

May 2012

## **SERBIA: EU Enlargement Programme 2012 ERRC report**

### **1. Anti-Discrimination and Other Human Rights Law**

In its 2011 annual report, the Commissioner for Equality recorded 335 complaints and 11 notices and initiatives received that year. The most commonly reported ground of discrimination was ethnicity, which accounted for 72 complaints, 31.9% from Roma. After this, the next most frequently reported grounds of discrimination were gender (10.3%) and marriage and family status (6%).

The Commissioner indicated that while the number of complains and notices is higher than in previous years, still there is a poor understanding of discrimination and the competency of the Commissioner's office among the population in general.<sup>1</sup>The Commission should take care that the relevant provisions of the anti-discrimination legislation are brought to the attention of Roma communities and implement awareness raising campaigns on non-discrimination.

### **2. Migration and Asylum**

Visa requirements for Schengen travel were lifted for citizens of Serbia, Macedonia and Montenegro in December 2009. According to the information from the media, over the course of the following 12 months, 17,000 people from Serbia requested asylum in the EU, mostly in Sweden, Belgium and Germany.

At beginning of May 2011, Serbia's Interior Minister Ivica Dačić announced more rigorous control of borders, tourist agencies and transport companies. He said that the measures were aimed at preventing fake asylum seekers from going into the EU. He also stated that a series of talks would be held with the Roma and ethnic Albanians from southern Serbia, who were believed to be most frequently "abusing" the visa liberalisation with the EU, in an effort to bring down the number of cases. Minister Dačić reported that border police would introduce more rigorous controls, noting that "no one from those communities will be able to leave the country if they do not have a return ticket, means to support their stay and cannot state the reason for the journey." Minister Dačić announced draft legal amendments that would allow the option for those who jeopardise the non-visa regime to be deprived of their passports for a period of up to two years and would criminalise the organisation and aiding of illegal migration.<sup>2</sup> As of May 2012, an amendment to the Criminal Code was pending, introducing the crime "Enabling/facilitating abuses to exercise rights in foreign country", as:

Whoever, with the intent to obtain for himself or another any benefit, performs or arranges transportation, transfer, reception, accommodation, hides or otherwise provides that a citizen of Serbia may misrepresent that there is a threat to his human rights and freedoms in a foreign country and request the acquisition of political, social, economic or other rights, shall be punished with imprisonment from three months to three years.<sup>3</sup>

<sup>1</sup> See: <http://www.ravnopravnost.gov.rs/lat/izvestaji.php?idKat=16>.

<sup>2</sup> See: <http://www.voanews.com/serbian/news/glas-amerike-serbia-law-against-asylum-seekers-05-10-2011-121580899.html>

<sup>3</sup> See: [www.parlament.gov.rs/%D0%B0%D0%BA%D1%82%D0%B8/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%B8%D1%83%D0%BF%D1%80%D0%BE%D1%86%D0%B5%D0%B4%D1%83%D1%80%D0%B8/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%B8-](http://www.parlament.gov.rs/%D0%B0%D0%BA%D1%82%D0%B8/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%B8%D1%83%D0%BF%D1%80%D0%BE%D1%86%D0%B5%D0%B4%D1%83%D1%80%D0%B8/%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%B8-)

According to media and ERRC documentation, the result of these measures has been discriminatory treatment of Roma on Serbian borders. Roma from other countries in the region have also faced problems at Serbia's borders in entering and crossing Serbia. A case from 2011 illustrates this situation. A Romani man from Macedonia was travelling with a company from Shtip, Macedonia, to Germany where his son and other family members live. There were 12 or 13 other passengers in the vehicle, all of Romani ethnicity from Shtip travelling to Germany. After crossing the Macedonian border at Tabanovce, at around 11:00 PM they arrived at the Serbian border Presevo. At the Serbian border, border police took their passports and asked them where they were travelling to; everyone said Germany. After taking the passports, border police entered their booth and stayed there for two hours. At that time, a border guard returned and informed the group that they were not allowed to cross the border to go to Germany, and that they have to return to Macedonia. The Romani man asked the reason that they could not enter or pass through Serbia. The border guard replied that they were ordered by superiors not to let the group of Roma cross the border. The passports were then returned to the travellers with two marks: the stamp of the Presevo border crossing and another mark over that which cancelled the first. After this incident, the Romani man submitted an application to the first instance civil court in Belgrade against the Republic of Serbia asking the Court to establish that the border police, acting on behalf of the State, discriminated against him. The case is currently pending.

According to Minister Dačić, with the announcement of these measures Serbia succeeded in reducing the number of asylum seekers in 2011. In 2011, 8% fewer citizens of Serbia requested asylum in the EU than in 2010.<sup>4</sup>

### 3. Hate Speech and Violence

According to Article 38 of the Law on Public Information,<sup>5</sup> "it is forbidden to publish ideas, information and opinions which instigates discrimination, hatred or violence against people or groups of people due to their belonging or not belonging to a certain race, religion, nation, ethnic group, gender, sex or sexual affiliation no matter whether by publishing was done a criminal act."

Hate speech and violence against Roma are ongoing problems in Serbia. The following section outlines instances of anti-Roma graffiti and anti-Roma attacks. Such violence is not limited to any one geographic area, but is prevalent throughout the country in cities such as Belgrade, Požega, Niš, Čačak, Zrenjanin, Banatsko Karađorđevo, Leskovac, Vršac, Rumenka and elsewhere. Attacks have occurred in both public and private settings, by individual perpetrators, groups and police officers. Victims are also diverse in character, including women, children, men and entire communities, targeted indiscriminately. The ERRC compiled this list from NGO and media reports; it is not comprehensive but indicates that anti-Roma violence and hate speech continue to be a problem in Serbia.

- At around 7:00 PM on 17 August 2011 in the centre of Belgrade, a 20-year-old Romani man was attacked by a group of about ten big non-Romani men while selling a newsletter on the street. According to media reports, the group first surrounded the man and started to insult him on racial grounds, then beat him and tore his work clothes.<sup>6</sup>
- The parents of a 15-year-old Romani boy from Novi Sad reported in the media that police officers from Rumenka had physically abused their son on 12 July 2011. The boy was reportedly returning from a celebration in Rumenka just before midnight when three police officers intercepted him and without warning started to beat him up. They then apparently brought him to the police station where they continued beating while questioning him about a reported theft of 200 Serbian dinars (approximately two EUR). The incident was reported to have lasted at least two hours during which the boy lost consciousness twice. Novi Sad Police issued a statement saying that the incident was under investigation and that if unnecessary force was used, the perpetrators would be punished according to the law. The Romani boy was charged for theft with the use of a gun and was set to be prosecuted.<sup>7</sup>

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%D1%83%D0%BF%D1%80%D0%BE%D1%86%D0%B5%D0%B4%D1%83%D1%80%D0%B8.46.html. Unofficial translation by the ERRC.

<sup>4</sup> See: [http://www.b92.net/info/vesti/index.php?yyyy=2012&mm=04&dd=03&nav\\_category=12&nav\\_id=596911](http://www.b92.net/info/vesti/index.php?yyyy=2012&mm=04&dd=03&nav_category=12&nav_id=596911)

<sup>5</sup> Official Gazette of RS No. 43/2003, 61/2005 and 71/2009

<sup>6</sup> See: <http://www.e-novine.com/drustvo/50184-Huligani-napali-kolportera-lista-Liceulice.html>.

<sup>7</sup> See: <http://pressonline.rs/sr/vesti/hronika/story/168622/Policijska+tortura%3A+Ubili+boga+u+njemu+zbog+200+dinara.html>

- During the night of 1 July 2011, unknown perpetrators sprayed graffiti on the wall of a building in the Podvrce Romani settlement in Leskovac, saying "Welcome to GTA- cigani territory".<sup>8</sup>
- At around 5:00 PM on 27 May 2011, three men attacked a 20 year old Romani man on Bus No 31 at Belgrade's Ustanička Street station. According to NGO and media reports, the perpetrators punched the Romani youth on his head and body while making statements about hating Gypsies. During the assault, a non-Romani man that tried to stop the attack was also injured. The Romani youth was admitted in the hospital and released on the same day. The next day, on May 28<sup>th</sup> three suspects were arrested.<sup>9</sup>
- Shortly after midnight on 2 April 2011 three unidentified persons attacked four Romani youths with knives on the premises of the Association of Roma in Čačak, Western Serbia. The attack took place during a birthday celebration attended by about 20 youths. One of the young Romani male victims was transferred to Belgrade for medical treatment of serious injuries: the boy's father reported suffered a fatal heart attack after hearing that his son had been injured in the attack. The Association of Roma in Čačak was quoted as having stated that a non-Romani youth also sustained serious injuries and two more Romani youths sustained minor injuries. Čačak police opened an investigation into the incident and on 3 April police detained a 17-year-old youth on suspicion of using a knife to injure the four youths during the attack.<sup>10</sup>
- At about 11:00 PM on 1 April 2011 unknown persons threw bricks at the rented home of a Romani family in Banatsko Karađorđevo, Vojvodina, Serbia. Windows were broken during the attack, but the family, including four sleeping children, managed to escape uninjured. The father was quoted in the media as having reported that on the day of the attack someone had threatened his wife in a store, telling her "Tonight you will burn." The day after the attack the family went to stay with relatives in another village.<sup>11</sup>
- During the evening of 14 March 2011 unknown persons wrote the message "Death to Gypsy Politicians" on a wall of the home of the Coordinator for Roma Issues in Zrenjanin, Vojvodina, Serbia.<sup>12</sup> Zrenjanin Mayor Mile Mihajlov was quoted in the media as having called on relevant authorities to identify and punish the perpetrators as soon as possible.
- At around 1:50 PM on 10 March 2011, three unidentified youths between the ages of 20 and 24 beat a Romani pupil while shouting racist insults at the victim in front of the trade school on the corner of Cetinjska and Šafarikova Streets in Belgrade. Following the attack, the director of the trade school brought the victim to a hospital for treatment: he suffered a head injury and bruising near his eye.<sup>13</sup>
- A monument to Romani singer Šaban Bajramović was erected in August 2010 in Niš, Southern Serbia. Racist graffiti reading "Stop Gypsy Terror" appeared on the base of the monument on 16 February 2011. This was the fourth time the statue had been vandalised.<sup>14</sup>

#### **4. Forced Evictions and Subsequent Human Rights Violations**

Over the last two years, the ERRC has monitored an increase in forced evictions of Roma in Serbia, the vast majority of which are carried out in Belgrade. Since April 2009, the ERRC and other international and local NGOs have registered at least 17 cases of collective evictions of Roma in Belgrade.

Most of the forced evictions conducted in recent years are marked by the same human rights violations, notably the failure to provide evictees with adequate (or indeed any) alternative accommodation, as Serbia has undertaken to do under international law. According to ERRC documentation and information

<sup>8</sup> See: <http://www.blic.rs/Vesti/Hronika/263344/Uvredljivi-grafit-na-racun-Roma-u-Leskovcu>

<sup>9</sup> See: <http://www.blic.rs/Vesti/Hronika/256505/Trojica-mladica-pretukli-romskog-decaka-u-autobusu>; [http://www.mondo.rs/s207682/Info/Hronika\\_i\\_Drustvo/Djilas-Spasilac\\_romskog\\_decaka\\_je\\_heraj.html](http://www.mondo.rs/s207682/Info/Hronika_i_Drustvo/Djilas-Spasilac_romskog_decaka_je_heraj.html); <http://www.vesti.rs/Beogradske/Uhapseni-napadaci-na-mladica-romske-nacionalnosti-4.html>; <http://www.naslovi.net/2011-05-31/vesti-online/raste-rasizam-prema-romima-u-srbiji/2576554>.

<sup>10</sup> "Otac preminuo kada je čuo da mu je na žurci ranjen sin", *Blic*, 3 April 2011, available at:

<http://www.blic.rs/Vesti/Hronika/245392/Otac-preminuo-kada-je-ču-da-mu-je-na-zurci-ranjen-sin>.

<sup>11</sup> "Kamenovali Romsku Porodicu", *Kurir*, 5 April 2011, available at: <http://www.kurir-info.rs/vesti/drustvo/kamenovali-romsku-porodicu-83753.php>.

<sup>12</sup> "Rasistički grafit u Zrenjaninu", *Glas Javnosti*, 15 March 2011, available at: <http://www.glas-javnosti.rs/clanak/srbija/glas-javnosti-15-03-2011/rasisticki-grafit-u-zrenjaninu>.

<sup>13</sup> "Pretučen Rom ispred trgovačke škole", *Vesti*, 10 March 2011, available at: <http://www.vesti.rs/Hronika/Pretucen-Rom-ispred-trgovacke-skole.html>; "Romski Dečak Preživeo Pakao", *Kurir*, 12 March 2011, available at: <http://www.kurir-info.rs/srbija/romski-decak-preziveo-pakao-79630.php>.

<sup>14</sup> "Koga teroriše Šaban Bajramović?", *Media Agency Mondo*, 16 February 2011, available at: [http://www.mondo.rs/s197896/Info/Hronika\\_i\\_Drustvo/Koga\\_terorise\\_Saban\\_Bajramovic.html](http://www.mondo.rs/s197896/Info/Hronika_i_Drustvo/Koga_terorise_Saban_Bajramovic.html).

from other organisations, during this period around 2500 Roma have been forcibly evicted. The vast majority of the forced evictions took place in the absence of safeguards required under international law such as genuine advance consultation with the people affected, failure to provide adequate alternative housing, compensation, or legal remedies, and failure to comply with both local and international due process requirements.

For example, ERRC documentation of the eviction of approximately 70 Roma from the Pančevo Bridge settlement on 7 June 2011 revealed that with no prior warning, police and social workers arrived at the settlement on 7 June and informed the affected families that they were being evicted, without providing an official eviction notice. The families were given only a few hours to prepare their belongings before they were taken by bus the same day to Dren, a village in the municipality of Obrenovac. In this village, authorities left the families in empty containers which do not meet minimum standards of adequate housing: they were without furniture and had no connection to electric, water or sewage systems.<sup>15</sup>

Three years after of the forced eviction and resettlement of 114 Romani families from under the Gazela Bridge, Belgrade authorities have failed to provide a permanent housing solution to all affected families. Only 18 of 114 Romani families have received social flats.<sup>16</sup> During the most recent mass eviction of Roma in Belgrade, most Roma forcibly relocated from the longstanding Belvil settlement in April 2012 have been placed in various container settlements scattered around the city while those without residence in Belgrade were relocated to their last registered residence in the south of the country. The tenure of those relocated within Belgrade is unknown as no formal agreements have yet been entered more than a month after the eviction. According to the results of a 8-9 May 2012 survey conducted by the ERRC, PRAXIS and the Regional Centre for Minorities in five settlements in Belgrade (Makiš, Kijevo, Dren, Rakovica and Resnik) among the Roma forcibly evicted from Belvil:

- There has been no distribution of food supplies; relocated families have to go to the nearest public kitchen by public transport which the families have to pay themselves which most families cannot afford;
- In Jabučki Rit, more than half of the relocated families were allocated stoves which do not work so they cannot prepare meals;
- In all five settlements, residents were not provided with refrigerators;
- At the time of the visit, the containers and sanitary containers were not accessible for persons requiring wheelchairs, which impacts two of the evictees.

At the same time, the ERRC visited families evicted from Belvil and forcibly returned to southern Serbia where they are registered in Niš and Prokuplje. They reported:

- Most of families returned to Niš were allowed to bring their personal belongings only; they had to leave their other property in Belgrade;
- Five of the 11 Romani families forcibly returned to Niš do not have a home so were settled by Niš authorities in an old warehouse without access to water, food or electricity. Since their relocation, one baby has been born in these conditions and one woman died.

While Belgrade authorities reject discussion of possible alternative housing solutions that meet international standards of adequate housing, the living conditions of the forcibly relocated families are worsening. ERRC research at container relocation sites in Belgrade show quickly deteriorating living conditions, including the following ongoing problems:

- insecure tenure;
- overcrowded living conditions;
- rainwater leaking into the containers;
- insufficient electrical supply;
- malfunctioning sanitary facilities;
- insufficient insulation to protect against extreme temperatures;

<sup>15</sup> See, for example: Amnesty International, "Belgrade Must Stop Forced Evictions", public statement, 10 June 2011, available at: <http://www.amnesty.org/en/library/asset/EUR70/008/2011/en/619f35c2-8a1f-438c-adc0-868d56ff1fe7/eur700082011en.html>

<sup>16</sup> See: <http://srb.time.mk/read/d5028b460f/8cf873085a/index.html>.

- lack of employment opportunities;
- inaccessible public services; and
- personal security threats posed by nearby residents.

Threats to the personal security of Roma forcibly evicted and relocated by Belgrade authorities is an ongoing concern, with several high profile attacks against affected families following their relocation. For example:

- According to the Regional Centre for Minorities, during the night of 11-12 June 2011, one of the Romani women forcibly relocated from the Pancevo Bridge settlement to a container in Dren was attacked by an unknown man. The perpetrator entered her container in the middle of the night and attacked the woman with a stick, beating her and causing minor injuries. When her screams alerted the other residents, the attacker fled. Although the local authority contracted a private security company to protect the site, the security guard present did not manage to prevent the attack or detain the perpetrator.<sup>17</sup>
- At around 10:00 PM on 16 August 2011 six men threw rocks at residents of the Boljevci container site, previously relocated from the Gazela Bridge settlement.<sup>18</sup>
- On 1 May 2012 at around 9:00 AM, a group of between 15 to 20 masked individuals attacked Roma relocated from Belgrade's Belvil settlement to Jabučki Rit, shouting racist slogans including "Serbia for Serbs, Roma out of Serbia." They also drew a swastika on one of the metal containers to which the Roma had been relocated. The ERRC is aware of only one suspect arrested to date; a resident of Jabučki Rit. Since the Roma were forcibly relocated, relations have deteriorated between the relocated Roma and their new neighbours.<sup>19</sup>

Serbia is legally obligated to respect, protect and fulfill the right to adequate housing as defined in the International Covenant on Economic, Social and Cultural Rights (ICESCR, Article 11) and the right to be free from unlawful interference in the home under the International Covenant on Civil and Political Rights (ICCPR, Article 17). The United Nations Committee on Economic Social and Cultural Rights, which oversees implementation of the ICESCR, has elaborated that "Evictions should not result in individuals being [...] vulnerable to the violation of other human rights."<sup>20</sup> Article 16 of the Serbian Constitution sets out that "ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly."<sup>21</sup>

## 5. Education

In the area of education, the situation of Roma is characterised by low enrolment rates, high dropout rates and the misplacement of students in special schools and classes offering substandard education.

A report of the Open Society Institute from 2010 demonstrated that Romani children are overrepresented in special education in special schools and special classes in mainstream schools.<sup>22</sup> According to the data collected from 85% of special schools in the 2007–2008 academic year, the total number of students stood at 5,639, of whom nearly 30% were Romani. In the 2008–2009 academic year, the data showed an increase of the number of Romani students in special schools to 32%.

The Law on the Basis of the Education System (LBES), adopted in 2009,<sup>23</sup> provides the necessary legal framework for inclusion of Roma children in mainstream education. Article 6/2 of the LBES stipulates that persons with developmental difficulties and disabilities shall be entitled to education recognising their educational needs in the mainstream education system and shall be provided with additional individual or group assistance in a special preschool group or school. Article 69/2 establishes that primary schools are implementing the curriculum and may introduce individual educational plans (IEP) for pupils and adults

<sup>17</sup> Regional Centre for Minorities, "Napad na Maricu Jurakić u kontejnerskom naselju u Drenu", press release, 13 June 2011, available at: <http://minoritycentre.org/sh/actuals/napad-na-maricu-juraki%C4%87-u-kontejnerskom-naselju-u-drenu>.

<sup>18</sup> ERRC interview with a Romani man. Boljevci, Serbia: 18 August 2011.

<sup>19</sup> "Uhapšen zbog upada u romsko naselje", b92, 1 May 2012, available at:

[http://www.b92.net/info/vesti/index.php?yyyy=2012&mm=05&dd=01&nav\\_category=16&nav\\_id=605434](http://www.b92.net/info/vesti/index.php?yyyy=2012&mm=05&dd=01&nav_category=16&nav_id=605434).

<sup>20</sup> CESCR, General Comment No 7: The right to adequate housing (art. 11.1 of the Covenant): forced evictions, available at: <http://www.unhcr.ch/tbs/doc.nsf/0/959f71e476284596802564c3005d8d50>.

<sup>21</sup> See: [http://www.srbija.gov.rs/cinjenice\\_o\\_srbiji/ustav\\_odredbe.php?id=217](http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav_odredbe.php?id=217).

<sup>22</sup> Ibid.

<sup>23</sup> Available at <http://www.mpn.gov.rs/propisi/propis.php?id=9>.



with development difficulties, or an individual programme for learning Serbian language or the language of national minorities, for pupils who do not have knowledge of the language in which the curriculum is taught.<sup>24</sup> Article 77/1 highlights that for socially deprived children, children with development difficulties, children with a disability or children with any other reason to need support, educational institutions should develop individual educational plans. Article 77/2 stipulates that the aim of the individual plan is to achieve optimal inclusion of the child in mainstream education and his/her independence amongst peers.

In October 2011, the ERRC requested information from the Ministry of Education and Science about the number of pupils attending school according to an IEP in school year 2010/2011. In their response, the Ministry noted that this information would only be available at the end of the year and that because the creation of the individual educational plan is a process, through the individualisation of the teaching process and the procedure that should be fulfilled, it is hard to represent the number of students following such a plan in any given moment. The Ministry confirmed that some Romani pupils do follow an individual educational plan.<sup>25</sup>

On 9 March 2010, the Ministry of Education and Science sent every mainstream primary school in Serbia a document called "Information about the enrolment of the children in first grade of primary school."<sup>26</sup> The document stated that, according to the LBES, "every child of at least six and a half. maximum of seven and a half years of age, will be enrolled in the first grade of primary school. The school is required to enrol all children from the area." This includes children with disabilities.

ERRC research indicates flaws in the implementation of the new law and specifically IEP measures to address the particular needs of students. During interviews, school officials reported that schools do not have the capacity to implement all measures foreseen in the new law, in part due to the failure of the Ministry to develop the requisite guidelines and instructions more than two years after the LBES was passed. One school psychologist stated:

Our experience with the individual educational plan is poor since the Ministry of Education and Science still has not created the Regulation on evaluation of the achievements of pupils that attend school according to an IEP. In the school year 2010/2011, 19 pupils started school here according to an IEP, but the local commission for IEP was only founded by the City of Belgrade in April 2011, so we are waiting for its evaluation which is necessary for continuing work according to the IEP. Only three staff members have passed the training to work with pupils according to an IEP, including myself, the Director and one teacher, which is not enough. I think that these results that we achieved are the highest possible results in the current circumstances, since our teachers are not trained to work with children with disabilities and difficulties.<sup>27</sup>

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<sup>24</sup> Available at <http://www.mp.gov.rs/propisi/propis.php?id=217>.

<sup>25</sup> Written response of Ministry of Education and Science from 3 November 2011 and 21 October 2011.

<sup>26</sup> Available at

<http://www.dils.gov.rs/documents/filesEducation/March%202010/Upis%20svakog%20deteta%20u%20skolu.pdf>.

<sup>27</sup> ERRC interview with a psychologist at the Petar Kočić primary school. Zemun, Serbia: 10 November 2011.