be sought.

An international complaint is being researched should other actions prove unsuccessful. Provisional remedies will be sought for interim measures to protect the health of those affected. The research and drafting is much assisted by Cynthia Rollings, an attorney from New York sent by the International Senior Lawyers Project (ISLP), and ERRC interns Jane Shvets, Rosa Curling and Esther Farkas.

The Trepca mine, original polluter of the entire area, is a very valuable asset in the region and its ownership is contested by several companies and governments. The possibility of a lawsuit against the mine is being investigated.

The best solution would be to reach an agreement with the various parties as it would be faster and could be more creative than a court action. Of course the overall goal is to get the endangered Roma out of the toxic site and get them health care. For that, the international advocacy by NGOs must continue to put the spotlight on the continuing environmental and human disaster. Governments, the corporations that will benefit from the mine and the UN must be pressured to find the money to act immediately. The children cannot wait six more years.



“When we learned what was expecting us”

Mr. D.B., 28 and his brother Mr. M.B., 23, are Romani men born in Kosovo. The ERRC interviewed them on July 14, 2005, in the refugee camp in Bicske, Hungary, where they arrived in October 2004 and filed asylum applications. Below, Mr. D.B. recounts the details of their flight from Kosovo and their attempts to find refuge in several countries of Europe. On September 13, 2005 their application for asylum was rejected by the Hungarian Ministry of Interior's Office of Immigration and Nationality. Shortly afterwards, they left Hungary.

We lived in Pec/Peje, Kosovo until 1991. My father was working in Belgrade. When the conflict in Bosnia and Herzegovina started in 1991, my father was under pressure to join the Serbian army. He did not want to do that and decided that the whole family should leave Kosovo. We left on March 5, 1991 and went first to Germany. My father's cousin took us by car and we entered Germany legally with passports, because in 1991 we didn't need visas for Germany. When we arrived in Germany, we went to my father's family in Bremen, and they told us that on the following day we had to go to the immigration office and ask for asylum. The next day we went to the immigration office; there we were photographed and our fingerprints taken; they gave us a document, which certified that we were seeking asylum. Also, they gave us clothing, food and a place to stay. Six months later we received a letter from the immigration office stating that we had to leave Bremen and go to Eisenhüttenstadt, where we were scheduled for interviews. In Eisenhüttenstadt we spent 15 days in the refugee camp -- after 15 days they gave us a flat, which was in the town Wittenberge. In Wittenberge, we were enrolled in a German language school. After one and half years we were relocated to Perleberg, which is 10km from Wittenberge. We lived in Perleberg until March 18, 2004.

On March 18, 2004 we received a letter informing us that our asylum application had been rejected. The letter also stated that on the following day we should get ready to be returned to Serbia. My father had worked in Belgrade and was tem-

porarily registered there. When we visited him in Belgrade prior to leaving Kosovo in 1991, we had to register our residence with the Belgrade police. As a result we were officially registered as living in Serbia. This provided an argument for the immigration authorities in several countries to claim that we came from Serbia, not from Kosovo, and that we should be returned to Serbia.

On the same day, March 18, 2004, my father and my mother went to see their doctor and informed the doctor that we had received rejection letters. The doctor, who was aware that my parents' health condition was not good, managed to stop the deportation. On March 18 myself and my brother left Perleberg and went to stay with our uncle in Frankfurt am Mein. We consulted our lawyer on how to stop our deportation, but he explained that nothing could be done because our application was rejected by the last instance -- the Supreme Court.

From Frankfurt we went to Bremen, where we had another uncle. We stayed there for six months and after that we moved back to Frankfurt am Mein where my other uncle was waiting for us. He drove us to France.

When we arrived in France, we met some refugees from Kosovo and Serbia, who told us that the conditions for asylum-seekers were so poor that during the asylum process we would have to live in the streets, or if we had money we could rent a place. Since we did not have any money, we decided to move on to Italy. When we reached

Milan, my uncle who brought us there, had some friends and we went to ask them about the conditions and the asylum process. My uncle's friend told us that the conditions were bad and if the police found out that we had been in Germany they would put us in prison and deport us back to Germany. They told us that only Romanian Roma had a chance to be recognised as refugees. We spent two days in Milan. My uncle's friend told us that we should try to go to Switzerland because that country is not in the EU and they have collective centres where they accommodate refugees during the asylum process.

My uncle's friend then drove us to the border and showed us which way to go, so we managed to walk across the border illegally.

The first town we came across was Chiaso and we stopped to telephone our aunt, who lived in Lugano, 20km from the place where we were. My aunt came and picked us up within an hour and took us to her place. We spent three days there because while we were crossing the border, I hurt my feet. My aunt then took us to the Valorbe refugee camp, where we filed requests for asylum. We were kept in the camp for five days and then sent to the Alstätten camp due to the large number of refugees in the Valorbe camp.

We gave our first interview after 25 days in this camp and after that the Ministry for Refugees provided us with a flat paid for by the Ministry. However, after about a month, our asylum requests were rejected and we were told that we would be deported to Serbia.

Facing this threat, we decided to leave Switzerland and try our chances in Austria. We bought train tickets, got on a train and reached the Swiss-Austrian border. We then asked around for the first town and took a bus to Feldkirchen. We were extremely lucky because there was no border check at the time we crossed and after that we entered Austria without problems.

After reaching Feldkirchen, we took the first train to Vienna, where we arrived at around eleven o'clock at night. That night we slept in a hotel because we were exhausted. Next morning, we went

back to the train station and asked a taxi driver whether he knew a refugee camp. He told us that the closest one was in Traiskirchen. So we took the tram and arrived at the camp. Once there, we asked for asylum and the police accepted us. After three days, we were interviewed. We explained our problems and difficulties we faced while in all the countries where we tried to seek asylum.

We were told that they would contact Germany and if German authorities requested for us to be returned there, we would be deported or kept in jail for some time and then sent back to Germany.

When we learned what was awaiting us, we got scared and decided to leave Austria like we did previously Germany, France, Italy and Switzerland. We decided to try our last hope -- Hungary.

On October 31, 2004, at around seven in the evening, we took a train to Sopron. When the train reached Sopron, we got out from the other exits (not the ones which lead to the station) and kept on walking through fields and hills until we entered Sopron.

We stayed in a hotel that night, and the next morning took a bus to Budapest. We arrived at around nine in the evening. As we had in Vienna, we asked a taxi driver about the refugee camp and were directed to the Bicske camp. After we arrived at the train station in Bicske, we asked some persons about the camp and walked there. When we arrived, the security guard asked us what we wanted, and we responded that we were there to request asylum. The next morning we were taken to the police station where they took our pictures and told us when we would be scheduled for interviews. We have been here already nine months waiting a response from the Hungarian authorities to our asylum request.

We have no family members in Kosovo. All of us left in 1999, when they fled to different countries throughout Europe because of the ethnic cleansing. We all used to live in Peja/Pec. Last year, my cousin was there and told us that our house was destroyed and we had nothing to go back to anymore. Our life in Kosovo has been wiped out forever.



SNAPSHOTS FROM AROUND EUROPE

The pages that follow include Roma rights news and recent developments in the following areas:

The pages that follow include Roma rights news and recent developments in the following areas:

- ECtHR finds **Bulgaria** in violation of the prohibition of discrimination due to failure to investigate racial motivation in murder cases;
- First school desegregation victory in court finding racial segregation in **Bulgaria**;
- ECtHR finds **Greece** in violation of Articles 3 and 14 after police abuse of two Romani men and failure to investigate possible racist motives;
- ECtHR redresses pogrom victims in **Romania**;
- Progress in anti-discrimination cases in **Bulgaria, Germany, Hungary, Romania, and the Czech Republic**;
- Physical abuse and other inhuman and degrading treatment by police and other officials in **Moldova, Serbia and Montenegro**; Investigations into forced child labour in **Croatia**;
- Death of Roma as a result of substandard living conditions, including electricity cuts, in **Bulgaria**;
- Continued failure to move Roma from toxic sites in **Kosovo**;
- Anti-Romani sentiment leading to discrimination, hate propaganda or racist violence in **Austria, the Czech Republic, Finland, Hungary, Romania, Slovenia, and Sweden, the United Kingdom**;
- Denial of justice through refusal by prosecutorial authorities to investigate hate speech in **Russia**;
- Forced evictions, and threats of forced evictions, in the **Czech Republic, Slovakia, Spain, the United Kingdom**; ERRC complaint concerning housing rights in the **Czech Republic**; Local authorities plan segregating Romani communities by a wall in **Slovakia**;
- Social welfare policy reforms threaten to impact disparately Roma in the **Czech Republic**; other issues in access to social services and adequate medical care in **Macedonia**;
- Governmental actions on Roma inclusion in **Albania, Germany, and Serbia and Montenegro**;
- United Nations Human Rights Committee reviews **Slovenia**;
- Women's rights issues in **Macedonia and Russia**.

ALBANIA

✧ **Albanian Officials Meet to Discuss Strategy Regarding Romani Living Conditions**

According to information of the Tirana-based Romani non-governmental organisation Rromani Baxt, a joint meeting was held in Tirana on September 27 and 28, 2005, by a delegation from the Council of Europe, representatives from the Albanian Government, and a network of Romani

NGOs. The meeting was focused on evaluating the outcome of the implementation of the European Framework Convention on the Protection of National Minorities. The second day of the conference scrutinised the *National Strategy for the Improvement of the Roma's Living Conditions*, drafted and approved in April 2003 by the Albanian government.

Representatives from various ministries involved in the

Strategy, including the Ministries of Education, Social Welfare, Health, Culture and Public Affairs, each took the floor to speak about the initiatives of their ministries. Ultimately, representatives pointed to a lack of funding as a main problem, as little money had been budgeted for implementing the strategy. No representative from the Ministry of Finance was present at the meeting. (Rromani Baxt)

AUSTRIA

✧ **Austrian Campsite has "No Place for Gypsies"**

According to information provided to the ERRC by activist Ms Anna Balogi on August 9, 2005, and confirmed by the Vienna-based NGO ZARA, the Austrian campground Lienzer Dolomiten publicly displayed German language signs stating "No Place for Gypsies". On August 31, 2005, the German language newspaper Der Standard report-

ed that the campground owner stated that the signs had been put up at the encouragement of a camping guide publisher. Mr. Johann Wieser, owner of the camp, was quoted as having stated that he had not been advertised in the 2003 Allgemeiner Deutscher Automobil Club guide as he had been accepting "campers who are not actually campers", meaning Roma. The publisher of another guide, Club ACSI, also reportedly had threatened to stop

listing the Lienzer Dolomiten campground if the owner continued to allow Roma to access his site. However, Der Standard reported that both publishers denied the allegations. Mr. Wieser further argued that if hotel owners could refuse service to people they did not like, he could as well. The case has reportedly been referred to the Ombudsman for Ethnic Equality in the Provision of Goods and Services. (ERRC, ZARA, Der Standard)

BULGARIA

✧ **European Court Affirms Failure to Investigate Racial Motivation Amounts to Discrimination**

On July 7, 2005, the European Court of Human Rights (ECHR) affirmed in substantial part its first ever finding in the case of Nachova vs Bulgaria of racial discrimination in breach of Article 14 of the European Convention for the Protection of Hu-

man Rights and Fundamental Freedoms. The decision was in relation to the 1996 fatal shooting by military police of two Romani conscripts. In February 2004, the judges of the ECHR unanimously found that both the shootings and a subsequent investigation, which upheld their lawfulness, were tainted by racial animus. The judgment was the first in the Court's history to find a violation of Article

14 (prohibition of discrimination) grounds of racial or ethnic origin.

At the request of the Bulgarian government, the Court's Grand Chamber agreed to review the initial decision. The Grand Chamber unanimously upheld the February 2004 panel ruling that Bulgaria had breached the victims' right to life under Article 2 of the Convention in two ways:

by failing to adequately regulate the use of firearms by military police, and by failing to properly investigate the young men's deaths. In addition, the judgment also affirmed in part the earlier finding of racial discrimination in breach of Article 14. In doing so, it broke new ground in European human rights law.

The Grand Chamber unanimously held that the prohibition of discrimination under Article 14 has a procedural component, which required the state to investigate whether discrimination may have played a role in the killings. The failure to do so in this case, despite indications of racial motivation, amounted to discrimination. The judgment affirmed several important principles that should guide domestic authorities in future cases involving violence arguably motivated by racial hatred.

The Bulgarian government has been ordered by the ECHR to pay compensation in varying amounts to the applicants within the next three months. For more information on this case and the Grand Chamber decision, please visit the ERRC website at www.errc.org.

✧ **ERRC Prevails in Court against Bulgarian Ministry of Education on School Segregation of Roma**

On October 25, 2005, the Sofia District court released its decision on Case 11630/2004 finding that the Bulgarian Ministry of Education, the Sofia Municipality and School Number 103 of Sofia violated the prohibition of racial segregation and unequal

treatment provided in Bulgarian and international law.

The Bulgarian anti-discrimination act in force since January 2004 explicitly defines racial segregation as a type of racial discrimination. Racial segregation consists in actions or inaction leading to coercive isolation or setting apart of a person on grounds of race, ethnic belonging or colour of skin. The 2003 Act on Protection against Discrimination further introduces a positive obligation of the authorities to take measures to prevent and eliminate discrimination (Article 29). In the instant case, the court found that the Bulgarian authorities have committed racial segregation against the Romani children of Sofia School No. 103, a typical ghetto school with one hundred percent Romani students, situated in the poor Romani settlement Filipovtsi in Sofia. The Court ruled that the Romani children who have attended and are attending School 103 have been and continue to be subjected to segregation and unequal treatment and that their right to equal and integrated education has been violated.

The civil suit against the Ministry of Education, the Sofia Municipality and School 103 was filed by the European Roma Rights Centre (ERRC) in October 2004. The ERRC, testing the procedural possibility provided by the 2003 Act on Protection against Discrimination (APAD), filed the case as an independent and sole claimant in its own capacity as an international public interest law organisation, represented by lawyer Daniela Mihailova of the Sofia-

based Romani Baht Foundation, working on a joint project with the ERRC funded by the United Kingdom Foreign and Commonwealth Office. The ERRC challenged the failure of the Bulgarian authorities to terminate the conditions of racially segregated education of the Romani children attending School 103 and ensure that the Romani children have equal access to education and equal treatment in education. The ERRC claimed that the fact that 100 percent of the student body of School 103 was Romani constituted segregation on racial grounds prohibited by Article 29 of the APAD. Furthermore, the ERRC claimed that inaction on part of the Bulgarian authorities, namely – substandard material conditions in the school, lower expectations for the students' performance, lack of training for working with bilingual children, and lack of control on school attendance, violated the right to equality in education and the right to equal treatment in education of the Romani children in School 103.

The Court ruled that the separation of the Romani children in the Roma-only School 103 "was not the result of their free will but of circumstances beyond their control, accompanied by inaction on the part of authorities obliged to take measures to remedy this situation." The Court accepted that the separation of the Romani children in School 103 was the result of lack of opportunity to attend other schools caused by residential segregation in an all-Romani neighbourhood, obstacles for enrollment in other schools, and fear of racist abuse by non-Romani children.

Further, the Court affirmed that the poor material conditions in School 103, the low educational results of the children, and failure of the school authorities to exert control on truancy are manifestations of unequal and degrading treatment of the children in School 103. Regardless of the fact that the national standard educational criteria were applicable to School 103, the available evidence indicating that the Romani children could not meet the standard educational requirements to a degree comparable with that of children in other schools, was sufficient to prove violations of their right to equal and integrated education. The Court also rejected the argument that the poor educational performance of the Romani children was due to irregular school attendance, stating that the Sofia municipality and the Ministry of Education had been required by law to exert control on the school with regard to such matters. Finally, the Court stated that “the negative consequences for society resulting from the existing situation are tremendous.” (ERRC, Romani Baht)

✧ **ERRC Wins Anti-discrimination Case against Bulgarian Restaurant**

On June 27, 2005, in a case brought by the ERRC, the Bla-

goevgrad trial court in southwestern Bulgaria ruled against a local restaurant for having denied its services to Romani customers. On March 28, 2004, a group of Romani individuals visited the restaurant and were ignored and denied service for over an hour while non-Romani customers, arriving later, were served. The Romani customers sought an explanation from the manager, received none and immediately left to file a complaint with the police and subsequently the ERRC.

Making use of a provision in Bulgaria’s Protection Against Discrimination Act that authorises public interest lawsuits by NGOs where discrimination has infringed the rights of many individuals, the ERRC brought the case arguing that the business’s refusal to provide services to the Romani customers constituted direct racial discrimination, affecting any potential Romani customer, as well as the actual victims. The ERRC sought a court declaration to this effect, and a ban on the business from further denying their services to Romani clients. The court found the refusal of services to constitute discrimination, and ordered the restaurant to abstain from repeating such conduct.

The decision is the most recent in a steady stream of positive find-

ings by Bulgarian courts in discrimination cases against Roma, since Bulgaria’s anti-discrimination law was adopted in December 2003. Further information is available on the ERRC’s website at: www.errc.org.

✧ **Romani Infant Dies in Fire in Bulgaria after Electricity Cut in Settlement**

According to the Sofia-based Romani Baht Foundation, on May 24, 2005, a 13-month-old Romani infant died in a fire in Sofia’s Fakulteta Romani district. The infant’s father, 22-year-old Dimitar Metodiev, also suffered severe injuries when a beam fell on him as he tried to save the baby. The fire was reportedly started from a lit candle while Ms Metodieva was outside doing laundry. A curtain caught fire and the entire house quickly burst into flames. The family’s electricity had been disconnected at the beginning of April 2005 because they had failed to pay their electricity bill for the month of February of 428.81 Bulgarian leva (around 200 EUR). Mr Metodiev was hospitalised for treatment as a result of his injuries. (Romani Baht Foundation)

CROATIA

✧ **Investigations into Forced Child Labour in Croatia**

According to the online news agency OneWorld.Net of August 3, 2005, Ms Vrsaljka Matijevec, Croatia's Children's Ombudswoman, requested that the social welfare centre and the police initiate an investigation into

child labour practices following the drowning of a Romani child in Lake Orehovica at the beginning of August. The child, from the nearby Romani settlement, reportedly drowned when a group of Romani children went for a swim to refresh themselves after having worked all day in high temperatures gathering potatoes for low wages.

As of October 2005, the Croatian Ombudswoman for Children was unavailable for comment.

Recent documentation on the human rights situation of Roma in Croatia can be found in an ERRC shadow report to the CEDAW, available online at: www.errc.org.

CZECH REPUBLIC

✧ **First Court Victory in Central Europe on Coercive Sterilisation of Romani Women**

In its second hearing in the matter, the District Court in Ostrava indicated on November 11, 2005, that it would find violations of law concerning the coercive sterilisation of Ms. Helena Ferencikova by Czech medical practitioners in 2001. Once issued in writing, the decision will be the first finding by any court in Central and Eastern Europe of violations of law concerning the coercive sterilisation of Romani women.

On October 10, 2001, Ms. Ferencikova gave birth in the Vitkovicka hospital in the eastern Czech city of Ostrava to her second child, a son named Jan. The child was born at 4:45 AM, by caesarean section birth. Ms. Ferencikova's first child had also been born via caesarean section. At the time of her second birth, Ms. Ferencikova was also sterilised by tubal ligation. Although her files indicate that "the patient requests to be ster-

ilised", procedures set out under Czech and international law to ensure that, for the extremely invasive and in most cases irreversible sterilisation procedure, consent must meet the standard of full and informed, were not followed by doctors at the Vitkovicka hospital. Although it had been foreseen well in advance of labour that she would give birth by caesarean section, Ms. Ferencikova's "consent" to the sterilisation was apparently secured by doctors several minutes before the operation, and when she was already deep in labour. As a result, Ms. Ferencikova emerged from her second birth traumatised and irrevocably harmed by the doctors to whom she had entrusted herself for care.

The humiliating treatment Ms. Ferencikova suffered is similar to that of countless other Romani women in the Czech Republic and elsewhere in Central Europe, where as a result of fundamental contempt for Romani women and their ability to make informed choices about matters related to their own bodies, doc-

tors and social workers have, for at least the past three decades, routinely and regularly overridden their free will as individuals and subjected them to debasing bodily invasion, with irrevocable consequences. These specific practices targeting Romani women are made possible by a general culture of paternalism among medical practitioners in the region, resulting in threats of abuses of fundamental human rights to any persons entering medical care.

Because she was unwilling to submit to this humiliation, Ms. Ferencikova first joined complaints to the Czech Public Defender of Rights ("Ombudsman") facilitated by the organisations European Roma Rights Centre, League of Human Rights and Life Together. In March 2005, represented by human rights advocate Michaela Tomisova retained by the ERRC and the League of Human Rights, Ms. Ferencikova brought suit at the District Court in Ostrava, alleging that her fundamental rights to dignity and bodily integrity had been

violated. In the same month, Ms. Ferencikova was elected spokesperson of a victim group of approximately 25 Romani women in the Ostrava area who have been subjected to coercive sterilisation by Czech doctors.

Ruling on November 11, the District Court in Ostrava for the first time anywhere in Central Europe recognised the validity of their claims for justice. Written decision in the case is pending.

Further information on actions to secure justice for victims of coercive sterilisation is available at: www.errc.org. (ERRC, League of Human Rights, Life Together)

✧ **Planned Lowered Welfare Benefits May Harm Unemployed Roma in Czech Republic**

According to a report by Radio Prague on July 20, 2005, the Czech Ministry of Labour and Social Affairs introduced a bill to lower social benefits for the unemployed by lowering the subsistence level. Until recently, the subsistence level was composed of two elements: expenditures made in connection with the needs of the person (such as food, clothing etc.) and expenditures to sustain the household (housing included). The new scheme will consist of only one element as the amount paid in connection with maintaining the household will be removed. Through this change, the Czech government reportedly seeks to stimulate active pursuit of employment amongst those relying on social benefits. The bill also decreases financial aid to large

families in hopes of reducing dependency upon children for income. Several Romani organisations have protested the proposal as being racist and discriminatory against Roma who, in many cases, experience greater difficulty finding work. Similar changes made to the social welfare system in Slovakia in 2004 have had adverse impacts on the Romani population and led to social unrest. (ERRC, Radio Prague) According to a December 21, 2005 news announcement posted on the website of the Czech Ministry of Labour and Social Affairs, the bill has passed in Parliament and is being reviewed by the Senate. Should the bill pass in the Senate, it will take effect January 1, 2006.

✧ **Roma Denied Entry to Czech Discotheque**

According to a report by the Dzeno Association, on July 18, 2005, a Czech Romani couple was denied entrance to two discotheques, *Alfa* and *Arena*, in the city of Plzen, reportedly on racially discriminatory grounds. The refusals came during a situational testing exercise conducted by the Romani couple and a non-Romani couple, sponsored by the Czech daily newspaper *Mladá Fronta Dnes* and the Romani journal *Romano Vodi*.

As reported by Dzeno, a hidden camera used by reporters from MFDnes and *Romano Vodi* captured the owner of a disco in Plzen allowing the non-Romani couple to enter the club without problem, while moments later the Romani couple was refused entrance to the club, told by a doorman that the disco was

full. The Romani couple reportedly refused to leave so the doorman asked for their identification cards and told them that the disco had “issues” with “dark-skins” before again refusing them entry. The only difference between the two couples was their ethnicity: they had dressed alike, had university education and possessed equivalent language skills.

The Romani couple reported the incident to the police, who arrived at the disco soon thereafter. According to Dzeno, the police claimed that they could not do anything because the club was on private property. However, when the video recording was later handed over to the Plzen Police Department, an investigation was opened into both the actions of the discotheque and the police who initially responded. MFDnes is reported to have confronted a co-owner of one of the discos and was informed, “I do not know what the guards said, but they do not have such instructions from us at all.”

Testing is a technique employed to gather evidence of discrimination, which has been successfully used in court cases to prove discrimination has taken place in Czech Republic and other countries. A detailed description of how to conduct testing is available on the ERRC’s website at: www.errc.org. (Dzeno Association)

✧ **“Guests of Mrs. Scukova” Action Challenges Housing Segregation in Bohumin**

On the evening of October 4, 2005, in a gesture of solidarity

aimed at raising public awareness, a number of parties concerned at racial segregation in the field of housing in the Czech Republic spent the night in the flats of four families threatened with forcible expulsion from their homes in the northern Czech town of Bohumin. The guests included Czech government's Commissioner for Human Rights Mr. Svatopluk Karasek and members of his staff; Deputy Ombudsman Ms. Anna Sabatova; as well as members of the civil organisations Life Together, League of Human Rights and the European Roma Rights Centre. The families have been under threat of forced eviction since June, when municipal officials informed them that, following expiry on June 30 of their rental contracts to stay in a hostel for low-income and other poor families, they would have to move out, along with approximately 250 other inhabitants of the hostel. The majority of the persons affected are Romani.

An appeal on behalf of the families by five non-governmental organisations including the ERRC, sent to Czech Prime Minister Jiri Paroubek on June 30 remains as yet unanswered and without any apparent effect. (For information on the appeal see: www.errc.org.)

Under intense pressure and harassment by municipal officials, most of the families have left the building, despite having been provided with no reasonable alternative housing. Until issued with eviction orders, they have been long-term legal tenants of the building. Some have emigrated from the Czech Republic, having abandoned hope of a life with dignity in the country. The failure to secure the basic well-being of the persons concerned calls into question the Czech Republic's compliance with a number of its international law obligations. However, four families have stayed on, and brought legal challenges against the evictions. Mrs. Scukova was moved to challenge the evictions after municipal officials urged her to separate from her husband so that she might move into a shelter for single mothers.

By way of retribution, the city of Bohumin has undertaken a number of arbitrary acts against the families, including engaging a private security company to guard the door of the hostel and to block anyone but persons living there – including close family members – from entering the building. For the services of this security company, the city of Bohumin has issued monthly bills to the families concerned.

As a result of these measures, Mrs. Scukova, who previously was a fastidious rent- and utilities-payer, has accrued approximately 110,000 Czech crowns of debt (approximately 3,710 Euro). She and her family will not be eligible for social housing in the Czech Republic until this debt is repaid.

On September 15, a court in Karvina ruled against Mrs. Scukova's appeal against the eviction order, and gave her 15 days to move out. As of November 8, 2005, the court in Karvina has ruled against the three additional claims brought by the other remaining families. All cases will be appealed as soon as the decisions are issued in writing.

The threatened expulsion of these families from their housing is part of a dramatic expansion of efforts at racial segregation in the field of housing in the Czech Republic in recent years, a problem of which the Czech government is aware. Despite this awareness, as of 2002, there have been no changes made in housing legislation regarding protection against discrimination and no government programme exists to reverse racial segregation in the field of housing. (ERRC, Life Together)

FINLAND

✧ **Roma Most Frequently Subjected to Racist Assaults**

According to an article by daily online newspaper Helsingin Sanomat on August 28, 2005, a report commissioned by the Finn-

ish Ministry of the Interior and carried out by the Finnish Police College found that assault is the most common racist crime committed in Finland. Last year, over 550 crimes of a racist character came to the attention of the police. Approximately one third

of these were classified as assault or attempted assault. Other common offences included defamation, discrimination, and making illegal threats. The article continued that the most common victims of racially-motivated crimes are visible minorities,

of which Roma constitute the largest group. The next largest groups are Somalis, Russians, Turks, Iraqis, and Iranians.

The report also found that the majority of victims of racist crimes are men, roughly 70% of cases, though crime

against women is rising, and that the largest age-cohort is 15-24-year-olds, with over 80% of crimes committed against persons from 15 to 44 years of age. Also, more than 85% of the suspects were men, and more than 40% were males in the 15-24 years age-group. The larg-

est group among women suspects was those of 35-44 years, where discrimination was the offence in nearly half of the cases reported. The most common crime against males is assault, and against women it is either defamation or illegal threats. (Helsingin Sanomat)

GERMANY

✧ **German High Court Rules “Gypsy Jew” Libellous Speech**

On July 29, 2005, the German Constitutional Court ruled it libellous to label a public figure a “Gypsy Jew” in print, according to the German news source Deutsch Presse Agentur of August 1, 2005. In its decision, the court found that such usage evokes Nazi atrocities conducted against both groups. The Federal Constitutional Court ruled that the use of the term “Zigeunerjude” (“Gypsy Jew”) by former right-wing Republic Party official Mr. Hermann Josef Reichertz in a printed leaflet to describe one of Germany’s foremost Jewish officials, Mr. Michael Friedman, was libellous and inflammatory. Terms categorized as Nazi slogans and

catchwords are banned in Germany except for use in historical or theatrical purposes. Mr. Reichertz produced hate pamphlets containing the term in November 2000 after Mr. Friedman urged Germans to stand up against neo-Nazism. (Deutsch Presse Agentur)

✧ **German State of Rhineland-Palatinate Recognises Roma as National Minority**

According to a report by BBC News, on 25 July 2005, the German State of Rhineland-Palatinate became the first German state to officially recognise the Romani language and culture when it signed an agreement recognising German Sinti and Roma as a na-

tional minority. The agreement requires that the government provide financial support of Roma and Sinti Culture and protect the Romani language. Furthermore, as a minority group, Roma will be able to use the Romani language in official state settings, and Romani and Sinti history will be taught to all students attending state schools.

There are approximately 80,000 Roma and Sinti in Germany with approximately 8,000 living in Rhineland-Palatinate. The Federal German state has considered Roma and Sinti a national minority since 1995, but previously they have not received any of the legal protection, political privileges, or reserved representation given to other minority groups. (BBC News)

GREECE

✧ **ECtHR Finds Greece Guilty of Inhuman and Degrading Treatment of Two Romani Men**

On December 13 2005, the European Court of Human Rights (Court) issued a decision in the case of Bekos and Koutropou-

los vs. Greece. The Court found the Greek state responsible for the inhuman and degrading treatment two Romani man suffered at the hands of police, as well as the subsequent failure to conduct an effective official investigation, in violation of Article 3 (prohibition of torture and inhuman and

degrading treatment). The Court also found a violation of the procedural guarantee against racial discrimination contained in Article 14 (discrimination), taken together with Article 3. Mr. Lazaros Bekos and Mr. Eleftherios Koutropoulos (“the applicants”) were represented by lawyers of

the ERRC, together with the non-governmental organisation Greek Helsinki Monitor (GHM).

The incident at issue took place in May 1998, when Mr Bekos and Mr Koutropoulos were arrested for allegedly attempting to break into a kiosk. The two men were taken to the Mesolonghi police station and interrogated. During the interrogation, both were severely beaten by the police. A forensics report issued the following day indicated that both young men had sustained “moderate bodily injuries caused in the past 24 hours by a blunt, heavy instrument.”

An internal Sworn Administrative Inquiry concluded that two officers, Police Lieutenant Apostolos Tsikrikas (Chief Commander of the Security Department) and Lieutenant Andreas Avgheris (Deputy Commander of the Security

Department) had treated the applicants “with particular cruelty during their detention.” The report also established that Officer Tsikrikas physically abused both of the young men and that Officer Avgheris had struck one of the men with a truncheon intensely several times. Although the Sworn Administrative Inquiry recommended that both officers be suspended from service, this was never done.

At the conclusion of a criminal investigation into the matter two years later, the Misdemeanors Prosecutor of Mesolonghi recommended that three police officers be tried for causing bodily harm. Despite this recommendation, the three-judge Misdemeanor Judges Indictment Chamber dropped the criminal charges against two of the officers and indicted only Officer Tsikrikas. The Appeals Court of Patras, ignoring the

testimony of the two Romani men, the findings of the Sworn Administrative Inquiry, and the results of the Mesolonghi Public Prosecutor’s investigation, acquitted Officer Tsikrikas of all charges.

The applicants brought their case to the European Court of Human Rights, alleging violations of Article 3 (prohibition of torture and inhuman and degrading treatment), Article 13 (lack of an effective legal remedy), and Article 14 (discrimination), in conjunction with Articles 3 and 13.

Assessing the evidence, the Court noted serious flaws in investigating the possible existence of racist motives and therefore found Greece in violation of Article 14 of the Convention, taken together with Article 3. The Court awarded each applicant 10,000 Euro for non-pecuniary damages. (ERRC)

HUNGARY

✧ Racist Game Reappears in Internet After Removal

On June 5, 2005, the Budapest-based Roma Press Center (RSK) reported that “Oláh Action”, an Internet game with the objective of killing all Roma in Hungary could once again be accessed on the Internet, despite previous police action to remove the game. The game, in which Hungary is declared “clean” and turns white after all Roma are killed, first appeared in February 2005. At that time, Budapest’s Romani radio station Radio C reportedly filed a complaint with the host server, which promptly deleted the page. According to RSK, the game re-

ceived over four thousand visitors in the few days that it was available. In May, the game reappeared. At that time, the RomNet Media Foundation reported the game’s return to the police as an “incitement against community”. However, as RSK reported, the police dropped the investigation. Lieutenant Colonel Ferenc Toth was quoted as having stated that the game does not fall within the legal concept of incitement, while admitting that the language and content of the game demonstrate contempt for the Romani community and that the pop-up text is abusive. Police ordered the game removed from the host server, but RomNet reports that it is still

available on many websites. RSK reported to the ERRC on January 18, 2006, that the game, last seen online in June 2005, has since been removed from the internet. (ERRC, RSK)

✧ First Instance Court Upheld Segregated Education

In June 2005, the Hungarian non-governmental organisation Chance for Children Foundation filed a lawsuit in the Miskolc County Court against the Miskolc Municipality alleging the practice of school segregation of Romani children city-

wide. The complaint claimed the Municipality organises the education system in a manner discriminatory to Romani students and other disadvantaged children, as by merging schools children are taught in the same institutions but in different buildings and under poorer conditions. On November 3, 2005, the Chance for Children Foundation lost at first instance the lawsuit. In its judgement, the Miskolc County Court found that the aim of the Municipality was indeed the integration of disadvantaged students and that this action does not violate the right to equal opportunity. The court stated further that the merger of schools was necessary for the Municipality to maintain the schools of the city. The decision has been appealed by the Chance for Children

Foundation before the Debrecen Appellate Court. (ERRC)

✧ **Court Punishes Disco for Denying Entrance to Roma on Racist Grounds**

On June 13, 2005, the Szabolcs-Szatmar-Bereg County Court held that the Julia Central Ltd., operating the Julia Central Discobar in Nagyhalasz, violated the right to dignity and infringed the requirements of equal treatment with respect to three Romani individuals and one non-Romani individual. The court awarded 150,000 Hungarian forints each (approximately 600 EUR) in non-pecuniary damages to Ms Agnes Rado and three other young people after guards at the Julia Central Discobar turned them away for the stated

reason that they were not “regular guests” on April 10, 2004. Non-Roma arriving after them managed to enter without any identification or questioning.

In the framework of a joint litigation project with the ERRC, the Budapest-based NGO Legal Defence Bureau for National and Ethnic Minorities (NEKI) conducted a test of the disco on June 12, 2004, to determine whether or not the establishment practiced racial discrimination. The tests ascertained that Roma were banned from entering the bar, while non-Roma were allowed entrance. Julia Central Ltd. was ordered to refrain from further violations and to post the court’s decision at the discotheque for two months. (ERRC)

KOSOVO

✧ **Representative of the UN Secretary General for the Human Rights of Internally Displaced Persons Expresses Concern over Romani IDPs and Victims of Lead Poisoning**

According to United Nations press release dated June 24, 2005, Mr Walter Kaelin, representative of the UN Secretary General for the Human Rights of Internally Displaced Persons, expressed concern regarding the situation of internally displaced people (IDPs) in Kosovo, focusing particularly on the Romani, Ashkali and Egyptian IDPs. Mr Kaelin was quoted as having stated:

“[...] The focus of the relevant authorities has exclusively

been on return, thus disregarding those who are still displaced within Kosovo. This is especially true for Roma, Ashkali and Egyptian IDPs who together with the other non-Serb minorities feel caught between the two main ethnic communities in Kosovo.”

Mr Kaelin, citing a number of problems in the return of IDPs, made reference to the “deplorable” housing conditions of IDPs and expressed concern for the safety of displaced persons due to inter-ethnic violence. With reference to the situation of Roma living in Northern Mitrovica on land containing unacceptably high levels of lead, Mr Kaelin called the situation an “emergency” and called for an

immediate evacuation of residents to non-contaminated areas. More information on the situation of the internally displaced Roma in the camps in North Mitrovica, is available on the ERRC website at: www.errc.org.

✧ **European Roma Rights Centre Presses for Criminal Charges Related to Extreme Harms in Northern Kosovo**

The European Roma Rights Centre filed a request on 2 September 2005 for criminal investigation into the continued danger to human life being caused by the placement and retention of approximately 550 Roma

people in three camps contaminated by lead poisoning in Northern Mitrovica, Kosovo.

In 1999, following the cessation of military action by NATO against Yugoslavia, Roma and others regarded as “Gypsies” in Kosovo were ethnically cleansed by ethnic Albanians. In Mitrovica, while KFOR units looked on, mobs of ethnic Albanians took the Romani quarter to pieces, chased out local inhabitants, and plundered wholesale their possessions. Those Roma who did not escape Kosovo to other countries or to Serbia and Montenegro were placed in camps for internally displaced persons (IDPs), Chesmin Lug, Kablare and Zitkovac. At the time, this arrangement was purportedly supposed to last for 45 days. It was known at the time that these camps were in toxic areas, situated near the tailings of the Trepca mine complex. More than 6 years later, the Roma concerned are still living at the contaminated sites.

In 2000, the World Health Organization (WHO) undertook a report on the issue, noting extremely high levels of lead in the bloodstreams of a number of camp residents. The WHO recommended to UN Mission in Kosovo (UNMIK) officials, that the Roma be immediately evacuated. No action was taken. In July 2004, WHO again tested a number of persons and subsequently stated that there was now a medical emergency and recommended immediate evac-

uation. In spite of a number of expressions of goodwill by UNMIK officials, the Roma are still there today.

At least one death – that of Dzenita Mehmeti, a 2-year-old child – can be directly attributed to the lead contamination. The deaths of several other persons living in the camps may also have been caused by toxicity arising from heavy metals in the camps. The health consequences of lead poisoning are severe, and the harms suffered by the remaining several hundred camp inhabitants mount daily.

The complaint filed by the ERRC under Article 291(5) of the Provisional Criminal Code of Kosovo asks for the general prosecutor to identify any culpable persons and to bring criminal charges against them. If the perpetrators are international personnel who have immunity, then immunity must be lifted in order to bring justice to those who have suffered from these criminal acts. A copy of the complaint is available at: www.errc.org.

✧ **Roma Rights in Kosovo: Joint Statement to the Organization for Security and Co-operation in Europe**

On September 19, 2005, three organisations presented at a meeting of the Organization for Security and Co-operation in Europe (OSCE), convened in Warsaw, a statement detailing the need for justice for Roma in

Kosovo, where despite six years of United Nations administration, extreme abuses prevail. The European Roma Rights Centre (ERRC), European Network Against Racism (ENAR) and European Roma Information Office (ERIO) tabled a document urging the international community to end the impunity for ethnic cleansing of Roma in Kosovo and to bring the perpetrators to justice. The three organisations stated:

“Where Roma, Ashkalia, Egyptians, and others regarded as “Gypsies” are concerned, Kosovo is a human rights vacuum. Roma and others regarded as “Gypsies” were a late human rights priority of the international community, and have never been viewed as meriting action on the scale of previous human rights actions in Kosovo. Justice in matters related to the ethnic cleansing and other serious human rights violations affecting these groups has been denied and/or severely delayed.”

The statement also describes very worrying developments in the northern town of Mitrovica, where authorities have failed to date to move approximately six hundred displaced Roma currently living on a toxic waste site. The statement was brought before the OSCE Human Dimension Implementation Meeting, an annual event addressing human rights concerns in the OSCE region. The full text of the statement is available at: www.errc.org.

MACEDONIA

✧ **Shadow Report submitted to CEDAW on the Situation of Romani Women**

In October 2005, the European Roma Rights Centre together with the Roma Centre of Skopje, and the Network Women's Program, with the support of the UNIFEM regional office in Bratislava, jointly submitted a shadow report to the United Nations Committee on the Elimination of Discrimination Against Women. The submission commented on the initial, second and third periodic reports submitted to the Committee by the government of Macedonia and provided documentation on the human rights situation of Romani women, based on field research undertaken throughout 2005.

The research findings revealed that lack of desegregated data by gender and ethnicity in Macedonia prevents the government from defining the real problems faced by Romani women in Macedonia and consequently from formulating effective policies aimed at addressing the discrimination encountered by this vulnerable group. Furthermore, existing

data about the size of the Romani community are frequently misused in the media to encourage alarmist conclusions and deepen prejudices and racial hatred about Roma in Macedonia.

The report continues in scrutinizing the National Action Plan for Gender Equality Promotion (adopted in 1999) for not prioritising the needs of minority women. Although the Action Plan mentions low levels of school attendance by Romani and Albanian girls as a concern, the report points out the lack of concrete measures to address the multiple barriers faced by minority women in their access to all fields covered by the Convention. The research findings confirm that the majority of Romani women in Macedonia are at present de facto excluded from a range of protections guaranteed by the Convention, especially in the fields of education, employment, health and participation in public and political life. Lack of registration of Romani newborns and lack of access to citizenship as a basic precondition for practising all guaranteed rights is a serious issue in need of special attention. The full text of the shadow report is available at:

www.errc.org. (ERRC, Network Women's Program, Roma Centre of Skopje)

✧ **Survey Finds Large Number of Uninsured Roma in Macedonia**

On June 29, 2005, the online news source OneWorld.Net published the results of a nationwide survey undertaken by the non-governmental organizations "Luludi" Roma Association of Women and Youth and "For a Happy Childhood" on access to health insurance and health care for Macedonia's Romani population. From a sample of 1,000 Romani families, Luludi and For a Happy Childhood found that 39.42 percent of the families surveyed did not have health insurance. Amongst the reasons cited for not having health insurance were the lack of proper paperwork (34.15%), unregulated citizenship status (12.2%), incomplete primary education (19.51%), unemployment (12.2%) and refugee status (7.31%). A further 14.63% of those polled responded that they did not have health insurance because they did not understand the steps necessary to obtain the right. (OneWorld.Net)

MOLDOVA

According to a report by Amnesty International of August 9, 2005, two Romani men, Mikhail Kaldarar, 21 years old, and Vasillii Kodrian, 46 years old, were held incommunicado by police in the Moldovan capital of Chişinău. Both men were de-

tained without charge and were at risk of torture or ill-treatment.

Mikhail Kaldarar was reportedly detained during a raid on the Romani community in the town of Yedintsy, in the north of the country, on or around

July 18, 2005. Police reportedly beat men, women and children during an armed raid in connection with an investigation into several murders in Chişinău. They detained more than 30 Romani men and boys, most of whom were held for

two days in Yedintsy before a court ordered their release. They were allegedly severely beaten in order to force them to incriminate themselves or others during their detention. Most were released without charge.

According to his lawyer, Mikhail Kaldarar was transferred to the Ministry of Interior temporary holding facility in Chişinău shortly after his detention. An appeal court in the regional capital of Beltsey ordered Mikhail Kaldarar's release on July 25, 2005, because of the lack of evidence against him. On July 27, 2005, police officers reportedly told Mikhail Kaldarar's mother and representatives of the United Alliance of Roma in Moldova, that he had been released that day, although his mother had waited all day outside the temporary holding facility without seeing him leave. On August 3, 2005, an official of the Ministry of the Interior

told Mikhail Kaldarar's father that his son was still being detained and would be released only if the real culprits of the murder were handed over by the Romani community. Authorities however did not confirm his whereabouts, and neither his lawyer nor his family had been allowed to see him as of that date.

Vasilii Kodrian was detained by police in Yedintsy on 5 August, allegedly on the grounds that his son, whom the police had not yet apprehended, was a suspect in the investigation into the murders in Chişinău. Vasilii Kodrian was released on August 15, 2005, although he and his wife were subsequently both taken again into detention three days later, on August 18, 2005. Neither was reportedly charged with any offence, and both were thought to have been held along with Mikhail Kaldarar in the temporary holding facility in Chişinău, although once again,

the authorities did not confirm their whereabouts. Anna Kodrian was recovering from a series of operations and was reportedly taken into detention without her medication. Their eight-year-old daughter was being cared for by relatives.

In Amnesty's *Urgent Action News* bulletin for October 2005, it was reported that Mikhail Kaldarar was released on September 8, 2005, and had returned to his family. Anna Kodrian was released approximately three weeks after being detained with her husband, Vasilii Kodrian, on August 18, 2005. Both Mikhail Kaldarar and Anna Kodrian were released through the intervention of the parliamentary human rights ombudsman, who put pressure on the authorities to release the detainees. As of October 2005, Vasilii Kodrian was reportedly still in custody in the northern town of Oknitsa. (Amnesty International)

ROMANIA

✧ European Human Rights Court Moves to Redress Romanian Pogrom

On July 12, 2005, The European Court of Human Rights ruled that Romania violated multiple provisions of the European Convention on Human Rights for failing to provide justice in connection with a 1993 pogrom and its aftermath. The case involves the killing by a mob of three Romani men and the subsequent destruction of fourteen Romani houses in the village of Hadareni in Mures County, northwestern Romania, as well as the degrading circum-

stances in which the victims were forced to live after the event.

Following an altercation in which a non-Romani youth was killed, a mob of non-Romani villagers hunted down the alleged perpetrators and set fire to the house in which they were hiding. Two were brutally murdered when they tried to escape, and the third burned to death in the house. The mob, including members of the local police force, went on to destroy 14 additional houses of Romani families. The Romani families were thereafter forced

to live in hen houses, pigsties, windowless cellars, in extremely cold and overcrowded conditions. These conditions lasted for several years and in some cases are still continuing. As a result, many applicants and their families fell ill. Diseases contracted by the victims included hepatitis, a heart condition (ultimately leading to fatal heart attack), diabetes, and meningitis.

The ERRC has been involved in the Hadareni case since its establishment in 1996. Jointly with domestic partners, including the

Tirgu Mures-based Liga Pro Europa, the ERRC provided legal assistance to a number of the victims, and ultimately brought the claim before the European Court of Human Rights.

In the July 12 decision, the Court held that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment), Article 6(1) (right to a fair hearing) on account of the length of the proceedings, Article 8 (right to respect for private and family life), and Article 14 (prohibition of discrimination) taken in conjunction with Articles 6(1) and 8. The Court ordered that seven persons be provided with damages totaling 238,000 Euro. Individual awards ranged from 11,000 to 95,000 Euro. Eighteen of the twenty-five applicants agreed to enter a friendly settlement with the Romanian government that was the subject of a separate judgment, issued on 4 July 2005. Under settlement mediated by the Court, the Romanian Government also agreed to provide a number of other ameliorative measures, as well as damages amounting to 262,000 Euro. The full text of the July 12 decision can be found at: www.errc.org. (ERRC)

✧ **Roma Houses Destroyed in Romanian Town of Seica Mare**

According to an article posted on July 19, 2005, in the online edition of the Romanian news-

paper Romania Libera, on July 18, 2005 a mob of about 60 Romanians attacked and destroyed several Romani houses in Seica Mare. The violence reportedly followed a fight between six ethnic Roma and two young Romanians. The Romanians alleged that the Roma started the fight at a discotheque near the town of Seica Mare. In the brawl, the hand of one of the ethnic Romanians was broken. Following the fight, the Roma began to run to their homes, and, as they crossed the train tracks, allegedly started to curse and throw rocks at the Romanians.

According to the article, at around 2:30 AM, approximately 60 Romanian men with clubs and axes gathered and headed toward the Romani homes. Witnesses claim that the men destroyed everything in their wake, including colour TVs, windows, and even the tiles on the Romani homes. The angry mob found no one in the Roma dwellings except for an old man, whom, according to one of the Romanian participants, they proceeded to beat. Later, an ambulance took the old man away for treatment, and gendarmes arrived to settle the crowd and take declarations from everyone.

Ethnic Romanian villagers reportedly threatened further violence if the young ethnic Roma who took part in the initial brawl are not brought to justice. Romani leader Florin Cioaba urged Roma to not resort to violence. "There is a law, and the police

and the gendarmes will make justice. (...) I hope our Roma people will be wise and not answer to challenges," Cioaba said.

This episode is not the first instance of inter-ethnic conflict in Seica Mare. Fourteen years ago an ethnic Roma was killed and several houses of the Roma community were set on fire when fighting erupted between Roma and Romanian residents. Police officials reportedly stated that the event was not a racial conflict and that it occurred as a result of the spontaneous clash at the discotheque. (Romania Libera)

✧ **Town Hall in Southern Transylvania Fined for Violating Roma Rights**

According to an article posted on September 9, 2005, by the Romanian weekly online bulletin DIVERS, the Miercurea Ciuc town hall in southern Transylvania was fined 4,000 Romanian lei, the equivalent of over 1,100 Euros, by the National Council to Combat Discrimination, because it evicted a Romani community from the edge of the town to eight barracks located in an area with high risk of infection. The barracks were located near the town's water filtering station. Although the 80 Roma were initially scheduled to remain there for three months, they were left there for over a year. The Council decided that the forced eviction of the Roma was a serious violation of human rights and non-discrimination principles. (DIVERS)

RUSSIA

✧ **Russian Prosecutorial Authorities Decline Investigation of Hate Speech**

On September 16, 2005, the European Roma Rights Centre (ERRC) and the Moscow Helsinki Group (MHG) sent a second joint statement urging Mr Vladimir Ustinov, Prosecutor-General of the Russian Federation, to open a criminal investigation against the Russian national television station NTV on the grounds of incitement to racial hatred in accordance with Article 282 of the Russian Criminal Code. Article 282 of the Russian Criminal Code establishes criminal liability for “actions aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group, if these acts have been committed in public or with the use of mass media.”

The statement of the ERRC/MHG was in follow-up to joint action by the two organisations against a February 10, 2004, documentary broadcast entitled *Coma* devoted to “Roma drug dealers” in Kimry, Tver region, on NTV, including an appeal for violent action against Roma. During the broadcast, Father Andrey (Lazarev), a well-known local Orthodox priest, repeatedly urged viewers to burn down Romani houses. Father Andrey stated during the documentary that Kimry has become one of the chief transit points of the drug trafficking in

Russia and identified Roma as the main actors in the Russian drug trade. A drug addict, a non-Romani man named “Sasha”, repeated the same message and stated that “only napalm can solve the problem with Romani drug dealers”.

The first appeal by the ERRC and the MHG to the Prosecutor-General to investigate the lawfulness of NTV’s broadcast of *Coma* was sent on June 28, 2004. The ERRC and MHG included a videocassette of the documentary in their communication. On November 18, 2004, Mr A.N.Yushkov, the Prosecutor of Ostankinskiy district of Moscow, responded that the videocassette provided by the authors of the letter “was not produced in accordance with the procedural rules and therefore cannot be taken into consideration. Due to the lack of procedural status it cannot be considered as evidence.” While the response of the District Prosecutor’s Office was formally in accordance with Russian law regarding evidentiary rules, the ERRC and the MHG are of the opinion that if the institution had taken the alleged violation of criminal law seriously it would have ordered an expert verification of the cassette’s contents. Therefore, on February 22, 2005, the ERRC and the MHG requested that the Ostankinskiy Prosecutor order expert verification of the videocassette’s contents and that the prosecutor initiate criminal investigation. On July 4, 2005, Mr D.Y. Kulakov, deputy prosecutor of the

northeastern administrative district of Moscow, responded that Mr Yushkov’s rejection was lawful and restated that there were no grounds to open criminal investigation.

The full text of the ERRC/MHG letter to the Prosecutor-General in Russian is available at: www.errc.org. The ERRC sent a number of other advocacy letters on hate speech issues in Russia during the period. The ERRC is currently implementing a project on hate speech in the Russian media, with British government support. (ERRC)

✧ **Women’s Rights Workshop in Volzskhiy**

In June 2005 the ERRC conducted a 5-day long capacity-building workshop in Volzskhiy. The main aim of this event was to bring Russian speaking Romani women from former Soviet states together and initiate a critical discourse around the issue of Romani women’s rights. It was an attempt to empower Russian speaking Romani women and to create a “safe space” for them to explore issues pertaining to Romani women in their countries. The programme was attended by Romani women from Russia, Belarus and Ukraine. Topics covered included the current situation of Romani women in Russia, protection of women’s rights in national instruments, and anti-discrimination law matters.

Allied to these main themes, there were a number of open space discussions where the participants were encouraged to

provide personal accounts and explore various explanations or solutions to these “problems”. Participants were grateful for the workshop and expressed

an intense desire to continue working together. The momentum established during this workshop will lead to a number of follow-up events in the re-

gion by these participants and others who may join the coalition subsequently. (ERRC)

SERBIA AND MONTENEGRO

✧ Police Brutality Against Roma in Serbia and Montenegro

Independent investigation by the ERRC in partnership with the Belgrade-based Minority Rights Center (MRC) has documented several recent instances of police violence against Roma.

Two brothers testified to having been victims of police violence on separate occasions at the same train station police barrack. 19-year old Idriz Mekoli told the ERRC/MRC that, on May 23, 2005, two policemen stopped him, demanding his identity card. He did not have his card but presented his birth certificate, citizenship certificate and other personal documents and pictures. Dissatisfied, the officers reportedly told him to come to their barrack inside the train station. They began to insult him. According to the statement received from Mekoli, the police punched him in the stomach, and hit him on the hands, feet, and ribs with bats and a rubber pipe. They also hit his head against a wall four times. They kept him from 10:30 AM until 1:30 PM and when they released him told him not to return to the park. Idriz stayed in bed for two weeks following the beating.

Azis Mekoli, the 18-year-old brother of the victim, reported experiencing similarly violent encounters at the same location in January 2005 and in March 2003.

Two other Romani men, Adam Ajerovic and Bojan Salijevec, both seventeen years of age, testified to the ERRC/MRC that on June 20, police officers subjected them to physical abuse. According to their statements, on the said date, Adam and Bojan returned home around 2 A.M. from an evening in a park with two girls. Their houses were locked, and they did not want to wake their families, so the two decided to sit in their neighbour’s car until morning and then go home.

Around 3 A.M., 7 or 8 policemen in three cars arrived at the car accusing the two of stealing packages of coffee and cigarettes from a supermarket and ordering them out of the car. The police searched the trunk and the boys and then took the boys to the supermarket that had been robbed. In front of the supermarket, Adam received three punches in the chest. The owner reportedly told the police that the two were not the culprits and were in fact shorter than the individuals who committed the crime. Nevertheless, the police insisted that the two stole the coffee and ciga-

rettes and took them to a wooded area behind the store. The police officers then reportedly put on white gloves and slapped Adam twice and then Bojan as well. The police then gave the boys a note with the phone numbers and surnames of two of the officers and told them to find the perpetrators. The police threatened the boys that if Adam and Bojan did not find out who had stolen the goods by 5 A.M. they would return. They also told the boys to go to the police station at 9 A.M. the next morning. Both boys decided not to return to the police station for fear of being beaten again. As of January 12, 2006, the ERRC confirmed that no legal action has been taken regarding either incident. (ERRC/MRC)

✧ UN CAT Rules Serbia and Montenegro in Violation of Convention Against Torture

On June 29, 2005, the United Nations Committee Against Torture ruled that Serbia and Montenegro (successors to the Federal Republic of Yugoslavia against which the original complaint was filed) violated the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The decision involves the arbitrary detention and extreme physical abuse of

Mr. Jovica Dimitrov, a Romani man, as well as the failure by Serbian authorities to provide justice in the case.

In the early morning hours of February 5, 1996, Mr. Jovica Dimitrov, a Romani man, was arrested at his home in Stanka Paunovica Street 15, Novi Sad, and taken to the police station in Kraljevic Marka Street. The arresting officer presented no arrest warrant nor did he inform Mr. Dimitrov as to why he was being taken into custody.

Upon arrival at the police station, Mr. Dimitrov was taken to the Homicide Division. During the ensuing interrogation, the arresting officer struck Dimitrov repeatedly with a baseball bat and a steel cable, and kicked and punched him all over his body. At times Dimitrov lost consciousness. With brief breaks on several occasions, the abuse lasted from 6:30 A.M. to 7:30 P.M., leaving Dimitrov with numerous injuries on his buttocks and left shoulder. Sometime after 7:30 P.M., he was released, again without being given an arrest warrant or a release order, or being told of the reason for his arrest and detention.

On November 7, 1996, Mr. Dimitrov filed a criminal complaint with the Novi Sad Municipal Public Prosecutor's Office, alleging that in the incident at issue an unidentified police officer had committed the violence. It was only on September 17, 1999, more than three and a half years (43 months) following the incident at issue, and 34 months since the criminal complaint was filed, that the Novi Sad Municipal Public Prosecutors Office requested the investigating judge

of the Novi Sad Municipal Court to undertake certain preliminary "investigatory actions".

The investigating judge of the Novi Sad Municipal Court accepted the public prosecutor's request and opened a separate case file (Ki 393/99). However, eleven months after the investigating judge opened the case file, and four and a half years after the original incident occurred, the local authorities still had not identified the perpetrators. The European Roma Rights Centre and the Humanitarian Law Centre therefore brought the case to the UN Committee Against Torture on August 29, 2000.

In its decision, the Committee held that the allegations constitute torture within the meaning of Article 1 of the Convention. The Committee also found that the State party violated Articles 12 and 13 in failing to carry out a prompt and impartial criminal investigation and ensuring that the applicant has a right to complaint and his allegations promptly examined by competent authorities. Mr. Dimitrov was also prevented from any possibility of filing a civil suit for compensation, which violates Article 14. The State party was urged to conduct a proper investigation and to inform the Committee within 90 days of the decision and next steps. (ERRC)

✧ **Roma Discriminated Against in Access to Social Services in Serbia and Montenegro**

According to the testimony of 53-year-old Ms. Razeta Silistarevic to the ERRC and its Belgrade-based partner Minority

Rights Center (MRC), in May 2005, Ms. Silistarevic, who is unemployed and suffers from diabetes, heart problems, and high blood pressure, visited the Center for Social Work in Vranje, Serbia with all necessary documents to apply for social benefits but was turned away by her social worker. Ms. Silistarevic reported that the social worker told her "Gypsy, get out, there is no material security for you." Ms. Silistarevic left and made a complaint to the regional Roma office in Vranje. Rozeta then returned to the office with the secretary of the Roma office, Ms. Altena Asanovic, at 1 p.m. the same day. Ms. Asanovic attempted to explain to the social worker that Ms. Silistarevic had all the required documents and that she met all of the conditions for social benefits. Ms. Asanovic reported that the social worker responded, "Get out, these Gypsies are so boring." (ERRC/MRC)

✧ **Community Opposition Prevents Temporary Housing for Roma in Belgrade**

According to the Belgrade-based radio station B92 report of July 14, 2005, the city of Belgrade government decided not to build temporary residences for Roma living under Gazela Bridge. The decision followed significant public opposition faced by the city of Belgrade government in its attempt to solve the housing problems of Roma living in slums under the Gazela Bridge. The city proposed to build a housing complex in the Dr. Ivan Ribar community in Novi Belgrade. Residents of the commu-

nity feared that the temporary housing for Roma would turn their neighbourhood into a ghetto and requested instead that the Roma be distributed throughout the city's neighbourhoods. According to one community member, "At night they light tires and plastic on fire, play loud music, take water out of the fire hydrants, hook themselves up to the electricity we pay for." Citizens of the Dr. Ivan Ribar community held protests against the move and demanded a meeting with the city's Deputy Mayor.

City officials reportedly claimed that the temporary housing structures would have satisfactory living conditions, as well as schools and police surveillance. Municipal official Zoran Plaskovic stated, "We do not think that they will in a

month, or six months, or even two years adapt to urban living habits, but this is a necessary process. If you do not give people a chance to begin to live under urban conditions, they will never be able to get used to such conditions."

Roma in the Gazela Bridge community reported that no one had approached them about moving, but those individuals interviewed asserted that they would accept any upgrade in living conditions. (B92)

✧ **City of Belgrade Initiates Coordination Centre for the Inclusion of Roma**

According to a radio station B92 report of July 28, 2005,

the city of Belgrade is creating a Coordination Centre for the Inclusion of Roma. The work of the centre will focus particularly on education, employment, health care, and housing concerns. Belgrade Mayor Nenad Bogdanovic reportedly offered his full support for the program. According to the mayor, the centre will assist in the development of strategies to foster inclusion of Roma through the organization of projects and initiatives, and the coordination of activities with the city council and public companies. The president of the coordination centre will be Zivorad Mitrovic and all legal matters will be handled by Svetozar Bakocevic from the Secretariat for Property Law and City Inspection. (B92)

✧ **40 Roma Homeless Following Evictions in Slovakia**

The Slovak daily newspaper SME reported that on June 15, 2005, a private security agency evicted 40 Roma, including women and children, from an abandoned apartment building in Kosice, Slovakia owned by Slovak National Railroad company ZSR, and then partially demolished the building to prevent their return. Roma moved into the building, which had no public services, solid or sewage waste removal, more than 10 years ago. Originally some residents possessed legal rights

to live in the building, but the vast majority were illegal squatters. Eventually the city moved the legal residents to other housing, leaving the building inhabited solely by squatters.

Following complaints from the Kosice community and pressure from the municipal government, ZSR rented the building out to a private company expected to purchase the building eventually. However, when the deal fell through, ZSR gave notice to the Roma living there that they must leave by June 14, and when the residents failed to do so, ZSR hired the private security company to expel them by force.

At the time of the forced eviction, some of the former residents planned to move in with friends and family in the nearby slums, while others will remain in the streets. According to a spokeswoman for the city interviewed by an SME journalist, "they have to find housing for themselves. All of them had a permanent address on record somewhere else, so they should return to those addresses. The city is not the owner of the building and we are not responsible." As of December 2005, the ERRC was unable to ascertain further details regarding developments in this situation. (ERRC)

SLOVAKIA

SLOVENIA

✧ **Bomb Attack on Roma in Slovenia**

According to an article on June 6, 2005, in the Slovenian newspaper *Dnevnik*, two Romani women were killed on June 5, 2005, in a hand bomb attack on Dobruškavas, a Romani settlement near Novo Mesto. The victims were 46-year-old Ivanka Brajdic (mother) and 21-year Jovanka Kocevar (daughter). Romani neighbours alleged that the women were not the targets of the bomb and that they died due to a “misunderstanding”. Allegedly, the attack was directed against a 38-year-old Romani man from the same settlement, who owed money to a smuggler with weapons. Police stated that they were conducting an intensive criminal investigation into the incident, which they confirmed had taken place. This bombing follows a similar attack that occurred in another Roma settlement near Novo Mesto, Brezje. No one was hurt during the previous attack. As of November 2005, according to ERRC research, police have apprehended suspects and are holding them in custody but have not released further information regarding the details or motives of the crime. (*Dnevnik*, ERRC)

✧ **Health Access for Roma Improves with Award-Winning Programme**

The Spanish national daily newspaper *El Pais*, on July 26, 2005, featured a special

✧ **UN Human Rights Committee Reviews Slovenia**

In September 2005, the UN Human Rights Committee issued its Concluding Observations on Slovenia’s compliance with the International Covenant on Civil and Political Rights. Key matters of concern highlighted by the Committee included domestic violence, human trafficking, the participation of women in public affairs, violence by law enforcement officials, the deprivation of Slovene citizenship or other durable legal residence status to persons who should otherwise have access to that status, an excessive backlog in the courts, the proliferation - facilitated by some media organs - of public expressions of hatred against certain groups, a number of areas with respect to the treatment of Roma, as well as other issues.

With respect particularly to Roma in Slovenia, the Committee addressed the following specific areas of concern:

“The Committee is concerned about the difference in the status between the so-called ‘autochthonous’ (indigenous) and ‘non-autochthonous’ (new) Roma

communities in the State party ... The State party should consider eliminating discrimination on the basis of status within the Roma minority and provide to the whole Roma community a status free of discrimination, and improve its living conditions and enhance its participation in public life.”

“While noting measures undertaken to improve the living conditions of the Roma community, the Committee is concerned that the Roma community continues to suffer prejudice and discrimination, in particular with regard to access to health services, education and employment, which has a negative impact on the full enjoyment of their rights under the Covenant ... The State party should take all necessary measures to ensure the practical enjoyment by the Roma of their rights under the Covenant by implementing and reinforcing effective measures to prevent and address discrimination and the serious social and economic situation of the Roma.”

The full text of the Human Rights Committee’s Concluding Observations on Slovenia is available at: www.unhchr.ch.

section on an award-winning program aimed at improving the lives of Roma in Spain’s northern Navarre region. The Navarre Community Health Program for Roma consists of a network of public health of-

ficials and mediators assisting over 20 families receive better access to health care. Begun in 1987, the Navarre Community Health Program for Roma trains mediators to assist the 7,000 Roma in the Navarre

area communicate with public health officials: 15 mediators selected by local Romani communities work in the region.

With the help of the Health Program, the number of Roma receiving social assistance in the Navarre region rose from less than 50% in 1987 to 90%. Approximately 80% of the Romani population receive vaccinations through the programme and an estimated 70% have received Hepatitis B vaccinations. Family planning initiatives are more effectively utilised as well with 62% of Romani women visiting a family planning centre, 75% receiving pre-natal care, and 25% attending pre-natal courses. The Health Program extends to health education courses on drugs and tobacco as well. (El Pais)

✧ **Evictions in Valencia**

The local daily newspaper El Levante reported on October 12, 2005 that early in the morning of October 11, 2005 around 6.30 AM a large number of local policemen, arrived at the informal Romani settlement in Doc-

tor Walksman Street and evicted nine families with 20 minors from several warehouses and houses, the majority of which were owned privately and a small fraction of which were the property of the city. The policemen remained on-site to guard it for 24 hours a day for 10 days. Most of the families had been living in the settlement for four years and have no permanent employment apart from scrap collection.

According to the Valencia-based non-governmental organisation, Asociacion Gitana de Valencia (AGV), no representative of the municipal authority was present while the forcible evictions were carried out. The police showed the families a document in justification of the evictions, that they could not read, four days before the evictions took place. The affected families have been offered only 13-days temporary shelter or financial assistance for 3-month of rented accommodation. According to AGV the rest were living in tents on the site of their former homes or in nearby parked vans and cars.

One of the affected is Ms Rosa Vargas, a 45-year-old widow looking after 9 children between the ages of 1 and 15 years old, 4 of them of her daughter who is in jail, the youngest one suffering from asthma. Several of the families have applied to the Valencia's Housing Institute (IVVSA), for rented social housing. Ms Jose Garcia told the daily El Levante that she had applied 5 years ago for a rented house but had received no response.

On October 11, 2005, there was unrest when, in protest against the evictions, the desperate families tried to block the traffic of a nearby street, resulting in one of the evicted persons being jailed for 48 hours. He is currently awaiting trial with the local court.

In a letter addressed to AGV the IVVSA affirms that the high number of applicants for social housing means that they will probably not be granted housing in the next few months unless a situation of maximum urgency is declared by the local council of Valencia. (El Levante)

SWEDEN

✧ **Discrimination against Swedish Roma at Campsites**

The Local, an English language newspaper service, reported on August 1, 2005 that an investigation conducted by Ekot, a Swedish radio program, found that Roma possessing Swedish citizenship are often denied entrance to the country's campsites. The

investigation tested the campsites both by asking campsite managers whether or not they allowed Roma and by calling ahead to confirm that there were available places and ten minutes later sending Roma families to request a site. The study found that 10 of the country's 20 campsites did not admit Romani guests. A law passed in Sweden in 2003 stipulates, "nobody shall be treat-

ed differently or unequally [on the ground of ethnic origin] when it comes to buying goods, services or housing".

One owner was quoted by The Local as having stated that campsite managers confer about the Roma issue and that they warn each other through email when Roma might be in the area. Sweden's Ombudsman against Ethnic Discrimination

(DO) is currently investigating five discrimination cases reported by Swedish Roma concerning campsites.

One campsite manager was quoted by The Local as stating “We don’t accept them.” While another stated that he does not

“completely ban them...But we’re not glad that they come – we try to avoid letting them in.” (The Local)

UNITED KINGDOM

✧ **Dale Farm Evictions**

According to a report published by The Guardian of June 8, 2005, the Basildon District Council approved a proposal to spend £3 million on “clearing” unauthorised plots inhabited by Travellers at Crays Hill Essen. Approximately half of the Travellers at Dale Farm (about 500 people) live on unauthorised sites. In 2004 the Government passed new legislation which will force councils to identify land on which Gypsies and Travellers can build their sites but these provisions will take some time to have any effect - and may not solve the difficulties faced by the Travelling Community if the Government does not police the new duty and force councils to comply with their obligation. Meanwhile Gypsies and Travellers will continue to be forcibly evicted onto the roadside where they face a life of continual eviction and the threat of prosecution for unauthorised camping.

The Travellers sought judicial review of the Council’s decision and obtained an injunction to prevent the Council from evicting them before the Court considered the merits of their application. However, not all yards are covered by the injunction,

and the Council may bulldoze unprotected plots. British Deputy Prime Minister John Prescott informed the Council that the Government will not help fund the eviction and recommended that the Council spend the money on creating an alternative site. Should the Council choose this option, a local Romani, Barrie Taylor, has reportedly offered 12.5 acres of his own land, and a brownfield site of 5.5 acres is also reportedly for sale in the area.

In 1994, Michael Howard, who was the British Home Secretary at the time, steered the Criminal Justice and Public Order Act through Parliament. The Act repealed the duty imposed on Councils by the Caravan Sites Act 1968 to provide caravan sites for Gypsies and Travellers and gave Councils and the Police new powers to evict them from unauthorised sites. Simultaneously, the Government advised Gypsies and Travellers to buy their own land and make provision for themselves. Since 1994, few new sites have been built by Councils and Gypsies and Travellers have found it almost impossible to obtain planning permission for their own sites. A 2003 survey by Lord Avebury found that 96%

of Gypsies and Travellers applying to Councils for permission to settle on their land are refused and Government statistics show that about 25% of the Gypsy and Traveller population still live on unauthorised sites (The Guardian, ERRC).

✧ **British Newspaper Report Provokes Complaints of Racism**

British newspaper The Herald reported on August 11 that the Renfrewshire-based newspaper The Barrhead News had been the object of a racial complaint following a page-one article featuring the heading “Gypsy Fear”. The article stated that 35 French Travellers had settled at a former factory in Blackbyres in the East Renfrewshire council area and reported that many more would join the camp. It was asserted that Renfrewshire “could be swamped by gypsies from across Europe.” Strathclyde Police confirmed that a complaint had been received and stated that they are currently conducting inquiries to result in a report to the procurator-fiscal. The Travellers have since reportedly moved on from the campsite. (The Herald)



European Roma Rights Centre Roma Rights Summer Workshop 2005

Larry Olomoofe¹

FROM 5th-14th July 2005, the European Roma Rights Centre (ERRC) in conjunction with the Canadian Human Rights Foundation (CHRF) and the Council of Europe (CoE) held its annual Roma Rights summer workshop aimed at capacity-building for Romani activists and students in the sphere of Roma Rights Advocacy. The ten day workshop was attended by seventeen participants from Austria, Bulgaria, Hungary, Italy, Moldova, Romania, Russia, Serbia and Montenegro, Ukraine, United Kingdom, and the United States of America. As one can clearly see from this list of countries, the ERRC/CHRF Roma Rights summer workshop has gained increasing popularity and is now regularly attended by Romani people from other (Western European) countries and not solely by participants from Central and Eastern European (CEE) countries and the broad spread of participants of the summer workshop was reminiscent of last year's workshop which too was attended by people from countries other than those from the CEE region. The diverse backgrounds of the participants was a useful development in terms of providing a vast pool of experiences of what Romani people encounter in different, regional as well as national, contexts. This allowed for a wide range of comparison and similarity of experience amongst the participants that was particularly unique to this year's workshop. This year's workshop also benefited from a contribution by the New York based advocacy organisation WITNESS who kindly provided a day-long session on the skills and techniques involved in video advocacy work.

The workshop addressed the fundamental distinctions in terms of approaches to Roma Rights advocacy and activism focusing participants attention on the major differences between the "rights-based" and the "needs-based" approaches to advocacy. Throughout the duration of the workshop, the participants had to grapple with the concept of *effective* advocacy and how to ensure that their actions would have a longer lasting impact for the people and interests that they were supposed to be representing. It is widely believed by acolytes of the aforementioned rights-based approach that this method was more effective in addressing the numerous cases of violations that Romani communities faced across the region.²

The workshop organisers employed the methodology of group-work where participants were divided into individual groups and handed a number of worksheets and instructed by facilitators to discuss topics amongst themselves. This allowed the topics to be examined in greater detail and provided the participants with the opportunity to acquire a more nuanced understanding of the rights-based approach and how Roma issues fit within this paradigm.

The primary purpose of the Workshop was to develop the capacity of a new generation of Romani leaders and human rights activists, to use domestic, regional and international human rights instruments and mechanisms to advance the rights of Romani communities across the Central and Eastern Europe region, both domestically and internationally.

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² This is based upon an acceptance that all human beings have rights, and it is therefore absolutely unacceptable that any of these rights are abrogated by anybody – state institutions such as the police, education or housing authorities or private individuals, etc.

The main objectives of the Summer Workshop were to enable participants to:

- ✧ Analyse issues and situations affecting Roma in their respective countries, based on internationally accepted human rights values and principles;
- ✧ Develop skills in using domestic mechanisms (such as national legislation) and international human rights instruments (i.e., United Nations Treaties, the European Convention of Human Rights, etc.) to protect and promote the rights of Roma;
- ✧ Strengthen skills in monitoring and reporting human rights violations and racial discrimination, as well as advocacy skills;
- ✧ Increase their capacity to apply their learning within their organisations and their societies;
- ✧ Explore opportunities for networking and developing partnerships with NGOs and government officials to further advance the cause of Roma rights throughout Europe.

In keeping with ERRC HRE methodology, the workshop was implemented via use of an integrative manual which formed the basis of the training. The workshop also incorporated a number of presentations by staff members of the ERRC as well as a day long examination of the European Convention and European Court of Human Rights conducted by the British barrister, Mr. Timothy Arthur Jones. The method of combining presentations and the integrative approach allowed for greater focus by the participants on the various topics that were covered during the training and was a significant improvement on previous editions of the summer workshop. The fact that participants had to employ a hands-on approach to the material being covered proved to be a useful method because it allowed the participants to grapple with human rights issues and concepts directly and in a more intimate, concentrated fashion. This is evinced by a series of workshop role-playing activities such as effective debating skills and moot court sessions of the workshop.

Effective Debating Skills was a day-long session in the fundamentals of effective debating

focusing on the skills involved in (formal) debating. The rationale underpinning this particular segment of the training workshop was that by providing information on the various techniques



Participants at the ERRC summer workshop 2005.

PHOTO: ERRC

involved in debating, participants would have a more confident attitude and approach to advocacy work that they may conduct in the future. The organisers hoped that the participants could transpose the skills involved in debating (researching the topic, organising the material, preparation of evidence and effective arguments, constructing a lucid, coherent argument, concise presentation of the facts, etc) to their own spheres of activity at home. In learning these skills, the participants would be able to subsequently present a dispassionate, objective case/argument in various arenas and fora (courts, tribunals, parliamentary and other committees, etc.) thereby becoming more effective in their advocacy work.

The Moot Court was a day-long session facilitated by the aforementioned British barrister, Mr. Timothy Arthur Jones, that entailed a detailed examination of the European Convention on Human Rights including specific technical information on procedure of the European Court of Human Rights, followed by a moot court (role-playing) session by the participants. The moot court session involved a case study and the participants being separated into two legal teams and having

to present a case in front of the “European Court of Human Rights”. One team represented the victim(s) of the supposed human rights violations and the other team represented the national government who were blamed for the violations in the first place. This session drew on participants’ debating skills picked up the day before and was a very useful experience for all involved.

During the workshop, participants were also provided with an introduction to the European (European Union and Council of Europe) and broader International (United Nations) legal framework and were presented with in-depth information on the complex processes each of these spheres of international law entailed. In particular, participants examined the following legal instruments:

- ✧ Framework Convention for the Protection of National Minorities (FCNM)
- ✧ European Convention on Human Rights
- ✧ European Union Race Directive
- ✧ Universal Declaration of Human Rights
- ✧ International Convention for the Elimination of all forms of Racial Discrimination (ICERD)
- ✧ Convention for the Elimination of all forms of Discrimination Against Women (CEDAW)
- ✧ Convention for the Rights of the Child (CRC)
- ✧ International covenant on Civil and Political Rights (ICCPR)
- ✧ International Covenant on Economic, Social and Cultural Rights (ICESCR)

Within the parameters of these international [legal] instruments adumbrated above, the participants conducted a number of group activities and discussions aimed at discerning how relevant the processes intrinsic to international law were to the respective Romani issues and communities back in their home countries. There was a useful discussion on the twin issues of women’s rights

and cultural rights where participants expressed their strongly held opinions on the issues. The main issue that generated sometimes passionate responses was that of cultural identities and practices within Romani communities and whether some practices were persistent or not and if so, whether they violated any rights of some of the members of a given community.

As was mentioned earlier above, a major development in the programme this year was the inclusion of a day-long presentation on the usefulness of video advocacy provided by Ms. Violeta Krasnic from the New York based NGO WITNESS. Her session began with a discussion about the merits and demerits of video advocacy, proceeding into a more specific discussion about the techniques and skills required/involved in this form of advocacy. Here she presented the participants with a technical overview of how to conduct video advocacy (through provision of material produced by other NGOs with assistance from WITNESS), as well as other helpful insights culminating with her conducting a series of exercises on video advocacy with the participants.

There were a number of insightful presentations by ERRC staff who conducted sessions revolving around their tasks and duties for the ERRC. The main area of interest was that of advocacy, and Mr. Istvan Fenyvesi conducted a couple of sessions on his tasks related to his duties as Commonwealth of Independent States (CIS) Officer at the ERRC. In addition to these informative presentations, there were a number of activities outside of the main workshop sessions including a presentation by Ms. Enisa Eminova from the Open Society Institute’s Network Women’s Program on the cultural/traditional practice of the virginity cult among Romani communities in Macedonia.

The workshop ended with an extensive evaluation session where follow-up initiatives were presented and discussed by each participant and the intention to continue future collaborative work amongst each other. The workshop was well received by the participants and a number of them are keen to conduct immediate follow-up activities in their countries and have requested technical assistance from the ERRC. The ERRC

intends to follow-up with these individuals in the near future as well. In concluding, it should be stressed that the diversity of participants allowed for a rich and fruitful 10 days of activities and served as a platform for future collaborative

projects amongst the participants as well as for the main organisers – ERRC, CHRF, COE and WITNESS. This provided us all with a firm foundation for future collaborative human rights education related initiatives.



Participants of the 2005 ERRC summer workshop.

PHOTO: ERRC

Why Are You Working for the ERRC?

Larry Olomoofe

“Why did you decide to work with Roma?” This is a question that I perennially get asked by groups of Romani activists in Europe. Though the question has at times been formulated differently, however the essence has remained the same. Why Roma? At these times, I tailored my answers to address the basic fundamentals immanent in the query and tell my inquisitors that I have always had a passion for social justice, equality and equity, etc, and that if I were true to the principles and values that shape my life, then living and working in Budapest, one could not be happy to see the existence of a number of Romani communities barely existing at the margins of society. This conviction of mine, therefore, led me to seek ways in which I could make a positive contribution to the Roma people in Hungary, initially, and Europe generally. This normally satisfies the questioner(s) curiosity, but oddly enough, not my introspection. Far from being a purely existential question, I need to ask myself why, exactly, am I working in the field of Roma Rights. Whilst my drive for social justice and equity remains true, it is surely not the full picture. If it were, then I could/should be working with any number of disadvantaged groups in society (and I may well do so one day). However, no other issue holds the seductive sway and passion for me as the plight of Romani communities in Central and Eastern Europe (CEE) and their quest for equality and social justice. In answering the question, I can even say that my blackness allows me to fully understand the processes of discrimination that Roma experience and that this provides a bridge between both my experiences of racism and theirs and therefore I can use my understanding to shape action that may help relieve the plight Roma face in some way. That too



would only partially answer the question and I think that the deeper personal introspection that I continually conduct has allowed me to come closer to really answering the question of why I decided and continue to work with Roma.

I came to Budapest in March, 1999 one day before the NATO and allied bombing of Serbia began. My reason for coming here was professional. I was coming to offer an MA course on Race, Politics and Social Theory at the University of Budapest (ELTE) funded by UNESCO. The course explored patterns of racial discrimination in the United Kingdom and United States respectively and I instructed students on the course to apply particular themes covered in the course to local situations, thereby making the topics less abstract and disconnected therefore making the material more pertinent to their social realities. It was during this course that I observed the complex and arcane nature of the discrimination faced by Romani communities in the CEE region. My students would often provide useful analyses of the plight faced by blacks in America and Britain, providing solid moral and political arguments denouncing the abhorrent practices that many of these people were forced to experience because of discrimination. In my attempts to draw analogous connections to the experiences of blacks from those scenarios with the experience of Roma in this region, I would instruct my students to apply their own analysis to the situation of Roma. It was only then that the Janus face of discrimination revealed itself. My liberal minded students suddenly displayed a form of racist denial that would make any antebellum southerner feel proud of. “Oh the Roma. YOU don’t really know how these people are. They are like savages. They are not like you (blacks in UK

and USA). They are crooks, thieves, lazy, etc.,” Every single racial stereotype and epithet was deployed to explain to me how Roma deserved to be at the margins of society. Their marginal position was, according to my students, directly proportional to the recidivist nature of Roma culture, tradition and practice. According to the collective logic of my class of students, Roma people were the main architects and arbiters of their own fates. If they eke out a meager existence on the edges of society, this was their own fault. It had little or nothing to do with racism or discrimination, and if it did, it was because Roma were unsociable and uncivilised people. Besides, they (the Roma) were happy with their lives.

To say that I was shocked would be an understatement. So, being a black person in Budapest and suffering racial discrimination was a bad thing that my students could understand and adopt a moral position on. For them, the processes that outlawed the discriminatory practices that I had been exposed to were clear and prescient. This clarity, however, disappeared when the “victims” were Romani and was replaced by the obscure vicissitudes of racist logic. This led me to ask the question of how two supposedly antithetical processes could be embodied in one place (person) without negating each other. Whilst I am still struggling to understand how this is possible, my experience there did reveal the deep-seated nature of the discrimination Romani people and communities face. The people who espoused these unreconstructed views of Roma were part of a supposedly Liberal/Left intellectual nomenclature who should be “naturally” sympathetic towards Roma and their underdog position in society. That many of them tried to justify their racist opinions of Roma through the acts that Roma displayed only served to show that there is much work to be done. Regrettably, many of these people felt that they were enlightened enough and viewed their renunciation of Roma as legitimate because they were “not racist”. I mean how could they be? They deplored the racist experiences of black people in the UK and USA, which proved they were not racist. They were simply being honest when offering their appraisal of the situation of Roma in contemporary CEE countries, and therein lies the problem and one of the biggest challenges we face in Roma

Rights. People who share this view are delusional. They feel that they share very different values and principles from avowedly “racist” people and therefore work in the best interests of Roma people as “experts” and other highfalutin posts within the Roma Rights discourse and the sphere of social and civic development. This approach, however, leads to paternalistic and patronising interpretations and practices that only exacerbate the marginalisation of Roma people because they are seen as the problem and the necessary changes need to be made within the Romani communities with little remedial work needed in broader society. This is a delusion that will lead a number of them into policy-making positions for governments, NGO’s, think tanks, etc., all of which will allow them to promulgate this more sophisticated form of racism that is still premised upon blaming the Roma for their own suffering. I ask any number of the readers of this piece to review their experiences with supposedly “sympathetic” non-Roma people who are working for the supposed improvement of the Roma and think about the number of times they encountered some racially backward explanation of phenomena affecting Roma in these circles. Simply think about it! I have and I shudder when I remember experiences with officials and activists in Bulgaria, Hungary, Slovakia, Czech Republic, Macedonia, Sweden, to name a few countries, where this logic has been evident in their contributions.

This is a somewhat depressing scenario. The supposed “friends of the Roma” are as equally racist as the “enemies of the Roma”. The intensity of their racism may differ, i.e., this intellectuality does not manifest itself in skinhead attacks etc, but it is equally mendacious and debilitating to contend with. This is where my personal challenge lays. I have to devise a method of articulation and insight that reveals these opaque patterns of discrimination and bring it to broader attention. I feel that I have only been able to see this because of the peculiarity of my situation here in Hungary. I am a black man providing a number of courses on human rights, educational methods and tools, and nationalism, race and ethnicity. My blackness has allowed me to be seen as an exotic interloper who has legitimacy because of similar social and political issues as

Roma, but one who is not from this place and is therefore in equal need of local education, an education that is often provided by those who feel that we share the same principle, goals and values. Whilst what I articulate above is not a completely conscious factor of why I work for the Roma, my continuing desire to make a positive contribution to the situation is undiminished

and remains the drive behind what I do. It is this desire that has led me to continually reassess why I am doing what I am and if it serves any practical and positive utility. One day, soon perhaps, I may be asked the same question and really have no answer to it. Then, I think, it will be time to move on and leave the next phase of the task for someone else to complete.

Sa po aver than: Anti-Ciganizmo ande Franca

The following is a summary in Romani of the ERRC Country Report on the situation of Gypsies, Travellers and Roma in France "Always Somewhere Else: Anti-Gypsyism in France" published in December 2005

1. Ander

Khatar 2003, o Evropako Centro Pala Romane Xakaja/Ćaćimata phandlas pe te kerel zuralo monitoring pala Ciganongi, Phirutnengi taj Rromane migrantongi situacia ande Franca. Kado rodipe sikavela, ke e Ciganongi, Phirutnengi taj e Rromane migrantongi situacia areslas pe kriza ande palutne berša. Džikaj e Franca na pindžarel e minoriteten/ciknimatan, na pindžarela pe e Ciganikane taj Phirutne jekhetanimatangi identiteta taj šajimata, kaj te šaj grizin taj te inkeren pengi kultura, tradicia, trajosko/životosko drom taj e aver anglune kotora penge identitetako. But šel milă Ciganura taj Phirutne, kajso e francikane themutnenge aba but šele beršende dela pe, kadalenge na dela pe e egalone grizimasko fundamentalo ćačipe taj butivar astarena lendar palpale taj hatărena/halđovena hamisaripe maškar penge civilone, politikalone, socialone, ekonomikane taj kulturikane ćačimata. Aba dolmut/ćirla si von tel-e zòr e thamănge, politikonge taj praktikonge so resena pe lengo kontrolo, represia, ekskluzia taj bilaripe/assimilacia, taj kado efektuila sako aspekto ande lengo sako-divesutno trajo. Akanutnes but thamă/zakonura sa činde e droma e ciganonge taj phirutnenge te šaj astaren penge identitetake klidune kotora, taj von jekhvareste si o legalo ćačikanipe e rasistone thanutne funkcionaronge te vazden represivo taj drakonikani mezúra, so aresena – taj vi tradena maj dur – pe ciganengo taj phirutnengo phandavipe sadekh khatar sa e kotora e francikane publikane trajoske taj sevimatange/servizonge.

Bute romen taj phirutnen našavena khatar jekh fòrosko raibe dži k-o aver, taj kodoleske naštik te ačhaven niči pe cikni perioda, soske pe sila pe zòr čhudena len khatar e thana kajso bešena. Maj but francikani territòria ćačimaste si phandle angla ciganura taj phirutne, nadikh e nasvalimaske,

melale taj phandade thana so si garade mišto angla avere bešutnenge jakha. Kadi situacia aděs si but dramatiko, kodolestar baro gin e ciganengo thaj phirutnengo patăla, ke e raimasko sa o aparato si mamuj lende, kaj te šaj mujalden a maj bare kotora lenge kulturako, vaj maj feder šaj kodolestar, ke kamena te phanden len zòratar khatar sa o francikano dostipe/societeta.

Sa kadă, e unĭ milă rromane migrantura pe francikani phuv aresena bi-manušíkane taj kăfka-ikane politikura, so maj anglal rodela te našavel sa e rromen khatar e Franca. Von bešena ande ćorrivane slum krujalimata taj maj butivar čhudena len khatar e trašorne lagera taj khera kajso e rroma bešena bi-permisiako, našavena len dži kaj aver forosko raibe khatarso pale našavdōna. Avral kadala butivar astarena sila zór, azbavipe taj neglekcia taj kodolestar šaj te dikhel pe, ke lenge ćačimata pharravena pe zurales sadekh ande sa e trajoske umala.

Pe avere vasteste naj seriozo publiko diskusia so džala pala ciganura, phirutne taj rromane migrantura. O efekto kadale zordimatango astarde kadale averikane administraciendar sas, ke o rasikano pustisaripe mamuj e ciganura, phirutne taj romane migrantura ande Franca bares zurajlas, pe aver rig jekhvareste sa khoslas lenge patĭvale integraciake seriozna šajimata, so sas te džan pala maškarthemutne manušíkane xakajenge thamă kajso vi e Franca si phandadi. Nivar na dine palpale mišto e anti-ciganistikane rasizmoske ande Franca, taj lesko publiko sikavipe kerdĭlas sako divesutno taj siklo ačhar so skepisajvela pe e sankciake sa e formendar. Akana arakhe-la pe e mamuj-ciganizmoske taj phirutnenge diskusiaki darutni klima kajso dela pe phuterdo than e anglikrisimatange/stereotiponge sar lengo šajutno bezexaripe, rodena illegalone droma te arakhen pokin/počin, von si strene manuš, naj len

higenia taj naj len pativ karing o dostipe. E politike aktora dena dumo kasave rasistikane vakerimaske pe sako nivelo, taj kodo butivar arakhela pe pe thanutno/lokalo nivelo ande diskusie te keren pe ačhavimaske/tordărimaske thana e phirutnenge. E šerutne na informuin e populacia pala phirutnenge taj ciganonge legitim čačimata – so si sigurardo ande Francikani thami¹ – te ačhaven ande lengo foro, von feder šaj arakhen politikalo profito kana phenena e populaciake, ke e phirutnenge taj ciganonge invazie arese ande lengo fòro, taj mothona pala sekuritetako, publikane trábako taj sastimasko riziko.

E problemongo kidipe so arakhlas o ERRC ande Franca ande pesqo rodipe šaj te ginaven/drabaren telal:

1.1 Dujto Klasake Themutne: E phirutne taj e ciganura na barrabarr astarena penge Bazikane, Civilone taj Politikane Čačimata/xakaja

E Franca si pre-pindžardi sar e vuna taj o lurdo e moderne demokraciako taj individualone xakajengo taj slobodiako, dži kaj but šel milă francikane themutnenge fundamentalo civilone taj politikane xakaja bares azbavena pe, taj kado niči agordel či ande varesavo protesto, taj na te liparas o publikano vazdipe kajso provokuisajle e Francikane Republikake anglune fundacie. Baro kotor kodole manušengo ande kala azbavimata si e ciganura taj phirutne, so sikavela, ke von si rasistikane azbavimata ande pengo xaktero. E džene kas naj fiks khera vaj bešimaske thana, taj kajso bešena ande vurdona, trejlera vaj aver miškimaski vatra (maj but lendar si ciganura taj phirutne) musaj te arakhel pe lende special phirimaske dokumentura. Maškar e phirimaske dokumentura arakhena pe aver kategorije, taj sako sikavela aver nivelo pe policiako kontrolo. Džene ko naštik te den evidenca pala penge profesionalone aktivimata vaj regularo poťin, musaj te nevären penge phirimaske lila (phirimaske

karta) kaj e policiako ačhavdin vaj k-e gendarmery sako trinto čhon/masek. Džene ko naštik te sikaven penge phirimaske/cirkulaciake lila vaj ko naštik te den len angle pe nevăripe šaj te astaren krisarimaske sankcie, šaj lovenge no vi šaj te phanden len.

E manuša kas si kodola phirimaske lila numaj šaj te astaren pengo alosarimasko /votosarimasko čačipe, kana si pherde e *trine beršengi perioda* e “pašaldinimaski” k-o alome foro. Aver francikane themutne šaj te len kotor ande alosaripe kana pheren e *šove čhonengi* bešutnimaski perioda kaj varesavo lokalo raipe. Specialo programura kere na pe e manušenge bikhereske ko na bešena ande “vurdona, trejlera vaj aver miškimaski vatra” ko pale šaj te alon pheren e *šove čhonengi* perioda, kajso si phandle kaj varesavo foro vaj gav.

E manušengo gin kas si phirimaske lila “pašaldine” k-e varesavo foro vaj gav naštik te pherel (nadikh varesave non-standardone situacije) 3% e saste populaciako ando gav vaj foro. Soske von musaj te votosaren ande pengo foro vaj gav pašaldinimasko, kodolestar but ciganura taj phirutne kas si kodola phirimaske lila naštik te alon penge phiravnes ko brakhelas/ferisarelas/arakhelas lenge intereson, ke von naštik te keren maj but sar 3% e alosarne dženegro. Duredere, e ciganura taj e phirutne si phandle khatar e politikane kotorlinimaske/participaciake aver forme. E funkcionara butivar na vakerena lenca vorta/direkt, vi kana e problemura si maj anglal ande publikosko gindo pala phirutne taj ciganura vorta. Generalo feder boldena pe karing “maškarne”, ko pala lengo gindo džanena taj hatărena/halövena pašă “ciganura”. Vi kana kerena pe e konzultativone institucie kaj te keren pe kadala habisti/na čače konzultacie (sar e Departamentoske Konzultativone Komisie pala Phirutne so kerela pe ando sako Francikano Departamento), e phirutne taj e ciganura ando sako vaj sadekh ando sako suro/kejzo/situacia numaj cerra/xari džene šaj te bešen pe komisie vaj lengo baš/glaso/hango numaj cerra pharipe inkerel.

¹ *Specifiko Thami gin 2000-614 khatar 5 Žulaj 2000 pala Phirutnengo Xulajaripe taj Bešutnipe (“Thami Besson”), so sas paruvdo ando nevo thamăripe.*

1.2 Atako mamuj Trajosko Drom: Thamă, Politika taj Praktike pala phirutnengo taj ciganengo phirutnipe, ačhavipe taj pala lenge trajoske krujalimata:

E ciganura taj e phirutne naštisaren te bešen pe maj baro kotor e Francikane phuvako. E zakonura ande but thamă so sas adaptuime akana efektivo phenena ke e ciganura naštik te bešen pe Francake phuvako maj baro kotor. Kadala si special: Artiklo 9 po Thami numero 2000-614 khatar 5 Žulaj 2000 pala Phirutnengo Xularipe taj Beštunipe (“Thami Besson”); i Thami khatar 18 Tirdaraj (3to čhon/masek) 2003 pala Andralutni Sekuriteta (“Sekuritetaki Thami); taj Thami numero 2003-210 khatar 1 Avgusto 2003 pala Foronge Raimaski Orientacia taj Planuipe taj pala Forongo Nevăripe (“Thami Borloo”).

Artiklo 9 ande Thami Besson vazdela pharo kikidipe, kajso e ciganura taj e phirutne naštik te ačhaven avral e indikuime thana, numaj ande nesave but specifikone situacie. Sa kade, but foroske raimata na dikhen pengo godorvalipe/obligacia pala Thami pe foronge raimata kas si buteder desar 5000 bešne te keren jekh “ačhavimasko than” e phirutnenge te šaj bešen pe varesavi vrama okhote, e raimata na vazdine kasave thana. Akanutne estimacie čhuvana o numero e ekzistuime ačhavimaske thanengo karing 6000, dži kaj patăna ke maj cerra 35 000 sas te aven. Andral e 6000 so arakhena pe, maj cerra desar lengi dopaš arešen e legalone ažukarimatan so si pala infrastrukturaki taj krujalimaski adekvacia.

E Sekuritetaki Thami so sas adoptuime ande Franca ande Tirdaraj 2003 inkerel jekh kotor – ko Artiklo 53 – so krisarel e ciganon taj e phirutnen ko zumavena penge kulturako fundamentalo aspekto: phirutnipe. Kado artiklo phenela, ke kodo si kriminalo akcia, kana jekh grupa kamel te parkuil/ačhavel vi pe skurto vrama pe varesavo than, kaj kamen bešen:

- ✧ Pe jekh phuv so si e foroske raimasko so pasuil kaj peske phandlimata karing e Departamentalo Plano džamavdo pala Besson Thami;

- ✧ Pe jekh phuv so si varesave thanutne raimasko taj so naj ande Departamentalo Plano (kade e maj but forura kajso si maj cerra sar 5000 beštutne vaj si vi forura maj but sar 5000 dženenca taj von naj inkerde ando Plano);

- ✧ Vaj pe varesavo aver phuv (privato, themesko, regionalo, departamentalo), kajso naštik te sikavel pe evidenca pe permisia te bešen pe phuv, vaj o manuš kon las o čačipe te labărel i phuv naštik te sikaven i permisia.

Krisa pe oprune legalone phagerimata si prephare: šov čhon phandlipe, vaj 3750 Euro sar lovengi kris taj vi šaj te len a manušestar o tradimasko lil šaj dži pe trin berš.² Avral kadala, sako vurdon lino te kerel pe e illegalone ačhavimaski akcia (taj kodo si butivar e ciganonca ko cirdavena penge mobilna khera kadale vurdonenca) šaj te lel pe taj konfiskuil pe e rajendar, nadikh kana o vurdon si e manušesko kher.

I Thami Borloo kerdas jekh lista biš-taj-efta francikane foronca kajso maj cerra sar 20,000 džene bešena, kajso e ciganura taj phirutne šaj te ačhaven pe varesavi vrama. But kadale bare francikane forondar si thana kajso e ciganonge taj phirutnenge but generacie bešenaj taj kajso si len šaj familiake, socialone vaj profesionalone/butăke phandlimata.

Čačimaste e thana kaj so šaj te ačhaven e ciganura penge miškimaske khera pe maj skurtone vaj pe maj lungone periodura si butenca maj cerra desar kadala legalone limitacie sikavena. Čačipnasa na numaj jekhe thaneske varesave kotora si phandle angla ciganura, no sadekh *o sasto than*, nadikh thana kajso sig šaj te nasvajen vaj na dičona. Butivar našavena e familien khatar e thana kajso ačhaven, univar si te traden džesenca/divesenca anglalso šaj te ačhon varekaj, taj kadala thana si pre dur khatar e thana kajso trubunas te aven.

E phirutnengo taj ciganengo palpaldipe pala illegalone evikcie čorrardōla khatar e francikane kriselinako bilačo registro te davavel paťiv

² Artiklo 53(1) taj Artiklo 53(2), Sarbarrimaski Thami.

e phirutnenge taj ciganonge fundamentalone ćacimatange. O ERRC kidas jekhetane empiriake dimasberša/adatura/podatke ande pesko rodipe so kerdas karing kado Themesko Raporto, taj kodo sikavela ke e francikane kriselina banges krisaren taj na resena penge legalone godorvalimata te šaj den than e phirutnenge taj ciganonge te aćhaven. Duredereste, e phirutnengo taj ciganengo anglu-no ćaciġe sar o vortome ašunipe taj e opoziciaki procedura si butivar phaglo khatar e pindžardi “mangipe procedura” so phutrela drom e krisi-toreske te del avri jekh decizia bizo te šunel e dženen pe aver rig.

E phirutne taj ciganura ko kamena te kinen penge simadiġ maladōna bare pharimatenca specifiko misto “pre-empcia” kerdi lokalone funkcionarondar opral lengo kinipe – kodo si akcia so blokkuil e tranzakcia. Von bešena maj dur e dārasa, ke našaven len khatar o than kajso aćhon misto e but francikane thamā taj regulacie so bāres limitisaren e territoria pe soste e karavanura šaj aćhon legal, vi pe privatone phuva, taj kodo butivar ćhivela pre phare krujalimata pe e unē linimaske šajimata.

1.3 Adekvatone Bešutnimasko Palpale Inkeripe e Phirutnendar taj Ciganondar

E ciganura taj e phirutne hatārena pharo azbavipe ande pengo ćaciġe te avel len adekvato bešutnipe naj vastno lengo trajosko drom – kado kerela pe vi kana nomadiko vaj bešlo si; naj vastno nići von te bešen pe oficialone aćhavimaske thana vaj pe pengi phuv; naj importante von te si barvale taj len penge šukara khera vaj te si pre-ćorre taj te rodena socialo žutipe francikane kancelariendar. O fakto, ke von avena khatar jekh specifiko etniciteta, aćhol butivar korkorro e vorba e kancelarienge, kaj ġi dena e phirutnen taj ciganon adekvato bešutnipe.

E unē thana kajso e familie šaj te aćhon generalo si but telal e standardura vaj patġvipe. E aćhavimaske thana si vorta ulavde/segreguime khatar e lokalone populaciake aver dzene. Von generalo bešena so dur so šaj khatar e normal bešimaske thana taj pe foronge raimaski maj durutni granica. Pe varesave thana e phirutnengo taj e ciganengo fizikalo segregacia kerel pe ćikale

plajenca so krujal lela o aćhavimasko than, taj kade fizikalo ćhinen len khatar e krujalimata. E aćhavimaske thana sistematikalo si ćhivde/sute paša gunujenge plaja, than kajso grizġin pala gunuja, fabrika so nasvalarel vaj pollucia kerel, pe motoreng e vaj cirdenge/vozone/trenonge drom, butivar tela sirma bare rundžetosa/ kurrentosa/strujasa/armosa. Maj butivar kadala aćhavimaske thana seravena pe phandlimaske thana desar pe bešimaske. Kado efekto lela pe e manušeske khatar kadale thanengo fizikalo vazdipe taj khatar o bešutnengo regularo kontrolo.

Vadže/inke/mek opral, e ciganura taj phirutne ando them, ko bešena pe phuv so si lengi, butivar inkerena lender palpale o paji, rundžeto/elektrika taj gunujesko ingeripe, vi kana si pre-nasvale dzene vaj ćhavorre ko bešena po than.

Nesave maj ćorre taj maj marginalizuime ciganura taj phirutne bešenasa ande slum-ikane krujalimata bute deše beršenca pe thana kaj e funkcionara toleruisarde len. Garadinos khatar e populaciake aver dzene taj total xasarinos e bazikane infrastrukturatar (sar o paji, rundž taj gunujesko ingeripe), kadala manuša butivar si avri ćhivde/ćhute e krujalimaske darake, soske paše arakhena pes e gunujenge plaja, thana kajso grizġin e gunuja taj e fabrike so melaren o nem/lufto/ajero. Te džana pe kadal mahala/kvartela, šaj lel pe i impresia ke o manuš džala khatar o jekhto sundal/luma/sveto ando trinto sundal ande unġ minutura.

E ciganonge taj phirutnenge diskriminaciake taj segregaciake forme si buhlarde kana dikhela pes pe e socialone kherango użul-linipe/vundžile-linipe so si e dženenge cerra lovenca (bušola pes “HLM”), džikaj e themesko zakono prohibitisarel eksplicito kasavi diskriminacia.

1.4 Diskriminativo taj Azbavimasko phiravipe e thamārarne/zakonoske šingalendar taj kriselinake funkcionarondar:

Atakura khatar e šingale si regularo xaraktero ando trajo e francikane phirutnengo taj ciganengo.

E šingale maj butivar avena but dzene, si lende marimaski rovli taj na murdarimaske puške. E našavimata pe sila, so si kerde sistematiko taj

regularo, lena e forma e marimatango. Paŝal, kana e ŝingale rodona varekas, kontroluil vaj arrestuil varekas maŝkar kaste si jekh cigano vaj phirutno, atunĉi/posle/atoska von dżana pe sa e beŝutne e thaneske sistematiko taj na numaj e individualone bidasles atakuin. Ande kala atakura policiako azbavipe butivar inkerel dżungali vorba (maŝkar lende rasistikane), degradimaski griża taj rumusarena vi lenge bută so kinde lovendar e ciganura taj phirutne. Univar labărena vi puŝke ando traŝorno drom taj vi marena dżenen fizikalo.

E phirutne taj ciganura xana diskriminaciaki dukh vi khatar e kriselinake cancellarie. Maj butivar inkerena len ando phandlipe anglal so inkerel pes i kris ande rodimaski faza taj tel-i kris, taj diĉola ke maj butivar inkeren len ando phandlipe angla krisa sar e gadżen (na-romen). But dżene vakereana ke e krisa so phagena opral e ciganura si bi-vortimasko maj lungone sar e krisa so phagrena pe opral e gadže.

1.5 Diskriminacia pe Socialone taj Publikone Sevimatango Păseresipe:

Ŝel milă ciganura taj phirutne si phandle avri e socialone ażutimaske but averikane formendar so ŝaj te arenen e francikane themutne te ŝaj den len zor te len kher użule vaj te arakhen penge beŝimasko than, soske e karavanura naj pindżarde sar beŝutnimaski forma

E phirutne taj e ciganura univar musaj te bolden pe karing parallel instituciengi drakhin so si numaj vaŝ lenge, kaj te ŝaj te len varesavo socialo ażutipe soske e themeske agenture naŝtik vaj ĉi kamena te seven/servizuin len.

E phirutne taj e ciganura butivar naŝtik te den ande publikane thana, sar ande najttklubura, barura, magazinura/bolci/balame vaj restauracie. Ĉi e sekurarimaske firme na sevena len butivar. Dżi kaj si zakono so krisarel e diskriminacia pala simadăngo taj sevimatango dinipe, o ERRC ĉi dżanela nisavo suro, kajso dine sankcia, kana varesave phirutnes vaj ciganos na sevde.

1.6 Diskriminacia pe aresipe k-e bută

But ciganura taj phirutne kerena love andar butăke forme so phandena pen e phirutnipnasa.

E thamă, politika taj e lokalone funkcionarene akcie zurales phararen e ciganonge taj e phirutnege te ŝaj aĉhaven penge karavanura, vi pe skurto vrama ande majbut foronge raimata ande Franca, taj kodo dela pre-pagubaslo/bilaĉho efekto pe lengo ŝajipe te keren buti. Avral kodo, ande palutne dekada, e regulaciengo efekto sas, ke diskriminuisarde vi e bută so von jekhetane zumavenas te keren, taj kodolestar e ciganura taj e phirutne naŝtik te keren love ando kodo drom, so von alosarde. E phirutne taj e ciganura arenen pe diskriminaciasa, kana si vorba pala bută pokinasa, kajso dela pe lenge buti kajso si baro riziko pala lengo sastipe.

1.7 Phageripe e ĉaĉimasko k-e siklaripe maŝkar e phirutne taj ciganikane ĉhavorra:

E kotorlinimaske nivelura pala phirutne taj ciganikane ĉhavorra si but telal, but ĉhavorra na phiren k-i ŝkola taj but dżene lendar ternes peravdăna latar. Si bare brigako, ke cikno gin e ciganikane taj phirutne ĉhavorrango opral e deŝuduj berŝa phirena ande ŝkola taj sa maj cikno gin si kaj ŝaj te pherel e maŝkaruni ŝkola. Maj dureste, vi kana phiren ande ŝkola, e ciganura taj e phirutne numaj but telutne standardosko siklaripe ŝaj te len, butivar na siklaren len te ginaven/drabaren taj te lekhaven/ramon. Misto regularone naŝavimata khatar pengo beŝthan si pre phareste e phirutnege taj e ciganonge te biĉhaven penge ĉhavorren ande ŝkola. Foronge ŝerutne van ŝkolake direktora butivar na dena drom e ĉhavorrango te phiren ande ŝkola, dżi kaj si len legalo ĉaĉipe taj obligacia te phiren. E segreguime siklarimaske averikane forme si e realiteta bute phirutne taj ciganikane ĉhavorrango, kasave si e segreguime ŝkole, ŝegreguime klasura, mobilo ŝkolake kotora. Kadi situacia butivar agordăla, soske naj nisavo fleksibilizmo taj "phurt" programura ande gadżikane ŝkolange sistemura taj naj adekvato adaptacia k-e phirutnege specialone trebalimata (sar te kerel pe jekh efektivo sistema te rekorduil pe taj te molarel pe e ĉhavorrango ŝkolaripe ko phirena kaj te ŝaj dżan maj dur penge ŝkolara pe jekh vatra pe kaver). Prebute phirutne taj ciganikane ĉhavorren biĉhavena ande "Aplikuime Generalo taj Profesionalo Siklaripe" ("SEGPA") maŝkarune ŝkole

so dena specifiko siklaripe e čhavorreng ko našti te siklōn mišto misto socialo, kulturikane vaj intelektualone kauze/ača.

E dušle principlura ramome ando Cirkular No. 2002-101 pe 25 Grastornaj 2002 pe “Phirutne čhavorrengo taj na-bešle familiengo školaripe” aren sen te vazden e ciganikane taj phirutne čhavorrengo kotorlinipe ande francikani siklāripnaski sistema. Kadala principlura ačhile simbolikane patuma/pasura/krokura taj naj čačikane. Inovativoen iniciativure ačhon maj butivar pe lokalo nivelo taj e centralizuime koordinacia naštik te arakhel pe.

1.8 Thami Mamuj Diskriminacia

Ande palutne berša, kaj te del pe palpale pe Evropake progresura, line pe patuma te anaven jekh nevi thami mamuj e diskriminacia taj te lačhardōl e ekzistuime thamāngo labāripe. Numaj cerra krisarimata šaj arakhen pe te dikhela pe o buhlpe e diskriminaciake problemako. O ERRC ċi džanel pe nisavo suro kajso varesavo legalo dženo sas krisardo pala diskriminacia mamuj phirutno vaj cigano perdal kala zakonura.

Dureder, e rama e civilone taj administrativone zakonengi te maren pe mamuj rasikani diskriminacia zurajli ande palutne berša. No ċi atunċi na inkerela sa e umala e trajoske sarso kamlōla pe pala Francake phandlimata k-e internacionalone zakonura sar o ICERD.

Kado trubul te buhlardōl maj dur te šaj inkerel aver čačimata: e justiciaki administracia, so inkerel e dženenenge sekurarimaski protekcia, politikaki participacia, so inkerel o čačipe pe alosaripe, te alosardōn, te len kotor ande guvernio taj ande buti ande orsavio kotor e themesko, taj te avel barrabarr resipe k-e publikane sevimata; te avel len o čačipe te miškin pe taj te bešen maškar e themeski granica; o čačipe te kiden pe ande pačasle bešimata taj organizacie.

1.9 Bimanušikano taj xasarimasko grizipe pala rromane migrantura

E Franca adoptuisardas drakonikani politika, so legalo šaj pučhel pe, karing e but milā rromane migrantura ko si pe laki phuv. Lengo

maj angluno res sas te phutren drom e rromane migrantonge te mukhen o them. Kade e rromane migrantura hatārena, ke lenge čačimata phagerdōna sadekh ande trajoske sa e umala, so lela kumulativo taj seriozo efekto pala peste taj butivar bimanušikano taj xasarimasko grizipe. E strene rrom maj bute dromende bešena maškar čorrivane krujalimata ande sigo vazdime lagera taj butivar pe sila našaven len vi khotar šaj e policiake atakosa so butivar zoratar džala taj vi but drom daraven pe rromende, roden len, mujalden taj phagren lenge simadā taj vi aversar azbavena len. Kana von zumavena te keren buti te šaj trajin/dživen peske (misalape bikinen luludā vaj žurnala, thoven e vurdonenge felāstri/džama, bašavena gila vaj mangena love), e policia sako drom azbavel len. Kodola so mangena love, šaj astaren bari krisarimaski sankcia, šaj vi pe sila našaven le e themestar. Bute čhavorreng ċi dena o šajipe te resen k-o šiklāripe. De o milaj 2002 drastikano vazdipe šaj te dikhel pe ande rromengo našavipe e Francatar, vi legalone rromane migrantongo khatar francikani phuv.

Kerde pe kolektivone našavimata, so phagerdas maj bute kotora e thamāke, sar o Artiklo 4 ando Protokol 4 ande Evropaki Konvencia pe Manušikane Čačimata.

Dikhindos maj dur, e rrom so mangena azilo xana diskriminacia te dikhena pe lenge šajimata pala bešutnipe taj socialo ažutipe, kajso but lendar musaj te bešen ande mahala taj khera bililengo.

O raporto khatar o ERRC agordōla rekomendacienca so džana e francikane raimaske te akharen e kancelarien te pativaren penge phandlimata paš-e themeske taj sarethemenge manušikane xakajengi thami (čačimatango zakono) taj te del pe efektivo reparacia e viktimonge. Pala kadale raportoske arakhimata, o ERRC mangel e francikane kancelarien te reaguin pe e avinde propozicie:

1. Te semnatin taj te ratifikuin e Ramaki Konvencia pe Selikane/Nacionalone Minorengo Brakhipe/Ferisaripe/Protekcia, taj te pindžaren e ciganon taj e phirutnen sar selikani minoriteta taj te khosen pengio cirdipe khatar artiklo 27 ando Maškarthemutno Pakto pe Civilone taj Politikane Xakaja.

2. Te len sigo patuma/pasura te pharraven e akanutni bikrisangi klima pe rasistikane vakerimata pala ciganura, phirutne taj e rromane migrantura taj te keren sar barr ke a mamuj-ciganikane vakerimata sigo taj zurales si sankcionime. Te dušlaren e francikane publikoske, ke kasave vakerimata na toleruin pe.
3. Publiko te pindžaren taj te jertisaren pala ciganongo taj phirutnengo phandlipe ande Iito Sundalesko Maripe (IISM). Te keren pe seravimaske barra pe e phurane phandlimaske lagerenge thana taj te bianen programura so serena pala ciganikane taj phirutne viktimura ande Francaki IISM politika. Den dumo e rodimaske so adudarel e phirutnengo taj ciganengo grizipe ando IISM.
4. Te keren sar barr, ke e ciganongi taj phirutnengi historia pe francikani phuv, informacia pala antropometrikane pustikelina taj lengo IISM phandlipe, si inkerde sar sumbor kotor ande siklärimaski kurrikula.
5. Te kiden statistika, phagerdi pala etniciteta, kaj te šaj kerel pe zuralo monitoring pala ciganongi taj phirutnengi taj avere minoritetikane grupangi situacia ande trajoske/zivotoske/văcake klidune umala sar: kotorlinipe ande politika, bešutnipe, siklärripe, dostimaske sevimata, sastimasko grizipe, vortimasko sevipa, relacia e policiasa tmd... Kodo monitoring kamlöla pe kaj te šaj arakhen pe e minoritetikane grupange problemura taj te džamaven pe adekvatone bilarimata. O monitoring trubula te kerel pe pala dimasberš brakhimaske taj vortome garadimaske principlura, so vazdela pes pe sistema, kaj sako pestar šaj phenel peski sel, taj sakoneske dušlo si te mothon soske kidel pe i informacia.
6. Te kerel pe specifiko rodipe kaj te dikhel pe e rasikane diskriminaciengina gin taj frekvenca, so džana mamuj e ciganura, phirutne taj rromane migrantura ande sektoralone umala sar ando siklärripe, butärripe, bešutnipe (so inkerel o socialo bešutnipe), ande sastimaski griza taj ande socialone ažutimaske taj sevimatange programura. Kodo rodipe trubulas te del informacia pala manušengo numero ko sas krisarde misto rasikani diskriminacia kerdi mamuj ciganura, phirutne taj rromane migrantura.
7. Imediat te del pe palpale pe sa e rasatar diskriminativone taj azbavimaske aspektura ande “Thami gin 69-3 khatar 3 januari 1969 pala ambulantone aktivimatango zumavipe taj o režim so si pala manuša ko krujaren ande Franca bi jekhe kheresko vaj rezidencako phandle thaneste”.
8. Te arakhen pe taj te khosen pe e diskriminativone regulacie taj administrativone pharimata so cirdena palpale e ciganon taj e phirutnen te šaj len penge nacionalone identitetake karta.
9. Te eliminuin pe e diskriminativone krujalimata pala ciganongo taj phirutnengo alosarimasko čačipe so vazdela pe khatar e Thami biandi pe 3 januari 1969, kodo inkerela e askeptura pala 3-e beršengi perioda e pašaldinimaski taj e 3% kvota e manušengi kas si kodola phirimaski lila taj šaj votosaren ande varesavo forosko raipa. Te keren pe pozitivone patuma te keren sar barr, ke e ciganonge taj e phirutnenge baša si mišto phiravde pe e francikane politikake trajoske sa e nivelura.
10. Te len pe patuma sigo te keren sar barr, ke e ciganura taj e phirutne šaj te zumaven pengo čačipe te len kotor ande publikoski sama pe thanutno taj pe themesko niveli, so pasuil paš-o Artiklo 25 ando Internacionalo Pakto pe Civilone taj Politikane Čačimata taj paš-o UN Komisia pe e Rasikane Diskriminaciako Mujaldipe “Generalo propozicia XXVII pe diskriminacia mamuj rroma”. Te agorden vorta akana e ačhara, kajso lena godi pala lenge trebalimata taj interesura khatar maškarne gadže taj na korko e phirutnendar taj e ciganondar, te keren sar barr ke varesavo konzultativo trupo phutrel o drom e phirutnenge taj ciganonge pala lengo čačo taj zuralo kotorlinipe.
11. Te len pe pozitivone patuma te keren pe krujalimata, so dena sar barr, ke e phirutne taj ciganura šaj bešen penge sar kamena, te bešena ande kherande vaj te bešena phirindos, mukj alon von sar kamen, taj kodo pasuila paša barrabarrimasko/egalitetako taj non-diskriminaciako principlo.

12. Te sarbarraren (te sekuraren) ke e phirutne taj ciganura ko phirena, šaj te zumaven sa pengo ćaćipe te miškin pe sar kamen taj o ćaćipe te avel len laćho kher taj vi te brakhen len khatar našavipe pe sila pe zor.
- ✧ Te khosen, akana taj na maj palal, Artiklo 53 taj 58 ande “Thami khatar 18 Tirdaraj 2003 pala Andralutno Sarbarripe” taj khosen vi Artiklo 15 ande Thami no. 2003-710 khatar 1 Avgusto 2003 pe “Foronge raimatangi orientacia taj planuipe taj forongo nevāripe”.
 - ✧ Te sarbarraren, ke kerena pe aćhavimaske thana ande foronge raimata ande sa o them, sar mangel pes ande “Thami no. 2000-614 khatar 5 Źulaj 2000 pala Phirutnengo Xulajaripe taj Bešutnipe” (dureder “Thami Besson”). Te keren sar barr, ke kadala aćhavimaske thana pasuin paš-e moraliteta, specifiko paš kadala: sevimatango linipe, krujalimata taj infrastruktura; kaj si o than val šaj te bešel pe khote vaj van.
 - ✧ Te len pe pozitivone patuma te sarbarraren ke e ciganura taj e phirutne arešen pe bas/ dosta thana kaj šaj te aćhaven taj khote arakhena e moralitetake bazikane standardure.
 - ✧ Te kerel pe sar barr, ke e phirutnen taj e ciganon na bešarena pe territoria kajso arešena len bilaćhi sastimaski taj krujalimaski dar taj na rodel len e rasikane segregaciaki traš.
 - ✧ Te aćhaven e našavimatange aćhara so kerena pe sila mamuj ciganikane taj phirutne familie so aćhaven ande foronge raimata, kajso phagren e adekvatone bešutnimasko ćaćipe.
 - ✧ Te keren sar barr, ke e thana kajso keren pe diskriminativone regulacie taj politika, kajso na mukhen e phirutnenge taj ciganonge te bešen, khote arakhel pe pherdi sankcia.
 - ✧ Akana pe kado vaxt te keren pe ćaćikane taj buhlarde konzultacie maj telal e ciganonca taj phirutnenca kaj te keren pe adekvatone bilarimata/ solucie pe lenge bešutnimasko trebalimata, vi pe aćhavimaske thana taj vi pe lenge aver problemura so si len.
13. Te keren sar barr, ke o ćaćipe pe adekvato bešutnipe, so inkerela brakhipe mamuj našavipe zoratar, si pherdo garantuime e phirutnenge taj e ciganonge te ko kinena penge phuv.
- ✧ Te len sama, ke ande but thamā taj ande politika, so grizisaren pala phuva, forongo planuipe, taj pala resipe k-e publikani infrastruktura, te aven vi dosta zurale kotora pala ciganongo taj phirutnengo trajosko drom taj specifikone trebalimata, sar te šaj train pe pengi phuv ande karavano, taj kodo na agordel pe ande diskriminacia mamuj e jekhetanimaske džene.
 - ✧ Len sama ke e foronge raimata na parujen penge ‘pre-empciake’ zōra ando ilegalalo drom, kaj te preventuin e phirutnengo taj ciganongo simadāko bikinipe.
 - ✧ Te keren sar barr, ke del pe bešimasko than e ciganonge taj e phirutnenge, taj ande foronge regulaciengo labāripe dikhen pe mišto e fundamentalone manušikane ćaćimata sar e adekvatone bešutnimasko ćaćipe, e ćhavorrenge siklāripe, e ćaćipe k-e sastimaste taj o ćaćipe kaj te na azbavel pe ando privato taj familiako trajo/ dživipe.
 - ✧ Te prindžaren pe e karavanura sar bešutnimaski forma.
 - ✧ Te direktuin e lokalone cancellarien, kaj te del pe bi-adžukarimasko paji, rundžeto, kanalizacia taj aver bazikane krujalimata e familienge kaske kadala na den pe, phagerindos e foronge regulacie.
14. Te len pe pasura vorta akana, kaj te vazden pe e krujalimata ande phirutnenge taj ciganonge bešimaske thana pe etikake fundamentalone norme, taj te šerarel pe e dženenengi bešutnimaski situacia, ko bešena but vaxt/vrama/ciros pe thana bidino svatosko e rajendar. Vaj te den pe aver bešimaske šajimata so pativaren e etikake

- norme. Sa e programura taj lengo ćacvaripe/implentacia trubul kondzardo/getosardo taj ćacvardo ande jekhetano godaripe e dine ciganikane taj phirutne familiange kotorlinimasa.
15. Te del pe sar barr, ke e rromane phirutne xutrena pherdi garancia pala bešutnimaske ćacimaske sa e aspektura, so inkerela peste e anglune trebalimata, sasto krujalipe taj bešutnimasko sarbarraripe/sekuraripe. Te kondzarel pe/getol pe politika godasa po nivelo e departamentosko, regiako taj themesko so resela te del šukar bešutnimaske bilarimata e rromane phirutnenge, kon akana bešena ande lagera taj khera so von astarena bi e rajengo mukhipe. De akanara te ačhaven pe e sila-zorake našavimatangi praktika, kajso bičhavena e romane phirutnen khatar jekh foro dži k-o aver.
 16. Te keren pe programura, so agorden e diskriminaciake taj segregaciake praktike, kajso e ciganura taj e phirutne naštik te arešen k-o HLM (socialo bešutnipe) taj te sekuraren e mamuj-diskriminaciake thamarimasko labaripe mamuj e džene, kon kerena kodi diskriminacia.
 17. Te keren pe xurdikane taj lungone vramake rodimata pala sa e misala, kajso e policia phiravdas pe mamuj e ciganura, phirutne taj rromane phirutne ando bilačo drom, taj e bezexaslen te ingren k-o krisipe imediat taj te del pe kompenzacia e viktimonge. Te agordel pe e praktika, kajsp kolektivo džana pala grupa e ciganongi, phirutnengi taj e rromane migrantongi ande rodimata, kontrola taj ar-restura taj vi e rasikane profilongi praktika.
 18. Te keren sar barr, ke pherdo rodene pe e raportura pala rromane migrantongo azbavipe khatar i policia, taj kaj e policikiake funkcionara kon kerena bilačhipe khatar pengi zor, kodo mišto krisarel pe.
 19. Te lel pe adekvato programo, so sekuraren, ke na daraven pe manuša, kon šaj sas viktimura e thamake funkcionaronge bilače grizimasko, vaj averčhandes te na ačhaven len te čhon vorba pe kris kana dukhaven len, sar kana e šingale keren te pokinen bezexenge love e džene, ko kamen te den vorba e rajenge pala pengi dukh.
 20. Te kerel pe xurdikano rodipe pala ciganengo, phirutnengo taj rromane migrantongo krisarimasko grizipe, kaj te arakhen pe e diskriminativone praktike, taj te geton pe zurale programura so ačhaven kasave praktikon.
 21. Te kerel pe sar barr, ke ciganura taj e phirutne barrabarr/egal arešen o socialo ažitipe. Te hatären e karavanon taj e miškimasko kheran sar bešutnimaske forme kana del pe bešutnimasko ažitipe, kajso e manuša ko bešen ande lende šaj astaren e bešutnimaske ažitimaske sa e forme so šaj len džene ko bešen ande bešutnimaske aver forme. Sar alternativa, kondzaren specifiko žutipe, kaj te keren sarbarr, ke e ciganura taj e phirutne šaj te le sa kodo nivelosko ažitipe pala bešutnipe so vi e aver francikane themutne.
 22. Te geton pe specifiko užitimaske programura kaj te den zòr e ciganon taj e phirutnen, ko aver drom naštisaren te len užule, te kinen penge simadi.
 23. Te keren pe buhlarde programura, so sarbararen, ke e ciganura taj e phirutne šaj arešen pherdo taj barrabarr e socialone sevimata ande publikane viramlina/kancellarie, taj naj inkerde ande uladi sistema e socialone sevimatango. Te keren sar barr, ke sa e funkcionarra ande socialone sevimasko viramlina xutrena adekvato treningo te šaj arešen e ciganonge taj e phirutnenge specialone trebalimata, taj kadala funkcionara te dikhen kodo sar kana si godorvale/responsibilone te ažitin e phirutnen taj e ciganon, kaj te xutilen barrabarr aresipe k-e socialone sevimata. Te roden pe e mothovimata, kaj e phirutnenge taj e ciganonge fajlura ingerde sistematiko khatar e themeske institucie ande varesave departamentura, taj te len pe adekvato patuma te sastären kadi problema.
 24. Te sekuraren, ke e rromane migrantongo ćacipe k-o sastipe si pherdo garantuime, sar e šajimata te arešen a sastarimasko grizipe taj te bešen ando sasto krujalipe.

25. Te sarbarraren, ke sa pala diskriminaciake mothovimata mamuj phirutne taj e ciganura kaj te arenen e publikane sevimata, sar o sarbarraripe taj sar e publikane sevimaske vazdimata, sa rodna pe taj adekvato krisaren pe taj sastären e viktimongi dukh. O akanutno mamuj-diskriminaciako thamäripe pala kadi umal, pherdo trubulsas te lel pe vastende, taj te dušlarel pe sa e dženenge, ko dena publikano sevipe, ke i diskriminacia mamuj ciganura taj phirutne na dikhel pe bikhančesko.
26. Te len pe pozitivona patuma, so sarbarraren, ke e phirutne taj ciganura šaj profituin barrabarr khatar pengo čačipe k-e buti. Te lel pe sama, ke e phirutne taj e ciganura šaj te ačhaven ande foronge raimata ando sa o them. Te vazden pe programura so sastären o diskriminativo efekto e bute regulaciengo so si pala but butä opral phirutnenge taj ciganonge butäke šajimata, sar i Thami no. 96-603 “Pala šeftongo taj paruvimantango džamavipe taj buhlaripe”. Te sekuraren, ke sa e diskriminaciake mothovimata - pala resepe k-e butä pokinimaske – pherdo roden pe taj sa e diskriminaciake misala adekvato krisardön taj e viktimura si kompenzuime. O akanutno mamuj-diskriminaciako thamäripe kamlöl pe te le pe sa e vastende, dži kaj dušlarel pe sa e butärnenge, ke i diskriminacia mamuj ciganura taj phirutne či toleruin pe.
27. Te lel pe sama, ke e ciganonge, phirutnenge taj rromane migrantonge čavorra školake beršenca arenen k-o sikläripe ando na-ulavdo školako krujalipe.
- ✧ Te keren sar barr, ke mišto dikhel pe e čavorrengo čačipe taj obligacia te phiren ande škole kana keren pe e phirutnenge, ciganonge taj rromane migrantonge sila našavimata.
 - ✧ Te len pe pe phikende pozitivone akcie ando sa o them ando šerardo drom, kaj te lel pe sàma, ke šaj te len kotor e phirutnenge taj ciganikane čavorra ande školipe vi kana phiren, taj te sarbarrarel pe/te sekurarel pe vi e siklärimasko durutnipe.
 - ✧ Te lel pe sàma, ke e lokalone funkcionarra sistematiko registruin e phirutnenge, ciganonge taj rromane migrantonge čavorren and lokalone škole, taj na te dikhen so vrama bešena von pe foroske raimaski phuv, taj kana e dada taj deja barem šaj den e trebalutne dokumentura imediat.
- ✧ Xurdikanes te dikhen pe sa e dukhake mothovimata pala diskriminacia e phirutnenge, ciganonge taj rromane migrantonge čavorrendar ande školaki sistema, taj te sekurarel pe, ke ande kasave misala lena pe sa e vastende e krisarimaske patuma taj o mamuj-diskriminaciako thamäripe.
 - ✧ Te del pe treningo pala mamuj-diskriminacia taj informacia pala relevanto mamuj-diskriminaciako thamäripe e siklärrenge taj školake funkcionarronge ando sa o them.
 - ✧ Te inkren pe materiala pe ciganongi taj phirutnengi historia ande Franca ande školaki kurrikula sar maškaruno kotor ande verver/diferentone siklīmaske umala. Te inkeren e ciganon taj e phirutnen ande kasave materialongo getosaripe taj te len sàma na te inkeren rasistikane anglikrisimata/stereotipura.
 - ✧ Biadžukarimasko te len pe patuma te agorden pe e ulavde siklärimaske forme taj te siklären e phirutne taj ciganikane čavorren ande savorrengi školaki sistema e avere raklorrenca. Kaj trubuna phurtake/podoske programura taj specifiko ažutipe, te keren sarbarr, ke e školande si sa so trubun paš-e programura, taj te lel pe sàma, ke kadala programura na paruvana pe p-i forma e ulavimaski/segregaciaki.
 - ✧ Te den pe sa so trubun, te sekurarren, ke e phirutne taj ciganikane čavorra kon arenen a kollegiake berša taj ačhile palal penge siklimasa te šaj xutren o trebalutno ažutipe ande škole savorrengi, taj numaj te bičhaven len ande Segpa škole.
28. Biadžukarimasko te čačvaren i Thami gin 2002-101 khatar 25 Grastornaj 2002 pala “Phirutne čavorrengo taj na-bešle familiengo sikläripe” ando šerardo drom ando sa o them.
29. Biadžukarimasko te adoptuin nevo mamuj-diskriminaciako thamäripe so pasuil paša akanutne Evroputne taj aver maškarthemutne kućimata, taj pasuin pe paša šerala ande Ev-

- ropaki Konvencia pala Manušikane Xakajengo taj Mestimasko Brakhipe taj e Maškathemutni Konvencia pala e Rasikane Diskriminaciake Sa e Formengo Peravipe. Specifiko šaravingos e avinde umala: e krisarimaski administracia, sar e dženenge sekuritetako brakhipe/feripe/protekcia; politikako kotorlinipe, sar o ćaćepe te alon, te alosardön, te len kotor ando raibe taj ande publikani sàma pe sa e nivelura, taj te avel vi barrabarr resipe karing e publikane sevimata/servizura; o ćaćepe te miškin pe mesto/slobodo taj te bešen kajso kamen maškar e themeske grànicura; o ćaćepe te kiden pe pàcasa kana taj sarso kamen taj te jekhajven.
30. Te sarbarraren ke o akanutno mamuj-diskriminaciako thamäripe si zurales ćaćvardo. Te vazden e krisitorrenge taj prokuratorenge jakha pe rasikane diskriminaciake problemura taj e probaciake pharimata (te sikavel pe evidenca). Te del pe xurdärdi informacia e magistratongge taj e thamärimaske funkcionarronge ando sa o them pala neve mamuj-diskriminaciake regule taj pala lengo vastnipe/važnipe te le pe k-e vastende zurales. Te kerel pe jekh informaciaki kampanä so kamel te aresel e generalone publikos, kaj te vazdel e jakha pala Franckao mamuj-diskriminaciako thamäripe.
31. Te kerel pe sar barr, ke i “Bari Kancellaria vaš o màripe mamuj diskriminacia taj vaš barrabarripe” lela sas so trubul la, biumblavdipe taj kompetenca te šaj pherel pesko mandato.
32. Biadžukarimasko te ratifikuin Protokol gin 12 ande Evropaki Konvencia pe Manušikane Ćaćimàta.
33. Te ačhaven pe e rromane migrantonge diskriminativone našavimata taj e kolektivone našavimata so aresen e rromane migranton.
34. Te šaj bolden pe e džene ko sas našade e Francatar illegàlo, taj te del pe kompenzacia materiake, emociake vaj avere dukhake so kerdas o illegalo našavipe khatar i Franca pe sila.
35. Te ačhavel pe o diskriminativo grizipe e rromane migrantongo, so mangel azilo.
36. Te sarbarraren o pherdo labäripe e brakhimaske/ferisarimaske/protekciake kućimatange so si inkerde ande Geneva konvencia pala našadengo status, sar pala rromengo ko rodona azilo, na bisterindos ke e Unisarde Nacienge Komisareski Kancellaria pala Našade (UNHCR) dušläradas, ke e našade si na numaj e manuša kon našen khatar e tortura vaj khatar aver seriozo dukh vazde pe rasikani, etnikani taj patäimaski bāza, no ke e diskriminativone programura so kerena pe bi-silako šaj aresen pe našavimasko nivelu.
37. Pe maj ùće nivelura te del pe duma pala rasikani diskriminacia so kerel pe mamuj e ciganura, phirutne, rromàne migrantura taj avera, taj te dušlarel pe ke o rasizmo na toleruil pe.

Publications

December 2, 2005: *Always Somewhere Else: Anti-Gypsyism in France, Country Report No. 15.*

December 2, 2005: *Hors d'ici! Anti-tsiganisme en France, Série des rapports pays N° 15.*

Campaigning, Conferences, Meetings and Training

July 16-17, 2005: Organised a training for 15 Romani and Sinti activists on race equality legislation in Florence, Italy, within a project by the ERRC, the Irish Traveller Movement and the Milan Simecka Foundation, funded by the European Commission.

July 18-19, 2005: Spoke at a conference on local and regional authorities in the European Union, Cecina, Italy.

July 27, 2005: Organised a training for 10 Romani activists on practical monitoring in Stip, Macedonia, within a project by the ERRC, the Roma Community Centre DROM and the Croatian Law Centre, funded by the EU CARDS Programme.

August 20-23, 2005: Undertook advocacy mission to Sweden to develop partnerships in matters related to systemic discrimination against Roma, Stockholm, Sweden.

August 26, 2005: Provided materials to the United Nations Human rights Committee, timed for that body's review of Italy's compliance with the International Covenant on Civil and Political Rights.

September 6, 2005: Organised a training for Romani activists on practical monitoring in Zagreb, Croatia, within a project by the ERRC, the Roma Community Centre DROM and the Croatian Law Centre, funded by the EU CARDS Programme.

September 8, 2005: Hosted Swedish Minister for Equality Jens Urback at the ERRC offices in Budapest and discussed matters of common minority rights interest.

September 23-24, 2005: Organised a training for 30 Romani, Sinti and Traveller activists on practical monitoring in Budapest, Hungary, within a project by the ERRC, the Irish Traveller Movement and the Milan Simecka Foundation, funded by the European Commission.

September 28-29, 2005: Attended the Organisation for Security and Co-operation in Europe's Human Dimension Implementation Meeting and presented concerns on Roma rights matters on the plenary floor, Warsaw, Poland.

October 4, 2005: Participated in an expert discussion on anti-discrimination law draft in Ukraine organised by the International Centre for Policy Studies, Kiev, Ukraine.

October 4, 2005: Joined partner organisations at a demonstration against illegal forced evictions of Roma from social housing, Bohumin, Czech Republic.

October 7, 2005: As part of a project funded by the European Commission, held a meeting with local partners and relevant government officials on integrated schooling, Szabolcs-Szatmar-Bereg County, Hungary.

October 11, 2005: Participated in Conference on Protocol 12 to the European Convention on Human Rights organised by the Council of Europe, Strasbourg, France.

October 11, 2005: Presented ERRC concerns in the field of housing rights in Central and Eastern Europe at a meeting organised by a number of Brussels-based umbrella NGOs focussing on housing rights in Europe, Brussels, Belgium.

October 12-15, 2005: Acted as trainer at a workshop on ethnic data issues convened by Minority Rights Group International, Skopje, Macedonia.

October 17-18, 2005: Presented Roma rights issues at a UK Presidency of the European Union Conference on poverty and social exclusion, Glasgow, Scotland.

October 21, 2005: With partner organisations, submitted detailed comments on the situation of Romani women in Macedonia to the UN Committee on the Elimination of Discrimination Against Women.

October 21, 2005: Attended a meeting on Roma organised by the Organization for Security and Co-operation in Europe, Warsaw, Poland.

October 27-28, 2005: In cooperation with the Council of Europe held a training on the European Convention for Human Rights for persons involved in legal assistance to Roma, Odessa, Ukraine.

October 27-30, 2005: Participated in an international conference on environmental justice, convened by the Coalition for Environmental Justice, of which the ERRC is a founding partner, Budapest, Hungary.

November 1-2, 2005: Participated in Conference “Strengthening spaces: Women’s Human Rights in Social Movements”, organised by AWID and CREA, in Bangkok, Thailand.

November 2, 2005: As part of a project funded by the European Commission, organised a

meeting to press for school desegregation, Pazardjik, Bulgaria.

November 3-5, 2005: Conducted training for lawyers and human rights activists from the Czech Republic on the EU Race Equality Directive in partnership with the Brno-based League of Human Rights and the Minority Rights Group, in the framework of a project funded by the European Commission.

November 9-11, 2005: Organised training for 15 Romani activists from Croatia and Macedonia on effective advocacy skills in Zagreb, Croatia, within a project by the ERRC, the Roma Community Centre DROM and the Croatian Law Centre, funded by the EU CARDS Programme.

November 15, 2005: Presented Roma rights matters at a lecture at the German Institute for Human Rights, Berlin, Germany.

November 17-18, 2005: Attended a meeting of the Decade of Roma Inclusion, organised by the Romanian government in Bucharest, Romania.

November 19, 2005: Organised training for 13 Romani and Sinti activists on using litigation in Budapest, Hungary, within a project by the ERRC, the Irish Traveller Movement and the Milan Simecka Foundation, funded by the European Commission.

November 20, 2005: Presented ERRC activities with a focus on litigation, advocacy in the areas of education and employment and ERRC action on Roma in Kosovo, Russia and Ukraine, at the General Assembly of the International Helsinki Federation of Human Rights held in Budapest, Hungary.

November 20-24, 2005: Hosted a regional consultation meeting on women and housing in Central and Eastern Europe and Central Asia convened by the United Nations Special Rapporteur on the Right to Adequate Housing, Budapest, Hungary.

November 21, 2005: Participated in a consultation meeting with international NGOs organised by the Council of Europe European Commission against Racism and Intolerance (ECRI) on the future work of ECRI, Paris, France.

November 21-22, 2005: Presented Roma rights education issues at a conference organised by the United Nations Development Program (UNDP) and the Friedrich Ebert Stiftung (FES), Brussels, Belgium.

November 21-22, 2005: Participated in a Conference “Human Rights in the Democracy Movement 20 Years Ago – Human Rights Today” organised by Hungarian Helsinki Committee, Budapest, Hungary.

November 25, 2005: Held a seminar for judges of second instance courts in Ukraine on the “European Convention on Human Rights in the context of Roma rights protection in cooperation with the Ukrainian Helsinki Union on Human Rights, Kiev, Ukraine.

November 25, 2005: Acted as moderator at a conference on state-provided legal aid for the poor, organised by the League of Human Rights, Brno, Czech Republic.

November 29, 2005: Presented right to adequate housing issues at a seminar organised by the Central European University’s Human Rights Center, Budapest, Hungary.

December 8, 2005: Chaired a session at a Consultation Meeting with non-governmental organisations and national human rights institutions on their input to the monitoring of the FCNM, organised by the Council of Europe, Strasbourg, France.

December 16, 2005: Organised roundtable discussion on hate speech with journalists and Roma activists in Novosibirsk, Russia.

December 17-18, 2005: Participated in conference on Strategic Litigation organised by ENAR in London, UK.

EUROPEAN ROMA RIGHTS CENTRE

The *European Roma Rights Centre (ERRC)* 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. The approach of the *ERRC* involves, in particular, strategic litigation, international advocacy, research and policy development, and training of Romani activists. The *ERRC* is a cooperating member of the *International Helsinki Federation for Human Rights* and has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

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The *ERRC* was founded by Mr Ferenc Kőszeg.

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