

**DECADE OF ROMA**  
**INFORMATION BOOKLET OF MINORITY RIGHTS CENTER**

**ABUSES OF ROMA RIGHTS**  
**IN SERBIA**

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**DECADE OF ROMA  
information booklet of minority rights center no.7  
ABUSES OF ROMA RIGHTS IN SERBIA**

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## **Minority Rights Center**

The Minority Rights Center (MRC) is a public interest law organization devoted to the improvement of the status of Roma in Serbia. The MRC is a non-profit, non-governmental organization established to suppress racism, discrimination and human rights abuses of Roma, as well as to promote equal treatment. Since its founding in 2001, the MRC has been engaged in advocating for the respect of Roma's rights at the highest national level and policy development. Furthermore, its work includes legal aid and litigation for Romani victims. Throughout its activities, the MRC wishes to facilitate access to education, employment, adequate housing, health care and public services for Roma people.

In the scope of its activities, the MRC:

- Has participated in creating the most significant national policy document on Roma *The Action Plans for Roma*, adopted by the Government of Serbia on January 27, 2005;
- Monitors the implementation of the Action Plans. For this purpose, four working groups were organized including working groups for education, employment, health care and housing;
- Provides legal assistance and litigation for Romani victims of violence and discrimination;
- Researches and documents the cases of unlawful treatment by the police, violence by skinheads and other private persons, segregation at schools, discrimination at work, and other illegal or discriminatory acts;
- Recommends measures for the improvement of Roma status on the basis of the analyses of collected documents and relevant regulations;
- Gathers Roma students from across Europe via the web portal [www.romastudent.net](http://www.romastudent.net) which began in 2004. This web portal contains information about scholarships, seminars, job opportunities and other useful information;
- Raises public attention to the human rights situation of Roma in Serbia by publishing information booklets, creating electronic informatory, organizing roundtables, releasing press announcements.

The Minority Rights Center cooperates with other NGOs devoted to the enhancement of Roma community status. Also, the MRC is a member of the coalition of non-governmental organizations, *The League for the Decade*, a body working along with the Government on realization of Action Plans for the *Decade of Roma Inclusion (2005-2015)*.

Main donors of the MRC are: Norwegian People's Aid, Open Society Institute, Swedish Helsinki Committee for Human Rights and Roma Education Fund and Fund for an Open Society.

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# Preface

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According to unofficial estimates, there are between 400 000 and 500 000 Roma in Serbia nowadays. They are the most imperiled social and economic group and often faced with discrimination, intolerance and violence. The severity of this problem is reflected by the fact that every month the Minority Rights Center (MRC) investigates over 20 cases of discrimination and violence by private individuals, and abuses of rights by police.

A significant number of Roma are victims of institutional discrimination in Serbia and are deprived of their fundamental civil rights. Legislation on voting, employment, education, health care and social care stipulates registration of residence as a requirement. As certain Roma live in informal and illegal settlements, they cannot meet this requirement. This creates a kind of ghettoization which is currently a Roma problem, but can be turned into a problem of society as a whole.

Cases described in the report point to bad treatment of Roma by representatives of state bodies and public institutions in Serbia. Although legislation prohibits any form of discrimination on grounds of ethnic origin, religion, gender, etc., deeply rooted social prejudices are still an obstacle to the implementation of the proclaimed principles.

Serbia's participation in the international project "Decade of Roma Inclusion 2005-2015" is a step forward. In 2005, the government of Serbia adopted four action plans within this project: in the areas of education, employment, health care and housing. Efficient implementation of these plans will depend on the number and quality of the measures taken. Unfortunately, not many things have been done.

The political environment in Serbia has changed since 2006. The new Constitution of Serbia was passed in November and elections were held at

the beginning of 2007. It was the first time that two Roma parties entered Parliament, which brought a new opportunity for Roma participation in political issues and public discussions about Roma problems.

This report consists of ten chapters. Chapters 1 to 8 describe abuses of Roma human and civil rights. The final part contains recommendations made by the Minority Rights Center. The described cases were researched during 2006 and 2007 and they are all supported by evidence collected by MRS researchers. Cases were chosen according to their explicitness.

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# 1. UNLAWFUL TREATMENT BY THE POLICE

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The Minority Rights Center's research shows that police officers have numerous prejudices towards Roma, first of all that Roma are "born criminals". It is noticeable that the situation has slightly improved since the beginning of this research in 2001 regarding the most brutal forms of mistreatment and police torture. Data shows that Roma have been physically abused by: punching; being hit with bats and metal bars; being tied up to radiators; by being deprived of food and water. The most frequent cases of unlawful treatment by the police are those performed during routine operations.

## 1.1. CASE OF MLADEN MIKLUC

On 2nd June 2006, four policemen came into the house of Mladen Mikluc (24) to give him a written warrant for questioning in the Novi Kneževac police station. In a statement given to MRC, Mladen Mikluc states the following:

*I didn't want to accept that warrant, as the lawyer, whom I hired for earlier warrants for questioning in the Novi Kneževac police station, when I was being forced to confess to stealing, told me not to take accept warrants from the police, but only validated court orders in the presence of two witnesses. Three policemen left and the fourth one, Kecman Mirko, stayed and asked me, "Why don't you respond to these orders, why are you making trouble?" I said I didn't want to be beaten again and confess to something I hadn't done. Then he spat and said, "You Gypsy motherfucker, why are you making trouble?" After that, those three policemen returned and said they would not beat me, but only question me. I got into the car and went to the police station with policemen Goran Kukočka and Kecman Mirko. We entered an office, where policeman Tončika Jeres and a policewoman were sitting. Policeman Tončika Jeres told me to sit down and then asked Goran Kukočka, Kecman Mirko and the policewoman to leave the office. When they went outside, policeman Tončika Jeres asked me, "Why do you refuse to come here and where is the cauldron you have stolen?" I said I didn't know*

*what cauldron he was talking about. Then he punched me twice in the head, grabbed my hair and hit me against the wall. I fell off the chair and he started to kick me. Then he said, "I'll kill you, tell me where the cauldron is!" I repeated I didn't know what he was talking about. He went to the table, took a truncheon and started hitting me on the head and body, kicking my legs at the same time. After that he called the policeman Gorana Kukočka, gave him the written warrant and told him to write another date on it. He told me to come at 08:30 a.m. on 5 June 2006. I said that the first bus for Novi Kneževac leaves at 9 and that I couldn't come on time. He said, "I don't care. You'll come or I'll go over there myself to bring you here!"*<sup>1</sup>

The MRC lodged a complaint with the Municipal Public Attorney in June 2006. The Public Attorney's Office is still collecting information about the case.

## 1.2. MISTREATMENT IN THE "G" BAR

On 25 February 2006, Veroljub Đorđević (27) was celebrating the birth of his son in the "G" bar in Padinska Skela. The bar is owned by a friend of his. There were about thirty people at the party, mostly Veroljub's relatives and friends. He explains what happened that night in a statement given to the MRC:

*I was standing in front of the bar, waiting for my guests. I saw a police car coming down the street. There were two cars, and they both pulled up in front of the bar. Then I saw two policemen and two officers of the special police force approaching me quickly. Confused by their speed and by the reason for their appearance, I asked them where they were going. Instead of answering me, one policeman hit me with his gun on the head. I felt bleeding coming from the spot he'd hit me on. They pushed me and entered the bar. They shouted, "Everybody, hands up!" They asked where the bar owner was. I came inside and said that the owner was not there, as I was celebrating the birth of my son. They said, "What celebration, you Gypsy motherfucker". They ordered us to lie on the floor. Some of my relatives are old and it wasn't easy for them to lie down, but the policemen didn't care. While we were on the floor, they were kicking us, on our heads, arms, legs, wherever they could. One of them told us to turn off the music. When a friend of mine, Bane, began to get up from the floor to turn it off, the policeman asked him, "Where are you going?", and started to kick him really hard. Then one policeman went all the way to the speakers and kicked them so that the music*

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<sup>1</sup> The interview was conducted on 5th June 2006 in Srpski Krstur

would stop. They were breaking glasses and bottles and they were insulting us Roma. Then we heard someone in the bathroom. A policeman grabbed me and began to push me toward the bathroom. He was saying, "Let them shoot you, you Gypsy shit." This agony lasted for about ten minutes but it seemed to last forever. Namely, a friend of mine was in the bathroom when the police arrived, and he had escaped through the window. I was in front of the policeman all the time. He was holding me tight around my chest, while he was shouting and threatening. While he was pushing me and punching, my aunt wanted to stand up and defend me. He kicked her and ordered her to lie down. When my friend Stanoje Jovanović tried to confront them because they were dragging and hitting him, one of the policemen threw a bottle at him and broke his bones. The policemen threatened him, saying "I'll send you to prison, Gypsy motherfucker". My brother-in-law Zoran Maksimović is a policeman and he tried to show them his ID. However, they didn't let him take it out of his pocket. He showed it later, in the police station. While we were in the bar, he told them that their behaviour was out of order and that they had overstepped their authority. Soon afterwards they called for help and 9 police patrols, as well as 3 emergency actions units arrived. Later I found out the names of some of the policemen who had been in the bar that day - Legija, Žarko and Vukša.

Stanoje Jovanović, Aleksandar Mihailović and Veroljub Đorđević pressed charges against these policemen. Veroljub Đorđević told the MRC researcher:

*I was in court because of this incident, but as the accused. Nothing has yet been done about the charges that my uncle Stanoje Jovanović, my friend Aleksandar Mihailović and I brought. We have a lawyer, who has brought charges for inflicting grievous bodily harm. However, as I will be charged for assaulting an official, it seems that I will have to make a deal.<sup>2</sup>*

### 1.3. EXTORTION OF STATEMENTS FROM A MINOR A.B. AND DAIM SELIHU

A.B. and Daim Salihu attend a school for adults within the Open University in Subotica. On 31st January 2006, they were approached by some police officers in front of the school building. The policemen showed their badges, handcuffed the boys and took them out to the police car without any explanation. In a statement given to the MRC, A. B. (16) explains what went on:

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2 The interviews were conducted on 30th March 2006 and 15th May 2007 in Belgrade

*When we went out on to the street, and approached the police car, one of the police inspectors kicked Daim in the stomach. A boy from our school, Naim Bunjaku, was with us all the time. He is known for making problems before and is already known by the police. We got into the car and I slapped Daim two or three times to help him get over the pain in his stomach. The other police inspector said, "You are showing off, ha? You Gypsy motherfuckers!" We entered the police station and they took us to some office. They unhandcuffed us and took us to separate rooms. One of the police inspectors hit me and told me to confess. He insulted me again. I asked him what I should confess to, and he said that I should confess to stealing wallets. A few minutes later they swapped places. The shorter police inspector approached me and punched me in the head. He was swearing and told me to confess. They changed several times, and each time they would punch me and demand my confession. Afterwards, the taller inspector and Daim entered and the policemen told us to take off our clothes, so that they could see if we had any tattoos. We don't have any, of course. The shorter inspector and Daim then went to another room, and the other inspector threw me onto a chair and slapped me in the head so hard that everything went black for a moment. Then we went to the room where Daim was and they took down our details. After that, they took us to the nearest police station and told us we were free to go. We went to school and the principal gave us a written statement that the inspectors had not talked to her when they came to the school.*

In the statement given to the MRC Daim Salihu (18) explains what took place in the police station in Subotica:

*We arrived at the police station and entered some office. They took off the handcuffs and then took us to separate offices. A police officer was telling me to confess and he was swearing. I kept saying I didn't know what to confess to. He was hitting me on the head. After that, another police officer entered the room. He was also swearing, telling me to confess and hitting me. One of them said that he would take a wooden bat and hit me with it if I didn't confess. Then they called Naim Bunjaku, who said I had told him that A.B. and I had been stealing. Naim went out and the police officer continued to swear and slap me. Several minutes later, one of the policemen said, "I'll give you two minutes to confess. If you don't, I'll call someone to cut your hair and take you to prison". I told him that he should do it. Then they took me to the office next door, where A.B. was. They made us take off our shirts, to see if we had any tattoos. They also wrote down some information about Naim and us. They gave Naim a piece of paper and told him, "Call us if you need anything". After they had let Naim go, they took photos of us, took us to the nearest police station and told us that we could go home.<sup>3</sup>*

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3 The interview was conducted on 28th February 2006 in Subotica

Disciplinary procedures have been launched against these policemen for a serious breach of powers and authority. They were adequately punished. The official letter from the police did not state what punishment had been imposed.

#### 1.4. TORTURE OF FOUR YOUNG ROMA MEN

On 27 July 2006, Škljezen Bajrami (21) was sitting with friends in front of his house in Veliki Rit. Around 13:30 three policemen arrived and took three of them - Škljezen Bajrami, Ervin Salihi and Sava Osman. In a statement given to the MRC Škljezen Bajrami explains:

*A police car arrived and three policemen got out. They asked about Ervin Salihi, but he wasn't sitting with us. The policemen asked us our names. I said my name was Keni and then one of them (Đukić) told us to follow them. We got into our car and followed them to the police station, as instructed. I want to emphasise that they did not have any document sanctioning such a thing. We got to the Klisa-Čenejska police station. The policemen took us to different rooms and beat us. They hit me on the head with an aluminium pipe. They also hit me on the ears.*

Ervin Salihi (21) was also taken to the police station in Klisa and in his statement describes this incident as follows:

*In the middle of the day, around 13:30, a police car arrived at our settlement. There were two police inspectors and one policeman. They said they were looking for somebody. They woke me up and told me they might need me. They didn't have an arrest warrant and I went to the Klisa-Čenejska police station because that's what they had ordered me to do. They put us in different rooms when we got there and beat us. They beat me, but they didn't allow me to talk, nor did they ask me anything. They were punching me and hitting me with bats on the head and arms. When I couldn't stand it any more, I confessed to everything they wanted. I was charged for stealing something. I signed a blank paper.*

One the men forced into signing statements in the police station was Nedžad Mekoli (21). As he explained to the MRC, when his friends called him and said they were in the Klisa-Čenejska police station, he decided to go there:

*They took my identity card and began to question me about what I had stolen. While I was passing down the hall, I saw my friends in other rooms. I heard the policemen beating them. They beat me too, hitting me mostly on the head. For a moment I lost my balance and hit the closet with my head. They beat me and in-*

*sulted me for about 7 hours. I felt sick from all those punches and I felt I was going to throw up. They told me that I would have to lick up anything I threw up. They were swearing, "You Gypsy motherfucker." After all that beating I had to sign two blank papers. One was supposed to be my confession that I had stolen something, and the other one asserting that the policemen hadn't beaten me. When I left the police station, we all went to the doctor's. My neck vertebra is injured and I have to take strong painkillers.*

In this case, the Greens Coalition agreed to provide the victims with legal aid. Mr. Nikola Aleksić, representative of the Greens Coalition, said to the MRC:

*It was agreed at a higher level that the situation should be covered up and criminal charges were not brought. On the other hand, the police came to the settlement and told the guys to calm down and stop complaining, or else. These Roma men came to our office in Novi Sad and said they would not complain, so our association has not filed a complaint.<sup>4</sup>*

## 1.5. CASE OF THE CD SELLER

On 23 April 2007, Nikola Marković (25) was selling CDs in 27th Marta Street, when police arrested him and took him to the police station. He was being insulted by the policemen the whole time and also suffered minor bodily injuries. In the statement given to the MRC he recalls:

*At one moment a police car stopped in front of me. Three policemen came out of the car and one of them, Gašić, grabbed my shoulder and pushed me into the car. I didn't resist and I got into the car. I have to say that none of the policemen asked my name or any other information. Nenad Jevremović, who was also arrested for selling CDs in the street and a policeman were sitting in the back. When I was getting into the car, one of the policemen slammed the door hard against my knee. I complained about the pain, but the policeman Gašić, who was driving the car, said, "Your leg is hurting, motherfucker." I said, "Sir, you don't have to insult me." And he answered, "Really, you Gypsy motherfucker, I'll fuck your mother a hundred times. And fucking Nataša Kandić has protected you as if you were polar bears, Gypsy motherfuckers. You should be exterminated and kicked out of Serbia; this is how we deal with scum like you." I was confused by everything that was happening. I was scared too. When we got to the Palilula police station, policeman Gašić put me in a room with a bench. He said in front of*

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<sup>4</sup> The interviews were conducted on 1th August 2006 and 15th May 2007 in Novi Sad

everybody, “His leg is hurting, he has water in his knee and I will take it out!” After that he kicked my back and pulled my hair. Soon after, two more policemen arrived, with whom I didn’t have any problems. They wrote down a list of CDs, and made a report. They also issued me a receipt for the temporarily confiscated goods and then let me go.

Nenad Jevremović was also taken to the police station that day and described what happened:

*I also sell CDs and I was arrested that day too. The police car stopped in 27th Marta Street and told Nikola to get into the car. I must say that I had never seen Nikola before. As he was getting into the car, the door hit his knee. Nikola complained about the pain in his knee, which caused a strong reaction from policeman Gašić. He was driving, punching and swearing at Nikola, all at the same time. However, he didn’t say anything to me. I couldn’t believe what I was seeing, I was very surprised. The policeman was swearing and hitting him. When we were leaving the police station Nikola stopped me. We introduced ourselves to each other and then he asked me if I would be a witness if he decided to press charges against the policeman, and I agreed.<sup>5</sup>*

## 1.6. POLICE INSULTS

Nadica Marinković (35) works in the “Branko Pešić” elementary school, in the department for functional education. At around 4 p.m. on 13 December 2006, while she was on her way to work she met her colleague Slađana Osmanović (29). While they were passing by the Faculty of Economics, two policemen stopped them and asked to see their identity cards:

*Two policemen were standing in the park. We walked past them and then they stopped us. One of them said, “Hey, you two, identity cards!” We were surprised but we gave him our identity cards. He took them and told his colleague to check if we had ever been arrested. He asked us if we had ever been convicted. He kept us for 15 minutes. He asked me where I worked. Then he said, “Maybe you work here, in the park, and we caught you. Where are your friends? They are smarter than you two and they ran away. You think you are brave by walking past us. If I see you working here once again, I will arrest you.” He wrote down our names and added that he had the names of all Roma women who worked there. In the end he said, “Here are your identity cards and now get lost.” He treated us as if we were scum.<sup>6</sup>*

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<sup>5</sup> The interview was conducted on 26th April 2007 in Belgrade

<sup>6</sup> The interview was conducted on 22th January 2007 in Belgrade

# OVERVIEW OF RELEVANT REGULATIONS

## Constitutional Provisions

The new Constitution of the Republic of Serbia<sup>7</sup> contains provisions that guarantee the inviolability of physical and mental integrity (Article 25, Paragraph 1). Additionally, it is stated that nobody should be exposed to torture, inhumane or humiliating treatment or punishment (Article 25), and also prohibits the use of any violence against persons deprived of freedom, and the extortion of statements (Article 28, Paragraphs 2 and 3). Almost identical normative standards were stipulated in the Charter on Human and Minority Rights and Civil Freedoms of Serbia and Montenegro, which was applied in the State Union of Serbia and Montenegro. Solutions contained in the new Constitution of Serbia represent a certain modification of the previous Serbian Constitution (Official Gazette RS, 1/90), which has enabled better protection of human rights and closer conformity with ratified international conventions.

Article 35 of the new Constitution of the Republic of Serbia stipulates that everybody has the right to redress, both material and non-material, if caused by the irregular or illegal work of state bodies, holders of public authority, autonomous province bodies or the work of local government units.

## Criminal Law Regulations

### **Criminal offence of mistreatment and torture (Article 137 of the Criminal Code of RS)<sup>8</sup>**

This provision stipulates that one, who mistreats another person or treats him in a way that insults human dignity, will be punished by imprisonment for up to one year. A person that, in a prohibited manner, causes pain or suffering to another person, aimed at extracting from him or someone else a confession, statement or other information, or aimed at frightening or unlawfully punishing him or another person, will be punished by six months to five years of imprisonment. A more serious form of this criminal offence appears in cases of mistreatment or causing insult to human dignity by a person acting in an official capacity. This person will be punished by one to eight years of imprisonment if he uses force or any other prohibited way to cause pain to another individual, aimed at extorting a statement, confession or any other information.

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7 The Constitution of the Republic of Serbia, Official Gazette of RS 83/06

8 Criminal Code, Official Gazette of RS 85/05

## **Criminal offence of extorting a statement (Article 136 of the Criminal Code of RS)**

Although it is similar to the criminal offence of mistreatment and torture, the difference is that in the criminal offence of extorting a statement, the perpetrator can only be a person acting in an official capacity. Such a person will be punished with three months to five years imprisonment, if he uses violence, threats or any other unauthorized means or method aimed at extorting a statement from a suspect or witness.

## **Criminal offence of illegal deprivation of liberty (Article 132 of the Criminal Code of RS)**

The act of performing this criminal offence includes the unlawful deprivation of liberty, holding in detention, unlawful deprivation or restriction of liberty of movement, and is punishable by imprisonment of up to three years. A more serious form of this criminal offence is one committed by a law enforcement official. More severe punishment is stipulated if committing this criminal offence has badly damaged a person's health or has led to other serious consequences or death. A mere attempt at committing this criminal offence is also punishable.

## **Criminal offence of inflicting actual (Article 122) or grievous bodily harm (Article 121 of the Criminal Code of RS)**

These criminal offences are classified into a group of criminal offences threatening life and body. Actual bodily harm can be common or dangerous if caused by a weapon, tools or other devices. The offender will be fined or sentenced to imprisonment of a period of up to one year.

The act of committing the criminal offence of inflicting grievous bodily harm implies more serious harm to bodily integrity, i.e. health. The stipulated penalty is one to eight years of imprisonment.

## **Criminal offence of abuse of official authority (Article 359 of the Criminal Code of RS)**

This criminal offence includes abusing one's official position, violating official authority or professional negligence, causing harm or violation of right to another person, or an official securing some value for himself or for anyone else. The stipulated penalty for this criminal offence is imprisonment for the period of six months to five years.

## **Criminal offence of professional negligence (Article 361 of the Criminal Code of RS)**

This criminal offence includes breach of regulations, omission of supervision duties or any other negligent behaviour by an official, seriously harming another person's rights or causing damage of a certain value. The offender will be fined or sentenced to imprisonment of up to three years.

## **Criminal offence of defamation (Article 170 of the Criminal Code of RS)**

This Article stipulates that a person that defames another person will be fined. Defamation implies a statement that brings another person's name into disrepute. Prosecution of this criminal offence is conducted by means of a private complaint.

## **Other Regulations**

**The Law on Criminal Proceeding**<sup>9</sup> prohibits any violence against detained persons, persons whose liberty is restricted, or any extortion of confession or any other statement from charged persons or other persons participating in the criminal proceeding. It is forbidden to use force, threats, deceit, promises, extortion, sleep deprivation or other similar means (Article 143, Paragraph 5) with charged persons in order to obtain a statement, confession or any other act that could be used as evidence against them. Neither can court rulings be based on evidence collected in a way not complying with this law.

**The Law on Police**<sup>10</sup> stipulates that authorized officials should act objectively, non-discriminatorily and should give everyone equal legal protection (Article 35, Paragraph 1). Additionally, an official must act humanely and respect the dignity, reputation and honour of others, as well as other fundamental rights and freedoms (Article 35, Paragraph 2). According to Article 31 of the Law on Police, in applying police authority an official should act in compliance with the Law and other regulations, and respect standards stipulated in the European Convention on the Protection of Human Rights and Fundamental Freedom, the European Code of Police Ethics and other international acts referring to the police.

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9 The Law on Criminal Proceedings, Official Gazette of RS 46/06

10 Law on Police, Official Gazette of RS 101/05.

Persons to whom police authority is applied have the right to be informed about the reasons for such an action (Article 31, Paragraph 6), while officials must introduce themselves by showing their badge (Article 34, Paragraph 1)

Disciplinary responsibility is stipulated in cases of slight or serious violation of duty. Serious violations of duty include the following: any action representing a criminal offence at work or in connection to work (Article 157, Paragraph 1, Point 19) and giving orders that would lead to a criminal offence (Article 157, Paragraph 1, Point 20).

Disciplinary measures for serious violations of duties (Article 159) are stipulated as alternatives and include the following: revocation; fine to the value of 30% to 50% of one month's income during a period of one to three months; restriction to promotion to a higher position, for a period of six months to two years; appointment to another job position for a period of six months to two years.

## **International Standards**

Article 18 of the new Constitution of Serbia stipulates that provisions on human and minority rights, contained in confirmed international agreements or guaranteed by generally accepted rules of international law, are directly applied. The same solution was set down by the Constitutional Charter of Serbia and Montenegro (Article 10).

**International Covenant on Civil and Political Rights**<sup>11</sup> in Article 7 stipulates that nobody can be exposed to torture, cruel, inhumane or humiliating punishment or behaviour.

**European Convention for the Protection of Human Rights and Fundamental Freedoms**<sup>12</sup> in Article 3 stipulates the prohibition of torture, i.e. that nobody can be subjected to torture, inhuman or humiliating behaviour or punishment.

In addition to the aforementioned international agreements concerning prohibition of torture, the Republic of Serbia is also bound by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as by the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment.

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11 International Covenant on Civil and Political Rights, Official Gazette of SFRJ 7/71.

12 European Convention for the Protection of Human Rights and Fundamental Freedoms, Official Gazette of SCG 9/03.

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## 2. VIOLENCE TOWARDS ROMA BY PRIVATE ENTITIES

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Physical assaults, racially motivated insults, threats and humiliations of Roma by private entities are a common occurrence. Organized groups, such as sports fans or skinheads, are most often perpetrators of such violence. In cases like these, state institutions do not react adequately, and instead treat Roma as perpetrators rather than as victims. The Minority Rights Center has investigated several cases of violence by groups of hooligans in Roma settlements in Serbia.

### 2.1. DEMOLITION OF “FLEŠ” CAFÉ

Milena Petrović (28) and her boyfriend Predrag Lolić (32) run the “Fleš” café in the small town of Jaša Tomić. She has often been exposed to insults and verbal harassment, but she has tolerated it, as the bar has been her only source of income. That day, on 4 November 2006, the bar was full of people. One of the guests was provoking and insulting Milena the whole evening. When her boyfriend Predrag tried to calm things down, the guest and two other men began punching him in the head. Milena Petrović described the incident as follows:

*I grabbed a phone and called the police. The three men stepped out of the bar and went out. A minute later, they appeared again, led by Peško Ilija, and headed towards the bar, towards Predrag and me. All five of them came behind the bar. Peško Ilija grabbed my hair and began to hit my head against the bar. While he was doing it, he asked me, “Is this enough for you, Gypsy whore?” I heard somebody shouting, “Kill the Gypsies!” When Ilija moved his hands from my hair, I looked up and saw Luka Zubac grabbing a glass from the bar and he shouted, “Let’s kill the Gypsies!” He threw it in my direction. However, I cannot remember if the glass hit me and caused this injury I have on my head. Then Predrag pulled my arm and told me to run away. I unlocked the storehouse door and we went out into the yard. While we were standing there, I heard the noise of breaking glasses*

*and bottles and shouts of “Let’s kill Gypsies!” It was then that I noticed my head was bleeding. I went back to the café and started to shout, “They hurt my head!” There was a medical worker, who was a guest in the café that night. He examined the wound on my head and said I had to go to the hospital in Sečanj. Nobody offered help and a policeman just said, “Go to the hospital and then come back to give statements.” What struck me most was the fact that there were so many people in the café, and yet none of them tried to help us.<sup>13</sup>*

On 17 November 2006, the Minority Rights Center filed a complaint with the District Public Attorney’s Office in Zrenjanin for the criminal offence of violent behavior. According to information from the Public Attorney’s Office in 2007, the police are still collecting information about the case.

## 2.2. VIOLENCE IN A ROMA SETTLEMENT NEAR THE “25. MAJ” SPORTS CENTRE

Some Roma families live in an informal settlement near the railway in the vicinity of the “25.maj” Sports Centre. At around 01:30 a.m. on 18th January 2007 a group of unknown men attacked the settlement, throwing stones and bottles at the shacks. Ramadan Redžepi (31), who suffered serious bodily injuries in this incident, explains what happened:

*I heard stones and bottles hitting my shack. They were shouting, “Gypsies, we will set you on fire! We will move you out!” I went out of my house to see what was happening, as in December my neighbour’s house was burnt down. I saw about twenty men, who didn’t have any sign or insignia belonging to any organization, preparing bottles filled with petrol. They wanted to come back and throw them at our shacks. When they saw I was alone, they surrounded me and attacked me. They had wooden bats and began to hit me. One of them approached me from behind and hit my head. I fell and I don’t remember what happened after that. After some time I got up and they weren’t there. I managed to get to the house and then I lost consciousness again. The next time I regained consciousness I was in Casualty. Doctors asked me who had hit me and I said I didn’t know.*

Mira Alić (29), Ramadan’s wife, states the following:

*We often wake up at night, as they burnt the shack of our neighbours in December. That night, on 18th January this year, I heard someone swearing and*

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13 The interview was conducted on 11th November 2006 in Jaša Tomić

*jumping on the roof of our shack. My husband went out to see what was going on. While he was outside, I called the police. They arrived 15 minutes later, and the attackers had already gone. My husband returned to the house, covered in blood. Policemen called the ambulance and they took him to hospital.<sup>14</sup>*

On 7th February 2007, an MRC lawyer filed a complaint with the District Public Attorney's Office in Belgrade against the unknown perpetrators for stirring national, racial and religious hatred and intolerance and for the criminal offence of inflicting grievous bodily harm.

### 2.3. VIOLENCE AT RIPANJ RAILWAY STATION

On 8th July 2006, A. P. (16) held a birthday party in his house in Ripanj. Some time after 3 a.m., several young men went to the railway station to see off their friends from Ralja. Then Željko Petrović (18), brother of A.P. was called by a friend who explained that they had been attacked by a group of hooligans at the railway station. Željko Petrović explains what happened afterwards:

*I was running towards the railway station. I wasn't alone; there were some friends of mine. The road towards the station is near my house and I headed there. My father Živosav heard that something was going on; he sat in his car and reached the station before we did. He told me later that he had seen some boys who looked familiar, when he got to the station. He got out of the car and talked to one of them. When my father told them that we should not be fighting with one another, as we had grown up together, one of the boys, Stefan Stefanović, said, "What do you want, Gypsy motherfucker? No Gypsy will walk around in Ralja any more!" Then they began hitting him. When my friends and I reached the station, I couldn't see anyone. We heard a scream from the railway station and we headed in that direction quickly. We were running when suddenly nine young men appeared in front of us. They had stones and metal bars in their hands. We all began to run away. One of them hit my head, near the left ear, with a stone. I began to lose consciousness and my brother took me to a neighbour's house. I told the neighbours what had happened and called the police immediately. A police patrol came from Beli Potok, in the Municipality of Voždovac. Then we went out and found my father, lying unconscious in a canal. We flagged down the first car that appeared and took him to hospital.*

Dragoslav Đorđević (43) describes the incident as following:

*I was coming home from the local bar at around 03:30 a.m. I am a singer and I work in that bar in the evening. I was going home by car and my friend Milorad*

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<sup>14</sup> The interview was conducted on 2nd February 2007 in Belgrade

*Marinković was with me. As we were passing by the elementary school, we saw a T-shirt and some bottles. We also saw five or six children gathered around Žile. His son Željko saw me and asked me to take Žile to hospital. He was unconscious, but he began to whine when we put him in the car. I was driving very fast. He was admitted to hospital. There were also a few police inspectors, who took a statement from him.<sup>15</sup>*

A complaint was filed with the District Public Attorney's Office in Belgrade on 8th October 2006 for the criminal offence of stirring national, religious and racial hatred and intolerance. After a written dispatch in December 2006, we were informed that the criminal charge had been thrown out. After that, the prosecution continued by lodging an appeal and a request for an investigative procedure.

#### 2.4. ATTACK BY SKINHEADS IN PUBLIC TRANSPORT IN SREMČICA

Petar Marinković (18) was going home when he was attacked in the 611 bus by a group of young men and one girl. The incident happened around 9 p.m. on 13th November 2006 in Sremčica. Petar Marinković stated the following:

*I was in the 611 bus and there were a few stops to my house. Several young men stood up while the bus was between two stops and they headed towards me. As they were approaching, one of them said, "Get the Gypsy fucker!" At the next stop they got organized and managed to pull me out of the bus. They told me, "Come with us." I asked them why, as I hadn't done anything. They said I knew why and repeated that I had to get off the bus. Nobody tried to help me. There were four of them – three men and a girl. One passenger asked, "Why are you bothering the man?" They answered, "He is not a man, but Gypsy shit!" After they had pulled me out of the bus, they pushed me to the ground and began to hit me. They hit me with a bag and I felt a strong pain. I heard something metal-like rattling inside the bag. I tried to protect my head and face from their punches. I tried to escape, but they knocked me down and continue hitting me. I decided to stop moving so that they would leave me alone. They stopped hitting me and said, "Where is your Gypsy pride now?" Then they gave me a "Heil Hitler" Nazi salute. I stood up and started to run towards my house. I didn't know that meanwhile my neighbour, Ajša, who was also on that bus, had called my parents and friends and told them I was in trouble, that I had been attacked. They thought I had been attacked because of my mobile phone.*

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15 The interview was conducted on 11th July 2006 in Belgrade

Dalibor Stanković (19) describes the incident as follows:

*I was standing at the bus stop with my friends. We were just thinking about going home, but we stayed to see who was coming from the town by bus. I saw Ajša, who told me that some guys had pushed Pera out of the bus and knocked him down to give him a beating. We started running towards that bus stop. We wanted to arrive there as soon as possible and save him. When we got there Pera had already been beaten up, and the attackers had run away. We agreed to go after them. When we found them and were very close to them, they took knives out of the bag. We escaped and hid behind a kiosk. Then Petar called the police. They arrived fast. We told them we had called them when we realized it was not just a fight, as they had knives.*

The on duty police officer told the MRC researcher:

*I understand that their parents are worried, but people from non-governmental organizations and reporters exaggerate. Nothing serious happened – children pushed each other a little, hit each other with bags. Do we have to press criminal charges because of this? We have better things to do. We have to chase criminals and not to deal with a fight between children. Please, some of them are minors without police records. It wouldn't be right to do it.<sup>16</sup>*

The MRC lodged a criminal complaint with the District Public Attorney's Office in January 2007 against Marko Duljković and three unknown individuals for the criminal offence of stirring racial and religious hatred and intolerance.

## 2.5. CASE OF JORDAN VASIĆ

At around 11 p.m. on 5th February 2007, Jordan Vasić, Zoran Vasić and Božidar Nikolić were going home by car. They were hit by another car at the corner of Mokroluška and Crvenička Streets. In the statement given to MRC Jordan Vasić explained:

*I got out of the car and first I checked it to see the damage. Then the other driver approached me and asked me not to call the police, but to come to an agreement. He also offered me money for repairs. I refused, saying that the police would do it, as it was their job. I noticed that the man smelled of alcohol and it was one of reasons I wanted to call the police. While we were waiting for the police, he was talking on his mobile phone all the time, but I didn't pay much attention to what he was doing. When the police came, they immediately said I was guilty. I said it was impossible, as he had hit me. My brother called our friend*

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<sup>16</sup> The interview was made on 20th November 2006 in Belgrade

*Borislav Mitrović, a lawyer. As soon as he arrived, he suggested that the police test both drivers for alcohol. The police said they were not authorised to perform such testing. Then a grey car with Italian plates arrived. A man got out of the car and went with one of the policemen behind the car. Two or three minutes later he returned and said, "Gypsy motherfuckers, you show off a lot." I just said, "Thanks." He began to swear again and I asked the policemen to protect me, but they only laughed. He continued to swear, "Gypsy and Albanian motherfuckers, I'll beat you up right now!" Then he approached and punched me several times on the head and body. I fell down and he continued to punch me. The police didn't react. My friends tried to protect me. The policemen told us, "Go ask for your rights from Nataša Kandić and other international institutions". He took down our details and left. We called another police patrol. When they arrived, they said, "You, Roma, talk about violating human rights even when you fight among yourselves." They just wrote down what the first police patrol did and wrote that both I and the other driver were drunk. Then my brother Zoran lost consciousness. I took him home, and one of the policemen accompanied me. I called the ambulance and they took Zoran to hospital. We called the police again. They confirmed that I had no alcohol in my blood, and that the other driver had.<sup>17</sup>*

The MRC has lodged a criminal complaint with the Fifth Municipal Public Attorney's Office in Belgrade against policemen Vladimir V. and Slobodan J. and three unknown individuals for the following criminal offences: abuse of official authority (Article 359 CCRS), violation of citizens' equality (Article 128 CCRS), racial and other discrimination (Article 387 CCRS), violating the reputation of national and ethnic groups (Article 174 CCRS), actual bodily harm (Article 122 CCRS).

## 2.6. VIOLENCE IN BLOCK 19 IN NEW BELGRADE

On 27th February 2006, P.J. went out with her younger brother to buy cigarettes for their father in the "Deki" store, located in Block 19 in New Belgrade. On their way home, they were attacked by a group of 10-15 young men. P.J. described the incident in the statement given to MRC as follows:

*My brother was walking in front of me. They passed by him and while they were passing by me I bent my head. Suddenly, one of them punched me in the eye and nose and I lost consciousness. After I fell, I could only feel them kicking me in the stomach. After some time I heard my brother saying, "Get up, they might come back, let's hurry up." He helped me up and gave me his jacket to wipe my*

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<sup>17</sup> The interview was conducted on 9th February 2007 in Belgrade

*face, covered with blood. When we got home, our neighbour Senad called the police, and the police called the ambulance, which took me to hospital.*

M.J., the victim's younger brother, describes what happened that night:

*I was walking in front of my sister. I turned around to see where she was, and I saw her lying on the ground, while two young men were kicking her. I just stood there and watched, I was afraid to do or say anything. When they left I approached my sister and saw her face was covered in blood. She just asked me, "What happened there? Why did they beat me up?" I gave her my jacket to wipe the blood from her face. Then I helped her up and we went home. My father and I were waiting for the police beside the kiosk, near the scene of the crime. The police arrived and wrote down some information they got from my father and sister. While we were standing there, the men that beat my sister recognized me and headed toward us. However, when they saw the police, they turned around and started running away. The policemen ran after them and caught one attacker.<sup>18</sup>*

On 14th March 2006, an MRC lawyer filed a complaint with the Fourth Municipal Public Attorney's Office against unknown perpetrators for the criminal offence of violent behavior. The case was passed on to the Department for Minor Offenders with the District Public Attorney's Office, when the police discovered that the perpetrators were minors. In August 2006, the case was brought before the District Public Attorney's assistant, but he has been on a sick leave, so that the case is still under investigation.

## 2.7. ATTACK ON ROMA SETTLEMENT IN NIŠ

At around 02:30 a.m., on 25 February, a dozen young men attacked inhabitants of the Roma "Beograd mala" settlement in Niš. They threw stones, breaking windows on houses and cars. One of the victims, Demir Kurtešović (60) made the following statement:

*At around 3 a.m. that night we were all sleeping, when we were awoken by the sound of a window being smashed. A few minutes later we heard another smash – another window had been broken on the second floor. My son and I went outside and saw a group of about ten young men running along the railway line, which is parallel to our street, toward the building of the company, "Blok Signal." My wife Smilja called the police, while my son and I got into our car and went after them. Neighbours joined us in their car. We caught*

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<sup>18</sup> The interview was conducted on 2nd March 2006 in Belgrade

*them at the end of our street (Sarajevska Street), i.e. we and the police patrol caught one of them at the same time. The boy was drunk, dressed in black, wearing black military boots and he was bald. Neither my son nor I touched him; the police patrol put him into the car and took him away. The policemen told us to come at 7 a.m. to the Crveni Krst police station to give statements.*

Abdul Šakir (45) explains what happened next:

*We managed to catch one of them at the end of Sarajevska Street. He was obviously drunk, dressed in black and bald, and he was wearing military boots. The police arrested him and they told us to come to the police station the next day to give statements. The following day, at the police station we were told that nine men had been arrested; we gave statements and went home. That evening a policeman came to our house and told us to come to the police station again at 10 a.m. the next day (on Sunday). We went to the police station, but did not give statements to the police, but to a judge. The judge told me and my neighbor Zaja that we would be charged for assaulting one of the young men. Another four men came to the police station with their mothers and lawyers to give statements. I told the judge what had happened, stressing that I had not even touched any of them. I really don't know what is going to happen but it seems as if I am going to be the guilty one, and not the victim.*

A similar description of the incident was given by Zaja Ramić (50), who also lives in the Beograd-mala settlement:

*Policemen told us that they had caught all of them and that we should come to the police station the next day at 7 a.m. to give statements. Meanwhile, the police made a report and had taken down information about the damage. We all went to the police station, of course and gave statements. We were told the police had arrested nine perpetrators. On the same day around 8 p.m., a policeman came to my house to give me a written summons for a hearing, scheduled for 10 a.m. on Sunday. When I went there (Abdul, Demir and Danijel also came), I saw four young men with their mothers and lawyers. The judge told me I was under suspicion of assaulting one of those four men. I said it wasn't true and I added that I didn't get a good look at the man we and the police patrol caught at the same time.<sup>19</sup>*

On 11th March 2006, the MRC filed a complaint with the District Public Attorney's Office in Niš against a group of unknown perpetrators for the crim-

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19 The interview was conducted on 27th February 2006 in Niš

inal offence of rousing racial, national and religious hatred and intolerance. In December 2006, we were informed that an investigation against minor M.V. and other individuals had been launched.

## 2.8. ATTACK ON A ROMA IN KOCELJEVA

On 27 January 2006, Slobodan Savić was hired to film a St. Sava's Day celebration in an elementary school in Draginje. After he had finished this job, at around 8 p.m., he decided to wait for the bus in "Palma", a local bar, as it was very cold. In his statement given to MRC, Slobodan Savić said:

*There were more than twenty people in the bar. Most of them were young. I entered and sat near the door. When the guests noticed me, they stopped talking and turned towards me. They began swearing. They explained to me that it was a Serbian celebration that day and Gypsies were not welcome. I stood up immediately and went out. They asked me, "Gypsy, where are you going?" and I answered that I was leaving, so that I would not disturb them. They stood in front of me so that I could not go out and began hitting me. They were hitting me from every direction, all over my body and head. I couldn't resist as there were about twenty of them. A couple of minutes later I managed to go out. Three of them followed me and continued to hit me. They were punching me until I fell. Then one of them began to kick me in the head and I fainted. I think that an hour or two passed before I regained consciousness. I went to the police station in Koceljeva. The police reacted at once.*

*I explained to the police where the incident had taken place. They drove me to the spot to identify the perpetrators. I entered the bar and pointed to the three young men that had hit me most. They attacked me again. The police stopped them and told me to get in to the police car. The police remained in the bar for some time to complete their report. Then the policemen took me to the medical centre in Koceljeva, where the doctors helped me and then I was taken by ambulance to the hospital in Valjevo.*

*I spent three days in that hospital and I was released although I felt even worse. I have dizziness now and I pass out very often. I scheduled an examination in the hospital in Valjevo. The doctor told me that he would have to operate on a thrombus in my head. I only have my discharge papers from the hospital.<sup>20</sup>*

On 11 March 2006, the MRC lodged criminal complaint with the District Public Attorney's Office in Šabac against a group of unknown perpetrators

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<sup>20</sup> The interview was conducted on 7th February 2006 in Ub

for the criminal offence of stirring racial, national and religious hatred and intolerance. In December 2006, the MRC was informed that Miroslav Mitrović, Petar Gigić and Budimir Pantelić had been charged for this criminal offence on 5th October 2006.

## **OVERVIEW OF RELEVANT REGULATIONS**

### **Constitutional Provisions**

Article 23 of the new Constitution of Serbia guarantees the inviolability of human dignity. As mentioned in the previous chapter, the Constitution guarantees inviolability of physical and mental integrity (Article 25). And for the first time, it has been explicitly prohibited to provoke and rouse racial, national, religious or other inequality, hatred or intolerance (Article 49).

### **Criminal Law Regulations**

#### **Criminal offence of stirring national, racial and religious hatred and intolerance (Article 317 of the CCRS)**

This criminal offence includes inciting or stirring national, racial or religious hatred and intolerance among nations or ethnic communities that live in Serbia. The stipulated punishment is six month to five years imprisonment. A more serious form of the criminal offence is the one committed by force, mistreatment, endangering security, damaging other people's belongings or by exposing national, ethnic or religious symbols to scorn. The stipulated punishment is one to eight years of imprisonment.

#### **Criminal offence of violent behavior (Article 344 of the CCRS)**

This provision provides sanctions for insults or abuse of another person, being violent to others, causing fights or reckless behaviour that endangers citizens' peace and public order. The offender will be sentenced to up to three years imprisonment. A more serious form of this criminal offence is if it has been committed by a group or if the perpetrator has inflicted actual bodily harm to a person, or if it has involved very serious humiliation of citizens. The stipulated penalty for this form of the criminal offence is imprisonment of six months to five years.

## **Criminal offence of threat to security (Article 138 of the CCRS)**

This provision stipulates imprisonment for a person that threatens to attack another person or a person close to him and thus endanger his security. The stipulated penalty is imprisonment for a period up to one year. If the offence has been committed to more persons, or if it has caused a public disturbance or if it has resulted in serious consequences, the offender will be sentenced to imprisonment of between three months and three years.

## **Criminal offence of violating reputation of nations, national and ethnic groups (Article 174 of the CCRS)**

This criminal offence involves public violating the reputation of any nation, national or ethnic group that lives in Serbia. The offender will be fined or sentenced to three months imprisonment.

## **Criminal offence of destroying or damaging other person's property (Article 212 of the CCRS)**

This criminal offence is committed when a person destroys, damages renders unusable objects belonging to another person. The offender will be fined or sentenced to six months imprisonment.

In addition to the aforementioned criminal offences, for this groups of cases the following are also applicable: criminal offence of inflicting actual bodily harm (Article 122 CCRS), criminal offence of inflicting grievous bodily harm (Article 121 CCRS), the criminal offence of mistreatment and torture (Article 137 CCRS), the criminal offence of defamation (Article 170 CCRS). All mentioned criminal offences are described in the chapter on unlawful police treatment.

## **Other regulations**

**The Law of Obligations**<sup>21</sup> stipulates the financial remuneration of non-material damage as particular a form of financial compensation for suffered physical or mental pain (Article 200 of the Law on Obligations). Mental pain can be a consequence of handicapped life activity, offended reputation, honour, freedom or right of personality, death of a loved one or fear suffered.

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21 The Law of Obligations, Official Gazette of SFRJ 29/78; Official Gazette of SRJ 31/93.

## International Standards

**Framework Convention for the Protection of National Minorities**<sup>22</sup> obliges signatories to take appropriate measures to protect individuals exposed to threats or discrimination, hostility or violence because of their ethnic, cultural, linguistic or religious identity (Article 6, Paragraph 2).

The UN Human Rights Committee indicates a considerable number of private actions that endanger human rights and points out the state's duty to prevent such activities. In its General Comment of 1992, the Committee clarified that the scope of protection undertaken by the state includes torture and other cruel, inhuman or humiliating treatment or punishment committed by people in their private capacity (HRC, General Comment, Article 7, Paragraph 2, 44<sup>th</sup> session, 1992). The General Comment states *inter alia*: "It is the duty of the state party to enable protection for everyone through legislative and other measures as may be necessary against the acts prohibited by Article 7, whether committed by people acting in an official capacity, outside their official capacity or in a private capacity."

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22 Framework Convention for the Protection of National Minorities, Official Gazette of SRJ 6/98.

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## 3. ABUSES OF RIGHTS IN EDUCATION

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According to MRC research, Roma children are victims of discrimination, insults and peer violence in many schools throughout Serbia. Unfair treatment of Roma children by teachers is not rare. Teachers insult Roma children, separate them from non-Roma children or ignore their needs for assistance in learning.

Some research confirmed that 50% - 80% Roma children attend schools for disabled children. A large number of them are sent to these schools because of inadequate categorization by doctors. One of the main reasons is insufficient knowledge of Serbian language, particularly among children of Roma returnees from Western-European countries and internally displaced persons from Kosovo.

It often happens that Roma enrol their children at the age of 10 or 11, when schools refuse to enrol them in the same class with younger children. In such cases parents are often advised to enrol their children in special schools or in schools for adults, which is against the law. Namely, according to the Law on Basic Principles of Education System, children can start school when they are a maximum of seven and a half years old (Article 90), while persons over 15 are sent to adult education institutions. The positive side of this practice is that children belonging to this category are still able to study. On the other hand, they are placed in an environment that is not suitable for them and where they cannot achieve proper cognitive, psychological and social development.

Segregation in elementary schools is certainly the most severe form of abuse of Roma rights in education. Cases of segregation are registered in elementary schools in Horgoš, Apatin, Senta, Bujanovac and Niš. However, it is suspected that segregation is much more present and insufficiently researched so far.

The Minority Rights Center has launched a project called "Protection of Children of Roma Nationality from Discrimination" supported by Roma Ed-

ucation Fund, which is being carried out in cooperation with the Ministry of Education and Sports (MES). So far, there has been a seminar for republic and municipal education inspectors and an indicator of discrimination in education for Roma children was created in cooperation with education inspectors, education counsellors from the Ministry of Education and Sports and MRC representatives. Within the project there was a training session for Roma monitors, who will mediate between Roma families and educational institutions and look into all forms of discrimination. The Ministry of Education and Sports sent an official letter to the heads of all school administrations in Serbia informing them about recent and forthcoming activities within the project. The letter also contained a list of Roma monitors, education consultants and education inspectors.

## Segregation

In addition to violating rights guaranteed by the Constitution and by numerous international conventions to which Serbia was a signatory state, segregation in practice brings about very serious consequences. Namely, integration of children placed in separate classes, formed mostly for grades 1-4, becomes harder when children are transferred to mixed classes. In addition to the problem of resocialization, Roma children in such an environment have more difficulties in learning Serbian or Hungarian language (in schools where classes are in Hungarian language), but also educational standards are much lower in Roma classes, which restricts their chances for further education.

### 3.1. SEGREGATED CLASSES IN ELEMENTARY SCHOOL IN TORNJOŠ

“Stevan Sremac” Elementary school in Senta has five school units in various parts of Senta and in nearby villages. There are two Roma classes in the third and fourth grades in the separated school unit “Temerkenj Ištvan” in Tornjoš. According to the school principal, these classes are formed so that children can progress faster. These two classes have been merged, and consist of 43 pupils (23 pupils attend the third grade, and the rest of them the fourth grade). In her statement given to the MRC, the principal of “Stevan Sremac” elementary school Gabrijela Šaroš said the following:

*Roma children do not know Hungarian language well, which is the official language in schools, but they also lack basic knowledge about behaviour in a group and about hygiene. We agreed with parents that their children should be*

*in these classes so that it would be easier for them to improve. We think that their progress and schooling has been harmed as they cannot follow the usual pace. After completing the fourth grade, children join regular classes. Unfortunately, most of them drop out from school in the fifth, sixth or seventh grade. They are already entering puberty period at that time, as they begin attending school later than usual. In this period children often have to begin to work. During September and October, when the weather is nice, they are often absent as they have to work.*

*We expect that problems of language knowledge, gaining basic hygienic habits, and rules for behaving in a group and gaining responsibility for attending school regularly, will be overcome by the introduction of compulsory pre-school education and by the introduction of Roma assistants.<sup>23</sup>*

### 3.2. SEGREGATION IN ELEMENTARY SCHOOL IN APATIN

There are two Roma classes of 55 children, in “Žarko Zrenjanin” Elementary school in Apatin. In the statement given to the MRC the school principal said the following:

*I do not think that there was any kind of segregation, but it is true that there are two Roma classes in our school. They are Roma Beši, who speak archaic Romanian language and I think they are actually used to the kind of education they get. Currently we are implementing a local action plan. We do not want to force them into reintegration immediately and put Roma children in other classes, as it would create a big problem. We have an Inclusion Team and two programmes for supporting Roma children. One programme involves work with parents, while the other refers to work with children in day-care. We are performing participation research with Novi Sad Humanitarian Centre. We also have many other plans for the future. When you come here next time, I will take you to these schools. One is here in town and the other one is near the settlement, where there is, as you say, that segregated class. Roma children in this school attend the first two grades and after completion they can join classes and continue education here in town.<sup>24</sup>*

### 3.3. CASE OF “BRANKO RADIČEVIĆ” ELEMENTARY SCHOOL IN BUJANOVAC

“Branko Radičević” Elementary school in Bujanovac has 1690 pupils, 820 of them being of Roma nationality. There are seven classes in the first grade – two classes are Roma, while the other five are mixed. According to the principal, Roma classes are formed due to these children starting school later:

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<sup>23</sup> The interview was conducted on 12th June 2006 in Senta

<sup>24</sup> The interview was conducted on 19th February 2007 in Apatin

*These two classes are formed later, due to some children starting school later – they have to work with their parents in Banat, etc. Other classes have already been formed in August, following a Teachers Council decision, and according to official enrollment of students, which lasted until June. I have not received any complaints from parents and the current situation is, in my opinion, realistic.*

Roma children attend school on a regular basis from the first to the fourth grade, while they began to play truant from the fifth to the eighth grades. There are 38 pupils in two segregated Roma classes. Ten of them achieved good results, 16 completed successfully only parts of the school syllabus, 7 of them showed insufficient knowledge, while 5 of them have no marks, due to the fact they were often absent from school.

One Roma parent, Đemila Ibić said the following in a statement given to MRC:

*I have enrolled my daughter Atiđa in school on time. I 'm very sorry my child will not be in a mixed class, but I don't know what to do. My daughter hasn't learnt Serbian language yet, just because she is in a Roma class.*

Salimi Baškimi, Elvir's father, stated the following:

*I enrolled my child in school on time, but they put him in that Roma class. I am very satisfied with his teacher, Danijela. She takes care of the children and teaches them well. However, it would be better for my son to be surrounded by Serbian children too, as he could learn some things from them.<sup>25</sup>*

## **(Re) Categorization**

A high percentage of Roma children attend special schools. The main reasons for this are lack of language knowledge, social-educational neglect and an ignorance of behavior within a group. Categorization is done before enrollment, but it can also be performed during elementary education, so that children in regular schools often end up being transferred to special schools. According to Article 86 of the Law on Elementary Education, a parent or school, or medical institution can submit, during the schooling period, a request for a second disability assessment. However, most Roma parents do not know of this possibility and so far the MRC hasn't recorded any case where school or authorized institution exercised this right.

Another problem is the fact that parents agree to send their children to special schools because of their poor financial situation. During the catego-

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25 The interview was conducted on 28th February 2007 in Bujanovac

rization procedure, parents are informed of possible financial benefits, which highly contribute to their decision on enrolling their children in special schools.

The Minority Rights Center reacts by submitting a demand for recategorization in cases where there are grounds for such action. These activities include children of the first two grades and rarely children attending the third grade, while it is too late for older children, as, at their age, there is no integration programme in regular schools. Five demands have been submitted since the beginning of the year. Four demands are still under consideration, while one has been denied.

### 3.4. CASE OF “ADI ENDRE” ELEMENTARY SCHOOL IN MALI IĐOŠ

There are 157 Roma in Mali Iđoš. Forty Roma children attend elementary school. In the “Adi Endre” elementary school there is a special class of twenty Roma children, while only 6 Roma children attend regular classes. According to Gordana Radulović, who worked on the project for additional classes for Roma children in this school and who is also a member of Association for Municipal Development, the biggest problem is language, as classes are taught in Hungarian. In the statement given to the MRC, she said the following:

*Children learn Hungarian in school, as Romany is barely spoken. Language is the biggest obstacle and the reason for putting Roma children in separate classes. Differential diagnosis is performed in Bačka Topola medical centre. One child should be transferred to a regular class, but to a lower grade. There is an opportunity for organizing evening classes, which is necessary, but it will be organized in Subotica. There were many children that wanted to go to this school in 2002 because of the certificate required to be eligible for the right to welfare. Parents do not enrol their children in pre-school institutions for economic reasons, as they have to pay 1 300 to 1 500 dinars for each child, which most Roma parents cannot afford to pay.<sup>26</sup>*

### 3.5. CASE OF KASANDRA PAVLOVIĆ

Kasandra Pavlović (9) attends the first grade of “Nada Purić” elementary school for children with disabilities in Valjevo and she is an excellent pupil. Owing to life circumstances and carelessness of her parents and community,

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<sup>26</sup> The interview was conducted on 12th June 2006 in Mali Iđoš

she was not registered for enrolment in the first grade on time. Testing took place in August 2006, and she was placed into the category of disabled children and was sent to the aforementioned school.

Her father, Živorad Pavlović, said the following:

*My residence is registered at an address I don't live at, so that all documents regarding my daughter's enrolment in the first grade were sent to the address I didn't live at. So I didn't get any of them. I didn't take my children to testing at the scheduled time. However, they took the tests later, as I thought they should go to school. When my younger child, Kasandra, took the test, I didn't think that the doctor would send her to a special school. I told the doctor that she had done it intentionally, as those were Roma children. When I said that, she refused to talk to me any more and said that she would call the police. As her father, I had the right to know what the problem with my child was. I thought that she was shy and that that was the reason for her bad test results. I want both of my children to take the tests again. If they pass, I would like them to attend regular school. I want my children to attend further education, not just elementary school. Therefore, I would like them to attend regular school, as categorized children can complete only eight grades of elementary school. Categorization was carried out in hospital. She was very frightened and she couldn't say even those things she knew.<sup>27</sup>*

The MRC sent a demand calling for the establishment of a commission that would recategorize Kasandra Pavlović. The demand was sent to the Municipal Administration Office in Valjevo in March 2007.

### 3.6. CASE OF DENIS IMERI

Denis Imeri (11) started attending school when he was nine years old. Now he is in the third grade of “Novi Beograd” special elementary school and he is an excellent pupil. His parents are divorced and his grandmother Aida Imeri takes care of him. When he lived with his father, the school's social worker came to his settlement in Tošin Bunar, assembled all the children that did not attend school and launched the categorization procedure. In this procedure Denis is placed in a special school. In his statement given to MRC Denis said the following:

*When I lived with my father I didn't go to school, although I was nine years old then. One day, a woman came to our settlement and asked if we wanted to go to school. Seventeen children applied. Then I began to attend this school. I am*

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<sup>27</sup> The interview was conducted on 4th February 2007 in Valjevo

*in the third grade now, as I went to the third grade right after I completed the first grade. I am an excellent pupil, I go to school regularly and I think I can attend regular elementary school.*

Aleksandra Ćirović, Denis's teacher, stated the following:

*Our colleague, a social worker, went to the Tošin Bunar settlement and found some children that did not attend school. Denis was one of them. Denis Imeri was tested at the beginning of the school year and he passed categorization. He has a slight disability. It is true, he is an excellent pupil and he attends school regularly. I was thinking about sending him to regular school, but I am afraid he won't be able to cope there. Denis studies well and the fact is that he is better than other students. However, I wouldn't like him to attend regular school, as I am afraid he won't be able to cope there.<sup>28</sup>*

This year in February, the MRC submitted a request to the Secretariat for Education to establish a commission that would recategorize Denis Imeri.

## **Violence and discrimination**

Peer violence is a widespread problem among children of all ages in Serbia, and Roma children are exposed to everyday insults, bullying, harassment and even physical violence by other pupils and teachers. Most researched cases were not just individual incidents, but rather continued verbal and physical violence among peers. Teachers often refuse to react, explaining that children themselves should handle such problems. It often happens that teachers do not let Roma children sit at the same desks as non-Roma, but put Roma children together in the last rows, which is a form of social stigmatization and child exclusion.

### **3.7. HARASSMENT IN THE TECHNICAL COLLEGE SCHOOL IN NOVI SAD**

Baškim Hajoli (16) is a student of "Pavle Savić" technical college in Novi Sad. Since the beginning of the school year he has been exposed to constant insults on national and religious bases by G.G., who attends the same school. When he complained to his tutor Veselinka Cecić (geography teacher) about the harassment he had been exposed to, that children call him "Alija Balija" and that it was becoming harder and harder for him, she told him she could

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<sup>28</sup> The interview was conducted on 21st December 2006 in Belgrade

not do anything about it. Another incident followed, and in the statement given to MRC Baškim Hajoli said:

*That day, on 26 October 2006, I went to school in the morning. I was standing in the schoolyard, waiting for the next class. We were all in the yard, when some of my classmates surrounded me. Those were S.D., D.P., I.K. and S.P. I didn't think they would assault me. Suddenly, they began to take off my clothes. They said they wanted to see if I was really a Muslim. They almost took off my clothes completely, but I managed to defend myself and to run away. I went home and told my parents that I had had problems in school and that other students tease me because of my nationality. I couldn't hide it any more and after this incident I decided to leave school.*

Ljiljana Janković, Assistant Principal, stated the following:

*I don't understand why all of you keep coming here because of this incident, as if something terrible has happened. They didn't even take off his clothes; they only took off his tracksuit. We were thinking about punishing G.G., but it turned out that he had diabetes. You must understand that the boy would have health problems if we punished him. We didn't discuss punishing the other boys, and they haven't been punished so far.<sup>29</sup>*

### 3.8. VIOLENCE TOWARDS A ROMA IN THE SCHOOL OF TRANSPORTATION IN ZEMUN

Radenko Stanković (16) is a first-grade student in the School of Transportation in Zemun. Since the beginning of the school year he has been constantly harassed by a group of students. An incident happened on 20 September 2006, when Radenko suffered bodily injuries and his arm was broken. He explained as follows:

*Since the first day of school a pupil from my class, S. S. has been showing intolerance towards me. This intolerance was nationality-based. He hasn't expressed it directly, but I felt it. However, on 20th September during a break, while I was sitting at my desk in the classroom, S. S. started to harass me. First he told me to go into the corner. I refused and he slapped me. I couldn't pretend anymore that everything was fine. I confronted him and we had a fight. My tutor found out about it and we had to talk to the school psychologist and counsellor about*

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<sup>29</sup> The interview was conducted on 30th November 2006 in Novi Sad

*the incident. During the break I was talking to my friends, when A. K., a friend of S. S., hit me from behind. I turned around and punched him. We began to fight. S. S. was not far away and he got involved. They broke my arm. S. S. was hitting me with a metal bar. The school policeman came and separated us, i.e. he protected me. A police patrol came later and questioned us. The police pressed criminal charges against S. S. and A. K. Despite everything that happened, I tried to continue going to school, but some fans of the “Rad” football club threatened me. They said they would kill me and I had to drop out of school.*

Radenko’s tutor Tatijana Matijaš stated:

*Radenko is a very good child and I think it is a pity he didn’t continue his education. The boys that beat him up were expelled immediately. They are even forbidden from entering the schoolyard. I called the police and insisted on bringing charges. The two of them were targeted at the beginning of the school year as aggressive and I monitored their behaviour. I’m sorry they did this to Radenko and that he stopped going to school. If his parents agree, we could arrange that he continues his education.<sup>30</sup>*

### 3.9. ATTACK ON A PUPIL IN ELEMENTARY SCHOOL IN LESKOVAC

On 4 December 2006, Kristijan Saitović, a fifth grade pupil in the “Petar Tasić” elementary school in Leskovac, was punched by his history teacher. The same day Kristijan fell sick and two days later he had to undergo an appendectomy. It has not been confirmed if the incident led to this surgery, but it certainly worsened the child’s health condition. Kristijan made the following statement to the MRC:

*During our history class I was laughing with my friend Miljan. The teacher approached me and started to punch me on the head, chest, and stomach. He scratched my nose and began to kick me. Miljan asked, “Teacher, why are you hitting him?” He tried to punch Miljan too, but he missed. A few minutes later the teacher said, “If you keep talking, you’ll get more.” I stayed in the classroom, but I didn’t even dare to cry, lest he hit me again. He said, “All Gypsies, go out, only Serbs should stay”, because he says we talk a lot. Then the bell rang and he went to the next class. My nose was bleeding and I started to cry.*

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<sup>30</sup> The interview was conducted on 23rd February 2007 in Belgrade

Aca Idić, Kristijan's classmate, explains what happened:

*He (Kristijan) was being noisy and the teacher told him to be quiet, but he didn't want to. He was laughing and the teacher began to punch him. He was hitting and kicking him. He said to Kristijan, "If you cry, you will get more!" After that Miljan began to laugh and the teacher tried to slap him but he missed. The teacher said, "If you Gypsies do not want to listen, the door is open, you can leave the classroom, you don't have to be in my class." Then the bell rang and he left.*

Sunita Demirović, girl from the same class, gave a similar description of the incident:

*We were talking. The teacher told Kristijan to stop talking, but he continued. The teacher approached and began to punch him. I was frightened and started to shiver. Then he hit Miljan. I heard him saying, "If you are quiet, you will be in my class. If you don't want to be quiet, get out." The class was over and Kristijan started to cry.<sup>31</sup>*

In January 2007, the Minority Rights Center pressed charges with the Municipal Public Attorney against Novica Milosavljević for the criminal offence of abuse and torture and for the criminal offence of inflicting actual bodily harm.

## OVERVIEW OF RELEVANT REGULATIONS

### Constitutional Provisions

The new Constitution of Serbia contains a provision that explicitly prohibits any form of discrimination. Article 21 stipulates that all men are equal before the Constitution and laws. Paragraph 3 states that any discrimination is prohibited, either direct or indirect, on any grounds, particularly on the basis of race, gender, nationality, social background, birth, religion, political or other beliefs, property, language, age or physical or mental disability. This provision, apart from certain modifications, is based on Article 3 of the Charter on Human and Minority Rights of Serbia and Montenegro. Additionally, the Constitution allows affirmative action, i.e. positive discrimination, which implies the implementation of special measures so that an individual or a group of individuals can attain equality with other citizens (Article 21, Paragraph 4).

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31 The interview was conducted on 15th December 2006 in Leskovac

## **OTHER RELEVANT REGULATIONS**

The second part of the Constitution regarding human and minority rights and freedoms contains provisions that refer only to the rights of national minorities (Articles 75 - 81). Members of national minorities are guaranteed equality before the law and any form of discrimination on the basis of belonging to a national minority is prohibited (Article 76).

As highlighted in Article 81, Serbia encourages the spirit of tolerance and intercultural dialogue and takes efficient measures for improving mutual respect, understanding and cooperation among all people living on its territory. The Republic of Serbia also uses measures in education, culture and public information in order to encourage respect of differences among particularities of citizens' ethnic, cultural, linguistic or religious identities (Article 48).

### **Criminal Law Regulations**

#### **Criminal offence of violating equality (Article 128 of CCRS)**

This criminal offence has two forms, one where there is denial or restriction of citizen's rights stipulated by the Constitution, law or by ratified international agreement, and the other where citizens are given certain privileges and benefits, based on nationality, ethnicity, race, religion, political or other beliefs, gender, language, education or social status, social background, property or any other personal characteristic. Such a criminal offence carries a sentence of imprisonment of up to three years. A more serious form of this criminal offence exists if the criminal offence was committed by an official acting in an official capacity and the offender will be sentenced to imprisonment of between three months and five years.

#### **Criminal offence of racial and other discrimination (Article 387 of CCRS)**

This provision stipulates a prison sentence for any individual that violates fundamental human rights and freedoms, guaranteed by general regulations of international law and ratified international agreements, on the grounds of race, colour, nationality, ethnic origin or any other personal characteristic. A perpetrator shall be sentenced to six months to five years imprisonment.

In addition to the mentioned criminal offences, for this group of cases the following are also relevant: the criminal offence of professional negligence (Article 361 CCRS), the criminal offence of abuse in official authority

(Article 359 CCRS) and the criminal offence of defamation (Article 170 CCRS). All the aforementioned criminal offences are described in the chapter about unlawful police treatment.

## Other regulations

**The Law on Basic Principles of the Education System**<sup>32</sup> - As stipulated in Article 4 of this Law, citizens of the Republic of Serbia have an equal right to education. It is prohibited to discriminate on the basis of race, nationality, language, religion or gender, physical or psychological state, age, social and cultural background, property, political beliefs. It is also prohibited to instigate such activities. This includes making any direct or indirect differences; dismissing, restricting or pandering to them, with the aim of preventing realization of rights, mitigation of rights or preventing equal treatment of a child, or student (Article 46). Additionally, it is prohibited to use physical violence and to insult children's, students' and employees' personalities (Article 46, paragraph 3). Serious violation of duty will exist if some of aforementioned provisions have been violated or if an employee has committed a criminal offence at work or in connection to work. Disciplinary action can result in revocation (if the violation was done deliberately, Article 131). If revocation results from physical and some other kind of abuse, the teacher's license will be suspended for six months (Article. 118), and if it is a consequence of a committed criminal offence against dignity and morals the teacher will be deprived of his license (Article. 119). If a principal does not take any appropriate measures against a teacher or other employee who does not perform his duties, physically punishes or insults children's personalities, he may be dismissed from his position.

Article 90 of this Law stipulates that children, who are not over seven and a half years old at the beginning of the school year, can be enrolled in the first grade. Exceptions are made on the basis of illness or other justified reasons.

**The Law on Elementary School**<sup>33</sup> - This law stipulates that a school can organize preparatory classes for gaining elementary knowledge of the Serbian language for pre-school children that belong to ethnic groups (Article 25). Article 5 stipulates opportunity for members of minorities to study

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32 The Law on Basic Principles of Education System, Official Gazette of RS 62/03, 64/03, 58/04, 62/04.

33 Law on Elementary School, Official Gazette of RS 50/92, 53/93, 67/93, 48/94, 66/94, 22/02, 62/03.

in their mother tongues or bilingually, if there are at least 15 such students enrolled in the first grade.

During a school year, a school can organize additional classes for students that have difficulties in learning, while corrective practice should be organized for children with slight disabilities (Article 31).

Persons over 15, who do not attend regular school, complete elementary education in accordance with this Law, and according to the adult curriculum (Article 94). Elementary education is organized in classes (from first to eighth) and lasts four years (Article 96, paragraph 2).

Regarding the issue of verifying school certificates from foreign countries, citizens of Serbia, who completed their elementary education abroad, or completed certain grades of elementary school, have the right to ask for their school certificates to be verified. This applies both to certificates proving completed education as well as to those showing completion of a certain grade of elementary school (Article 123). A person that submitted a verification application can join the next grade in Serbia if the verification procedure has not finished before the deadline for enrolment in elementary school (Article 126).

## **International Standards**

### **Anti-discrimination regulations**

**International Covenant on Civil and Political Rights** in Article 2 stipulates an obligation on the part of all signatory states to respect and guarantee all rights mentioned in the Treaty to all individuals residing on their territories without any discrimination, particularly with regards to race, colour, gender, language, religion, political or any other belief, national or cultural background, property, birth or other status. The anti-discrimination principle is also set out in Article 26, which states that all men are equal before the law and enjoy equal legal protection and that everybody will be guaranteed efficient protection from any form of discrimination.

**European Convention for the Protection of Human Rights and Fundamental Freedoms** prohibits discrimination in Article 14, stipulating that it is forbidden on any basis, explicitly mentioning gender, race, colour, national or cultural background, language, religion, political or other belief, belonging to any national minority, property, birth or other status.

In addition to the aforementioned international agreements, with regards to prohibition of general discrimination, the Republic of Serbia is also bound, by Protocol 12 to the European Convention for the Protection of Human

Rights and Fundamental Freedoms and the International Convention on the Elimination of All Forms of Racial Discrimination.

## **Education**

**International Covenant on Economic, Social and Cultural Rights**<sup>34</sup> stipulates that any person has the right to education (Article 13, paragraph 1).

**Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms**<sup>35</sup> stipulates in Article 2 that nobody can be deprived of the right to education.

**International Convention on the Elimination of All Forms of Racial Discrimination**<sup>36</sup> explicitly obliges signatories to prohibit racial discrimination in realization of the right to education and vocational training (Article 5, Point e). Racial segregation, as a particularly serious violation, is unequivocally forbidden by Article 3, by which signatory states are obliged to condemn racial segregation and apartheid and to take measures in order to prevent, forbid and eliminate all forms of discriminatory acts in territories within their jurisdiction.

**UNESCO Convention against Discrimination in Education**<sup>37</sup> in Article 3 stipulates that signatories are obliged to prohibit discrimination by laws wherever it is necessary.

Provisions of the Convention on the Rights of the Child and of Framework Convention for Protection of National Minorities also refer to this area.

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34 International Covenant on Economic, Social and Cultural Rights, Official Gazette of SFRJ 7/71.

35 Protocol No.1 to the CHREFF, Paris, 20th March 1952.

36 International Convention on Elimination of All Forms of Racial Discrimination, Official Gazette of SFRJ 6/67.

37 UNESCO Convention against Discrimination in Education, Official Gazette of SFRJ 4/64.

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## 4. ABUSES OF RIGHTS IN EMPLOYMENT

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The unemployment rate in the Roma population is much higher than in the majority population. Only 20% of Roma have a permanent job. In addition to a series of administrative obstacles, which preclude employment or make it more difficult, discrimination is one of the most important reasons for the high unemployment rate among Roma people. It is not easy to detect cases of discrimination during the application procedure, except in cases where employers openly state that one's nationality or ethnicity is the reason for refusing to employ or firing someone.

### 4.1. DISCRIMINATION IN EMPLOYMENT

In January 2006, Nadica Marinković (35) got a job as a cleaner in the company "ITH". Three days later she was fired because of her nationality. In a statement given to MRC, she said the following:

*I couldn't find a job and asked my friend Tanja to help me. At the time she worked in the import company "ITH" in Vlačkovićeve Street. She told me that the company was looking for cleaners. I went to an interview. It was Saturday. I talked to Una, secretary of company's general manager and owner. She told me I could start right away, but that she had to check with her boss on Monday about the final decision. I worked that weekend and on Monday. On Tuesday I was told not to come anymore. I suspected that the reason for this was my nationality, as Una told me, when she was making my work schedule, to come in the afternoon when there were less people in the offices and when less people would see me. I felt very uncomfortable when she told me that, but I needed the job and I didn't react to her words. I stress that nobody had any objections to my work.*

Tanja Smiljanić, a friend of Nadica Marinković, stated the following:

*The company in which I worked as a cleaner needed another woman for the same job. My friend Nadica was looking for a job, so I called her and told her to*

*come. She came that day in the afternoon and immediately started work. She was hired by the company's secretary Una. She told Nadica that she could start right away, but that she would be informed about the whole procedure on Monday or Tuesday, when the director was due to return from a business trip. On Tuesday they called Nadica and told her she shouldn't come anymore. They even told her not to come for her money, but gave it to me, and I gave it to Nadica. It didn't seem fair to me, as I knew how hard she had tried and how well she was doing the job. I wondered why they had fired Nada, as we needed cleaners. The secretary told me that all people in the company were directors and business people, so that it wouldn't be appropriate if a Romany woman worked there. This statement made me very angry and I said Nadica was my sister. I was fired the next day.*

*A few days later the secretary called me and asked if I would like to start working again. I am not Romany and I have blond hair. When I went to work, I found out that, in the meantime they had hired a cleaner from the Kleenex agency. However, when the cleaners came, they were all rejected, as all of them were Roma women<sup>38</sup>.*

#### 4.2. CASE OF DISCRIMINATION IN VALJEVO

Dragan Dakić from Valjevo found out from his friend that the company which was building the Slovenian factory "Gorenje", was looking for workers. On 15th June 2006, he went there with another four friends to apply for a job. He described what happened as follows:

*The company was looking for 15 workers. However, we were told to come again the next day. We came again the next day at the scheduled time, but we were again told to come the next day. Each time they used the excuse that the human resources manager was not there and that he would decide if we could get a job. I went there four times, as I needed a job. Eventually the manager told us he couldn't hire us, as his employer from "Gorenje" had forbidden it. I realized it was out of order of him to stand us up so many times, but I still hoped I would get a job.*

Voja Antonić, one of men that got a job, stated the following:

*I found out from a friend of mine about vacancies in that company. We went to the company together. I was hired the first time we went there, but the others were told to come again the next day. The company delayed the decision to hire*

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38 The interview was conducted on 22nd May 2007 in Belgrade

*them for days. My friends were persistent and they came back four times. Although I know the company needed workers and that nobody from Slovenia was interested in this issue, they were still told that the employer from Slovenia did not want Roma to work in the company.*<sup>39</sup>

### 4.3. EMPLOYMENT DISCRIMINATION AT A CAR-WASH IN SREMČICA

Sabuhan Krasnići (22) found out from his friend that a local car wash in Beogradska Street in Sremčica was looking for workers. On 5th February 2006, he went there to inquire. He stated the following:

*I came to the car wash and talked to the manager, whom I already knew. I told him I'd heard he needed workers and that I was interested in that job. There was a board with a piece of paper hung on the wall with the text "Workers needed." He told me that he did not need any workers. I said that I had work experience and that I had worked in car-washes for three years, that I lived nearby and that I knew the job. He repeated that he didn't need workers. I turned around and wanted to leave, but he stopped me. He told me not to be angry, but that he didn't want to give me the job because I was a Gypsy. He said he was afraid that he would lose his customers, as they did not want their cars to be washed by Gypsies. I turned around and left.*

An MRC researcher, also a Roma, went to the car wash 15 days later. A piece of paper with the text "Workers needed" was still there. He talked to the manager, said he had seen the vacancy announcement and he wanted to apply. The owner, Saša, asked him where he lived and if he had any experience, then asked for his mobile number and said he would call in a day or two. He never called.<sup>40</sup>

## OVERVIEW OF RELEVANT REGULATIONS

### Constitutional Provisions

The Constitution of Serbia guarantees the right to labour, free choice to labour and availability of all job positions to anyone, under equal conditions (Article 60).

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<sup>39</sup> The interview was conducted on 23rd July 2006 in Valjevo

<sup>40</sup> The interview was conducted on 20th February 2006 in Belgrade

Article 21 of the Constitution of Serbia, which prohibits any form of discrimination, also refers to this area, as well as Article 76, which explicitly prohibits discrimination of national minorities. A detailed description of anti-discrimination provisions was given in the previous chapter.

## **Criminal Law Regulations**

### **Criminal offence of violating rights regarding work and the right to social insurance (Article 163 of CCRS)**

This criminal offence is committed by deliberately breaking the law or other regulations, agreements and other general acts, thus denying or restricting the rights of another person. The offender will be fined or sentenced to imprisonment of up to two years.

### **Criminal offence of violating rights in employment and during unemployment (Article 164 of CCRS)**

This criminal offence exists if a person deprives or restricts a citizen's right to free employment under equal conditions by intentional violation of regulations or in any other unlawful manner. The offender will be fined or sentenced to imprisonment of up to one year. Additionally, the same punishment is stipulated for any person that deliberately breaks the law, or other regulations and general acts on citizens' rights during unemployment and thus denies or restricts his rights.

The following criminal offences refer to this group of cases: criminal offence of violating equality (Article 128 of the CCRS), criminal offence of racial and other discrimination (Article 387 of the CCRS), described in the previous chapter, and the criminal offence of defamation (Article 170 of the CCRS).

## **Other regulations**

**The Law on Labour**<sup>41</sup> contains detailed provisions that regulate the problem of discrimination in labour and employment. According to Article 18, it is prohibited to discriminate, either directly or indirectly, any person that seeks a job or that is already employed, regardless of gender, birth, lan-

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41 The Law on Labour, Official Gazette of RS 24/05, 61/05.

guage, race, colour, age, pregnancy, health condition, i.e. disability, nationality, religion, marital status, family duties, sexual orientation, political or any other belief, social background, property, membership in political organizations, unions or any other personal characteristic.

In the context of this law, direct discrimination is any act caused by some of the mentioned characteristics as a basis for putting a person seeking a job or an employed person in a less favourable position than other individuals in the same or similar situation. Indirect discrimination exists if a certain allegedly neutral provision, criteria or practice puts or would put a person seeking a job or an employed person in a less favourable position than other individuals, because of a particular characteristic, status, orientation or belief mentioned above (Article 19).

Discrimination is prohibited regarding requirements for employment and the choice of a suitable candidate for a certain job position; working conditions and all rights linked to employment; education, training and professional development; promotion; revocation (Article 20).

## **International Standards**

Article 4 of the **Framework Convention for Protection of National Minorities** obliges signatories to guarantee equality in the law and equal legal protection to members of national minorities. Any form of discrimination based on belonging to a national minority will be prohibited.

Serbia, as a member of the International Labour Organization, is obliged by Convention 122 concerning Employment Policy and Convention 111 concerning Discrimination in Respect of Employment and Occupation.

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## 5. VIOLATION OF RIGHTS IN HEALTH CARE

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This chapter describes cases of insulting Roma on the basis of belonging to an ethnic group and violation of duty stipulated by law, but the most serious form of violating duty is inability to realize the right to health care. This affects Roma that live in informal settlements without addresses, who cannot obtain personal documents. Such cases are not described here, as they would have to be followed by consideration of the right to legal subjectivity. Consideration of this right demands detailed and separate analysis, due to its complexity.

### 5.1. MISTREATMENT IN A MATERNITY WARD

Biljana Neda (33) lives as a tenant in Belgrade and she cannot get register at the residence. Therefore she cannot realize the right to health care. When she went to the Gynecological Clinic in Višegradska Street for delivery on 10th March 2007, she underwent great stress:

*While I was in the maternity ward, I was told to bring my health card as soon as possible, i.e. before releasing me. My husband was with me then and heard it too, but neither of us could register at our residence and realize the right to health care. The next day the head of the maternity ward told me that I would have to pay for the delivery if I failed to bring a health card. I said I didn't have any money and couldn't afford to pay it. She said that the baby would remain in the hospital until I pay or bring a health card. I could only cry. I was shaken and now I don't have milk to feed my baby.*

Her husband, Vasa Neda (34), stated the following:

*When I came to the hospital that day to visit my wife, she was very upset, crying. She said she was afraid about being released from hospital and she was par-*

*ticularly concerned about the chances of keeping our baby. I asked why she was afraid and she told me that the doctor said there would be a problem, as she had no documents. The doctor told her the baby would remain in hospital until I brought a health card or money. My wife was very upset and we didn't have any choice until we contacted your organization.*

A nurse from the maternity ward stated:

*It is okay for a patient who has given birth at our hospital and who doesn't have any health insurance to be released without charge, but she could at least bring her ID card. That's all we need.*<sup>42</sup>

With the assistance of the MRC, Mrs. Neda was released from the hospital without being charged any fee.

## 5.2. CASE OF AMBULANCE IN NOVI SAD

On 14th June 2006, Zelfija Zahiri (45) was hit by a car (Zastava pick-up vehicle) on a pedestrian crossing (with no traffic lights) at Temerin Road in the Veliki rit Roma settlement. The woman fell and remained on the ground for more than an hour, with her head and right leg bleeding. The police soon arrived. Her husband Šukrija Aziri (45) explains what happened afterwards:

*I called the ambulance and they promised to come. Fifteen minutes later Enver Ahmeti called again, and he was told we should be patient, as we were not the only ones that needed help. After another 15 minutes had passed, one of the policemen called the ambulance and he was told they would come as soon as possible. My wife was lying on the road and bleeding for more than an hour before the ambulance arrived. When they finally arrived, they began to shout and swear. There were five of them. The oldest man immediately started to yell at us. There were a lot of people gathered around my wife and policemen were there too. That man, the doctor I assume, said, "What do you want? Screw you!" A policeman just said, "Come on, do your job, stop talking."*

A witness to this incident, Enver Ahmeti, stated the following:

*I have friends here in Mali rit and I come here now and then to talk to them about business. Yesterday I was near the scene of the accident. The driver that hit*

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<sup>42</sup> The interview was conducted on 12th March 2007 in Belgrade

*that woman, who was crossing the street at the pedestrian crossing, almost managed to escape. Fortunately, the police car arrived in a couple of minutes and the perpetrator failed to escape. The policemen took down some information about him. When I realized that the ambulance had not come and that much time had already passed, I called them from my mobile. While I was explaining what had happened and asked them to come, they were very kind. However, when they heard the name of the victim and location of the accident, they became arrogant and started talking about how much work they had. They said they would come as soon as possible. They told me that they didn't have enough vehicles and that we had to be patient. The policemen also called an ambulance several times. They arrived after more than an hour. As soon as they got out of the car they started to shout and swear.*

In a statement given to the MRC, Selman Beriša, a family friend, said the following:

*After a long time the ambulance finally arrived. They took Zelfija to the Province Hospital. I was with her all the time. It turned out that she had a serious head injury and her leg was broken. Members of the medical staff were very unpleasant. We had to wait in the corridor, and then they asked for her health card. She has a white card, as she is a displaced person, and she didn't think that she would need it while going to a store. I had to go to her house and fetch it. They didn't want to put her in a room until I brought the card. They even said she could go home if she didn't have that card or a health card.<sup>43</sup>*

### 5.3. HUMILIATION IN MEDICAL CENTRE IN KLISA

Metija Šabani is a displaced person from Kosovo and currently she lives in the Veliki Rit settlement in Novi Sad. Being a displaced person, she received a document that enables her to receive free medical treatment. Due to serious health problems, she often goes to the medical centre in Klisa and finds herself in very unpleasant situation nearly every time. During one of her visits to the doctor, on 21st September 2006, Doctor Jovanović told her:

*“Come here when you change your religion. I'm sick of you and those names of yours, we're just not on the same wavelength.”*

Dr Jovanović said the following in her statement:

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<sup>43</sup> The interview was conducted on 20th June 2006 in Novi Sad

*“What do you want now? I don’t have time to talk to you. It’s not true that I choose patients, but I can’t be bothered talking to somebody that doesn’t understand me. Do you know that I have patients that do not speak Serbian? I cannot treat such patients. I’ll help them when they become ready to accept the fact that they live in Serbia and that they have to learn Serbian. I told her she should change her religion, but what I really meant was that she should learn Serbian.”<sup>44</sup>*

#### 5.4. INSULTS AT A CLINIC IN NOVI SAD

On the evening of 15th April 2006, Nevrija Beriša was admitted to the Province Hospital in Novi Sad, at the ward for abdominal and endocrine surgery. She was operated on the same night and passed away. Her sister Sevdija Ahmeti and brother-in-law Enver Ahmeti came to visit her the next day and found out that she had died. Enver tried to calm his wife down, who fell sick because of the shock. Enver Ahmeti explains what happened that day:

*While we were still in the hall, waiting to get documents for further procedure, a doctor came. He didn’t treat my wife’s sister, but he began to shout at us. At first he insulted us. Then he said “I would kill you all. “While he was shouting, he was also laughing, cynically and loudly. I asked him if he was insulting me because I was black, but he was still laughing. When he said that he would kill us all, I asked him if his job was to cure people, or kill them. I also asked him why I should trust him and bring my son or wife to hospital for treatment the next day. Disturbed by his reaction, I said that he was not a doctor, but a killer, and that I should sue him. He said “You wouldn’t dare to sue me, I would kill you. “A nurse that works in that department told me the name of the doctor, but she wouldn’t give me her name.”<sup>45</sup>*

#### 5.5. INSULTS AND REFUSAL TO PROVIDE MEDICAL TREATMENT

Hasani Džemail, father of Sandra Kostić (8), explains in his statement given to the MRC that on 3 March 2006, at around 9 p.m., she came home with her right arm injured, and in a great deal of pain. He decided to take her to the clinic in Tiršova Street. They talked to the nurse that was on duty, gave her the girl’s health card, and the nurse told them to go to the office down the hall:

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<sup>44</sup> The interview was conducted on 30th November 2006 in Novi Sad

<sup>45</sup> The interview was conducted on 5th May 2006 in Novi Sad

*There was a young doctor inside. He told us to wait. We went out and sat on a bench in the corridor. About ten minutes later, the doctor went into the hall and asked what we wanted. I explained that my daughter was injured, as patiently as I could, because I didn't feel comfortable, as we were talking to him in the corridor. He interrupted me, said it was nothing and told us to go home. I looked at Sandra and realized she could not stand the pain anymore. I said he had to respect us and examine my daughter's arm. Then he started his tirade, "What do you want? You don't take care of your children, you bring them here and then leave and not even Interpol can find you! What arm are you talking about? Maybe she was begging all day and it hurts her now!" I could hardly restrain myself from hitting him. I just said, "I want my child to be examined and I won't leave the hospital until you do that! Is that clear?" While he was writing an order for an X-ray, he was saying that Gypsies know many things today and that the world went mad when it let Gypsies attend school. About an hour and a half later the examination was over, and it turned out that that the arm was broken.<sup>46</sup>*

## **OVERVIEW OF RELEVANT REGULATIONS**

### **Constitutional Provisions**

The Constitution of Serbia guarantees health care, i.e. everybody has the right to physical and mental health care (Article 68).

Article 21 of the Constitution of Serbia also refers to this issue. It prohibits any form of discrimination. A detailed description of the anti-discrimination provision is given in the chapter about abuse of rights in education.

### **Criminal Law Regulations**

#### **Criminal offence of denying medical treatment (Article 253 of CCRS)**

This criminal offence exists if a doctor refuses to give medical treatment to a person whose life is in danger or if there is a danger of serious bodily injury or if a person is very sick. A doctor will be fined or sentenced to imprisonment of up to two years.

The following criminal offences refer to this group of cases: criminal offence of violating equality (Article 128 of the CCRS), criminal offence of racial

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<sup>46</sup> The interview was conducted on 27th March 2006 in Belgrade

and other discrimination (Article 387 of the CCRS), described in Chapter 3, criminal offence of professional negligence (Article 361 of CCRS), criminal offence of abuse of official authority (Article 359 of CCRS), criminal offence of insult (Article 170 of CCRS). All mentioned criminal offences are described in the chapter about unlawful police treatment.

## Other regulations

In the **Law on Health Care**,<sup>47</sup> Roma are defined as a separate category of the population that receives health care and that is entitled to social health care (Article 11, paragraph 2, point 11).

The equality principle in health care is stipulated in Article 20, which prohibits discrimination in providing medical treatment based on race, gender, age, nationality, social background, religion, political or other belief, property, culture, language, type of disease, physical or mental disability.

The law further states that any citizen has the right to receive health care in keeping with the highest possible standards of human rights and values (Article 25), and that a patient has the right to equal access to medical services, without discrimination based on financial situation, place of residence, type of disease or time of accessing medical help (Article 26).

Under the **Law on Health Insurance**<sup>48</sup>, compulsory health insurance includes members of Roma nationality, who do not have permanent residence, i.e. residence in the territory of the Republic, due to their traditional way of life (Article 22, paragraph 1, point 11).

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47 The Law on Health Care, Official Gazette of RS 107/05.

48 The Law on Health Insurance, Official Gazette of RS 107/05, 109/05.

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## 6. DISCRIMINATION IN PUBLIC ACCOMODATIONS

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Roma are exposed to discrimination with regards to access to public places, particularly if they are private property. Victims of this discrimination do not get efficient legal protection, due to difficulties in collecting evidence. If a victim brings charges, he/she has to collect evidence, which is usually not available, even if it is fairly clear to bystanders that discrimination has occurred.

### 6.1. CASE IN BUSES OF THE “NIŠ-EKSPRES” COMPANY

On 11 November 2006, Gordana Bjeletić, journalist of the RTV 5 TV station in Nić, received a call from her friend who worked in the “Niš-ekspres” transportation company. She informed Gordana that there was a new printed city transportation map, in which one bus stop, near the Roma settlement “Crvena zvezda”, is titled “Gypsies”. In the statement given to the MRC, Gordana Bjeletić said the following:

*I immediately headed to her working place, which is near the RTV 5 premises. It is located in Zorana Đinđića Boulevard. My colleague took photos of the map with his camera and we got on the first bus that was leaving from that stop. We also took photos of the same city transportation map in the bus. It was on the windshield, to the right of the driver’s seat. We were shocked. I called Rašid Kurtić for his opinion, but he was unavailable. Then I called Osman Balić. He was furious. He said it was a disgrace to the city and asked me to join him in the office of “Niš-ekspres” in Nemanjića Boulevard. Half an hour later we were at the entrance but the porter wouldn’t let us in. There was also a notice on the company’s door, with the following text on it: “This company has never grouped passengers according to religion or nationality. We reject any claims that it was done deliberately and we didn’t intend to offend the Roma population. This was a technical mistake about using the word commonly used for Roma. “Niš-ekspres”*

*apologizes to all Roma who took offence at this mistake and underlines that passengers are not grouped according to nationality.“ The news was published on the same day at 11 p.m., together with Osman Balić’s statement and “Niš-ekspres“ press release.*

In a statement given to the MRC, Osman Balić, Medijana municipal manager, stated the following:

*When I was called by a journalist from RTV 5 and found out about the city transportation map with a bus stop titled “Gypsies”, I told her to meet me in front of the “Niš-ekspres“ building. When we arrived, the porter wouldn’t let us in. There was a notice on the door, where the company apologized for giving the bus stop that name. They should be ashamed. This time they will get away with it, but next time I will sue them.<sup>49</sup>*

## 6.2. INCIDENT IN “BEOVOZ”

On the afternoon of 10th September 2006, Miodrag Marinković (35), his father Jovan Marinković and brother Željko took the Beovoz train from Zemun polje to Belgrade. An incident with the the train conductor happened before the Tošin Bunar station. Miodrag Marinković explains what happened.

*Živko and I bought tickets, and our father has a monthly pass. The train conductor checked our tickets and moved on. My father, as he knew that conductor, said to him that he didn’t have to verify our tickets for a couple of stations. This made the conductor very angry and he said, “Why are you doing this? I’ve had enough of you Gypsies from Zemun polje! Do you want me to throw you out of the train?” My father said, “You cannot throw me out, I have a pass.” Then the conductor approached him and said, “Now I’ll show you that I can throw you out.” He attacked my father; he wanted to hit him and throw him out of the train. I stood up, as I wanted to try to diffuse the situation. I stood between them, and spread my arms. I told them it was enough and that they should calm down. Suddenly he punched me and broke my nose. I couldn’t see for a moment and blood was everywhere. I was out of my mind because of the pain and anger, so I punched him. If I had stood there and waited, he would have kept punching me. I had to defend myself. Then other passengers jumped in and stopped the fight. Soon another conductor came and he was reasonable. He didn’t allow any further*

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<sup>49</sup> The interview was conducted on 20th November 2006 in Niš

arguments; he tried to calm his colleague down. When we reached the station, the police got on the train. I suppose somebody had reported the incident. They took me and the conductor to hospital, while my brother and father were taken to the police station to give statements.

Jovan Marinković, Miodrag's father, states for the MRC:

*I use this train very often. I have a monthly pass and I taught my children to always buy tickets. I often see Mr. Veštica in the train and we always have a nice chat. When I come back from the market and have fruit, I always give him some. I have the impression that he is a nice man and my friend in a way. That day I was going to town with my sons. When I saw him, I just made a joke, saying that he didn't have to check their train tickets. The tickets had already been checked and it was just a joke. If I had wanted to ask him a favour, I would have asked him before he checked the tickets. I repeat it was just a joke. It made him very angry. He even started to punch me. My elder son try to calm things down, but got a punch too and a broken nose. I retold the whole incident to the police in the police station.<sup>50</sup>*

### 6.3. DISCRIMINATION AT A SWIMMING POOL

On 6th July 2006, Rukija Redžepi (38) wanted to take her son to a swimming pool in Deligradska Street in Belgrade, but the women working at the ticket office wouldn't let her:

*I was on holiday and I decided to take my son to a swimming pool, as I don't have enough money to travel anywhere. We went to the sports centre located in Slavija, in Delgradska Street. A woman was sitting in the ticket office and I asked her about the conditions for using the swimming pool. My son, who is 7 years old, was with me. First she gave me an unpleasant look and she was silent for couple of seconds. Everyone who happened to be in the hall at that moment was also silent. Eventually she spoke to me, in a very unpleasant tone, "The pool isn't open yet." I was frozen by her contemptuous look, so I felt better when she said that, as I expected the usual flow of insults that I am used to hearing. I managed to move, holding my son's hand tightly. When I turned around, I saw people coming in and out of the pool. I asked the women how it was possible that the pool was not working, when those people were leaving it. Then she said, "All we need are Gypsies coming here, scaring off other people." I went out on to the street, feeling very humiliated.<sup>51</sup>*

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50 The interview was conducted on 12th September 2006 in Belgrade

51 The interview was conducted on 7th August 2006 in Belgrade

## 6.4.HARRASSMENT OF CHILD IN THE “CER“ STORE IN BELA REKA

On 5 March 2007, Dragica Petrović (10) from Bela Reka was harassed by a salesman in the local store, “Cer“. She stated the following:

*My mother sent me to the store to buy her cigarettes. She gave me 200 dinars, so that I could keep the change and buy something for breakfast. She also told me that I could buy some sweets. I entered the store, asked for the cigarettes and gave money to the salesman. Then I took a lollypop and I wanted to take some money from my pocket (it costs 5 dinars), holding the lollypop in my hand. Suddenly, the man grabbed my neck and said, “You are stealing, you are stealing! Go get your parents!” He was holding me by the neck as he pushed me out of the store. Then he slapped me. Mirjana Đurić was in front of the store; she could see and hear everything. I ran home, crying. When my mother saw me crying she asked what had happened. I told her everything and we went to the store together. Mum asked the man what had happened and he said, “Your child wants to steal a lollypop.” Then mum asked him why he had slapped me and that he should have sent somebody to call her if her child had taken something from the store. Then he began to yell at my mum. He said, “What do you want? Do you want me to cuddle her? She stole a lollypop.” Then he threw us out and said, “Get out of the store!” We went home and we were both crying. When dad came home, my mother told him what happened and said she would call the police. The police asked me some questions and I told them everything I’ve said right now.*

Marija Đurić, a neighbour, made the following statement about this incident:

*I was in the store that day, but I’m not sure what time it was. I was going to work and I was in a hurry. My house is next to that store and I didn’t have much time. When I approached the store, I saw the girl, Dragica Petrović, and the salesman, Goran Marić talking in front of the store. I bought what I needed and left. The girl and the salesman were still in front of the store when I left. I don’t know what happened afterwards.*

According to the Slavica Ristić’s statement, a neighbour, who was in the store when Dragica and her mother Marija arrived, the incident happened as follows:

*It was Monday, 5th March 2007. I was in the “Cer” store in Bela Reka, when Marija came in with her daughter. The salesman was leaning over, measuring something, but Marija came in and waited. When he saw her, he said, “So, you came.” She said, “You didn’t have to slap her!” and he answered, “What do you*

want, to cuddle her? “Then he began to yell, “Get out of the store!” He grabbed her shoulders and pushed her out, saying, “Do you want me to slap you too? Get out!” Marija asked me, in front of him, if I would accept to testify as a witness, and I accepted. I have a child too, and I don’t want something like this happen to my child.<sup>52</sup>

## 6.5. DISCRIMINATION IN THE “ZIZI” NIGHTCLUB IN KIKINDA

Some Roma boys tried several times to enter the “Zizi” nightclub in Kikinda. Each time security guards told them they could not let them in, as the owner allegedly did not want other guests to leave because of them. In a statement given to the MRC, Barbun Kaleja (24) said the following:

*We want to go out on weekends, to go to a nightclub and have good time. However, we had a problem when we tried to enter the “Zizi” nightclub in the town centre, the two bouncers wouldn’t let us in. My friends also tried several times, but they were not allowed. On 30th December 2006, when I tried to get in, I was told I couldn’t. I wanted an explanation and they told me it was the owner’s orders, so that he would not lose other guests. One of them also said that we would make trouble inside and that that was the reason. The nickname of one of the bouncers is Drapa and I don’t know anything else about them.*

A similar statement was given by Nikola Končar (24):

*Barbun and I tried to enter the disco club once again, but we failed. Two very heavily built men stood in front of the door and they wouldn’t let Roma in. They weren’t being aggressive, but were rather rude when they explained that we couldn’t come in.<sup>53</sup>*

## OVERVIEW OF RELEVANT REGULATIONS

### Constitutional Provisions

Article 21 of the Constitution of Serbia, which prohibits any form of discrimination, refers to this area. A detailed description of the anti-discrimination provision is given in the chapter about abuse of rights in education.

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52 The interviews were conducted on 16th March 2007 and 23rd March 2007 in Bela Reka

53 The interview was conducted on 21st February 2007 in Kikinda

## Criminal Law Regulations

The following criminal offences refer to this group of cases: criminal offence of violating equality (Article 128 CCRS), criminal offence of racial and other discrimination (Article 387 CCRS), described in chapter 3, criminal offence of professional negligence (Article 361 CCRS), criminal offence of abuse of official authority (Article 359 CCRS), criminal offence of defamation (Article 170 CCRS). All the aforementioned criminal offences are described in the chapter about unlawful police treatment.

The criminal offence of abuse of official authority and the criminal offence of professional negligence can be committed not only by an official, but by an authorized employee in a company, institution or other legal entity, or an authorized employee in a company or other legal entity except those working in the economic sector (for the criminal offence of professional negligence). According to the Criminal Code, an authorized employee is a company or legal entity's owner, or a person appointed to perform duties of managing property, production or any other activities or duties of management supervision (Article 112, paragraph 5).

## International Standards

**The Framework Convention for the Protection of National Minorities** obliges signatory states to take appropriate measures to protect persons that are exposed to threats or discrimination, hostility or violence because of their ethnic, cultural, linguistic or religious identity (Article 6, Paragraph 2).

Anti-discrimination international regulations that refer to this area are: the International Covenant on Civil and Political Rights (Article 2), the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 14), Protocol No.12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Convention on the Elimination of All Forms of Racial Discrimination.

These provisions are described in details in Chapter 3 on violation of rights in education.

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## 7. ABUSES OF RIGHTS IN ACCESS TO PUBLIC SERVICES

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According to the the Minority Rights Center's researches Roma are very badly treated by clerks in public administration. Violation of rights is most often committed through insults on the basis of rooted prejudices or nationality, unnecessary mistreatment and through disabling or aggravating realization of guaranteed rights.

### 7.1. CASE OF DISCRIMINATION IN CHILD ADOPTION PROCESS

Katarina (27) and Dalibor (29) Saitović from the village of Grdelica near Leskovac wanted to adopt a child. They applied for adoption in the Centre for Social Work, but they were told that they could adopt only a Roma child. Katarina Saitović said the following:

*When we wanted to submit the documents, Divna (social worker) told us that she had to come to our house to check if we had appropriate conditions for adoption. Two months later she told us that we didn't have the right to adopt a Serbian child, as that child would not accept our customs. She said we could adopt a Roma child and informed us of two Roma children (one was 4 and the other one 7 years old) we could adopt. We didn't want to because of their age. All the children she offered were Roma. She is not interested in helping married couples adopt children.*

Divna Stojanović, the social worker, stated the following:

*I heard that they had said at some conference that they had been denied the right to adopt Serbian children. We didn't have any Serbian children in adoption status at the time, so that they should not say they had been refused. The fact that they had passed the necessary evaluation programmes shows that they were not*

*discriminated against at all. The statement that they cannot adopt a Serbian child was probably distorted. During the training programme they took, there was a workshop that teaches couples about how to treat adopted children, where they can also hear about preserving the child's identity, preserving national identity, religion, culture and customs. They are adopting a child in another Centre, not here, so that I cannot tell them to take a particular child. They were sent to four Centres, unlike Serbian families. They are registered in our Centre as the seventh family on the list. There are people who have been on the waiting list for adoption since 2001. Two families have already rejected them, while they have also rejected two children.<sup>54</sup>*

In an off the record conversation with an MRC researcher, Mrs. Divna, having said that Serbs adopted Roma children, when asked if Serbs knew the Romany language and customs, in order to preserve their child's identity, did not want to answer.

## 7.2. HUMILIATION IN THE CENTRE FOR SOCIAL WORK

Zorica Marinković lives in a shack in Zvečanska Street with her husband and four children. She supports her family herself by working in other people's houses and by cleaning basements. On 6th August 2006, she went to the Savski Venac Centre for Social Work in Lomina Street to find out if she was entitled to any kind of benefit. In the statement given to the MRC Zorica said the following:

*I was told to go to Office no.10. I entered the office, where a sturdy blonde woman was talking on the phone. I waited and when she had finished her conversation, she asked me what I wanted. I said I had come to ask about my rights to apply for some kind of welfare. I said I couldn't find a job. I told her I managed to earn some money now and then, but that it was very difficult for me and that my children were often sick and I malnourished. I stressed that my husband had a kidney disease and that he could not help me. She said, "You Gypsies are well trained. Tell me who taught you to tell me all these things. You would even sell your own children to get some money. Don't you understand that it is too obvious; you all say the same things. I don't have money either, but I don't go around, lying to people and waiting to get something."<sup>55</sup>*

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54 The interview was conducted on 16 February 2007 in Leskovac

55 The interview was conducted on 7th August 2006 in Belgrade

### 7.3. INSULTS FROM A SOCIAL WORKER

For one year Merima Šerifović received financial assistance from the Centre for Social Work in Zemun for her three children and herself. It was her only source of income. It was time to apply again for another year, so she went to the Centre for Social Work on 12th October 2006 to submit the necessary documents. She described what happened there:

*I had received financial assistance for a year and then I had to submit all the necessary documents again and thus apply for the next year. A social worker, Zorica, told me what documents I had to bring. When I went there on 12th October 2006, the same social worker told me that I didn't have the right to financial assistance any more, as the requirements had become stricter. I asked why my application had been denied, and she said, "I can't believe you don't understand. You Gypsies are either really very stupid or you just pretend. It is very difficult to explain anything to you, and you just look for an opportunity to cheat and lie!" I was surprised by her behaviour, so I asked her, "What do you mean by saying that Gypsies cheat and lie?" My question probably made her angry, as she started to shout, "Get out! Get out Gypsy!"*

In a statement given to the MRC, Zorica Radić, the social worker in the Centre for Social Work in Zemun said the following:

*Yes, I told her to get out. She came here and didn't want to leave the office. She was very persistent in applying for financial assistance. You have to be strict with them. I don't think it's a bad thing to say Gypsy to them or you. It is a name for a nation. I really don't understand what is wrong with it, why are you offended?<sup>56</sup>*

### 7.4. REFUSAL TO ISSUE DOCUMENTS

Radojka Vasić wanted to put her nephew, who had moved in with her from a nearby village because of school, forward for a scholarship that is granted to high school children by the Centre for Social Work in Arandjelovac. One of the required documents was a certificate of ownership for her apartment, so she went to the municipal administration office on 21 November 2006 to obtain it.

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56 The interview was conducted on 19th December 2006 in Belgrade

*I went to the Municipal Land Registry, to office No. 6 on the first floor. There was a sturdy blond woman. I told her that I needed a certificate of ownership. She asked me what I needed it for. I told her I needed it for registration of residence for my nephew. Until that moment she was looking for something in her papers. Then she stopped and started to insult me. She said, "You Gypsies keep coming from Bukovik and settling in Aranđelovac. In the end, the whole of Bukovik will move here. I've had enough of you. I don't care what you need and I cannot issue you what you are asking for."*

Vera Jovanović, officer in the Land Registry within the Municipality of Aranđelovac stated the following:

*I was angry, as that lady didn't know what she wanted. She wanted proof that she was the owner, but there is not any property in Jelenac that is entered at the Registry. I cannot deal with people that don't know anything. However, she knew how to complain. All I need now is to have people from your Gypsy organization here, questioning me.<sup>57</sup>*

## 7.5. INSULTS IN THE CENTRE FOR SOCIAL WORK IN ČUKARICA

Severdžan Alijević (38) is unemployed and very ill. Due to high medical expenses, he decided to apply for single financial assistance. He submitted his application in the Centre for Social Work in Čukarica, where he was told to come again in two months and see how his application was progressing. Two months later he was again told to come in two months. Thus he went to the Centre for Social Work again on 6th August 2006, to get some information about his case. He stated the following:

*I came again after two months and asked what was happening, but the officer just asked me, "When did you apply for single financial assistance? You applied for regular welfare, and single financial assistance is not granted anymore. You are lying." I asked her why my documents had been signed for single assistance, but she interrupted me and said, "I'm really not interested and I don't have time to listen to all kinds of stories. I know that you Gypsies like to lie and make up all kinds of stories, so please get out." I said, "It's not true and I have a copy of the application I submitted. It is titled "Application of single financial assistance" and I want to talk to your manager. There are Gypsies that are not illiterate." She remained silent for a moment and then told me where I should go. I spoke to the*

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<sup>57</sup> The interview was conducted on 13th December 2006 in Aranđelovac

*manager, who simply told me I should wait for the decision and then to see what we should do.*<sup>58</sup>

## OVERVIEW OF RELEVANT REGULATIONS

### Constitutional Provisions

Article 21 of the Constitution of Serbia, which prohibits any form of discrimination, refers to this area. A detailed description of the anti-discrimination provision is given in the chapter about abuse of rights in education.

### Criminal Law Regulations

The criminal offence of defamation (Article 170 CCRS) and the criminal offence of violating equality (Article 128 CCRS) refer to this group of cases. Both criminal offences are described in the chapter about unlawful police treatment.

### Other regulations

Chapter IX of **the Law on State Officials**<sup>59</sup> contains provisions regarding violation of duties at work and disciplinary responsibility of state officials. Violations of duty at work can be minor or more serious, and responsibility for a criminal offence or violation does not exclude disciplinary responsibility (Article 107). More serious violation of duties include improper, violent or offensive behaviour towards clients or coworkers; preventing clients from realizing their rights and interests in front of state institutions; failure to act, tardy or negligent work performance; illegal actions or failure to perform actions for which a state official is authorized, in order to prevent irregularities or damage; violation of rights at work (Article 109).

Disciplinary punishments that can be handed out in more serious cases of violation of duties at work are fines amounting to 20% to 30 % of one's salary for a full time job position for six months; prohibition of career advancement for two to four years and revocation (Article 110).

A disciplinary procedure is launched and conducted by the employer, who also takes the decision on the state official's disciplinary responsibility. Article 115 stipulates that during the disciplinary punishment procedure, the employer has to taken into account the degree to which the official was responsible, the severity of the consequences caused by violation of duties, as well as both subjective and objective circumstances in which the violation of duty occurred.

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58 The interview was conducted on 22nd August 2006 in Belgrade

59 The Law on State Officials, Official Gazette of RS 79/05, 81/05, 83/05.

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## 8. HATE SPEECH IN MEDIA

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Although this publication covers the year 2006, this chapter describes two cases from 2003 and 2004. The reason for this is that, although they were reported in the media and ended up in court, the Minority Rights Center thinks that the court rulings show sluggishness in the struggle against hatred towards national minorities. Therefore, they wanted to remind the public of these cases once again.

According to the Law on Public Information, the Internet is qualified as a means of public information and therefore, provisions on prohibition of speech of hatred refer to it, too. It is a problem to determine responsibility for such content in cases where it is impossible to identify authors of texts containing hate speech.

### 8.1. WEBSITE “STORMFRONT”

An ethnically, racially and religiously clean Serbia is also called for in forums of the Serbian branch of the American neo-Nazi website Stormfront. Various measures are proposed for Roma, Jews, Muslims, quislings, traitors of the Serbian nation and other “non-people” - extermination, concentration camps, “deromization“, sterilization, evictions, tortures, etc.

However, the website “Stormfront” was established in 1995 and today has more than 100 thousand members around the world. While the owner (Don Black) claims that it is only the website of “white nationalists”, “Stormfront” is declared in the media as a neo-Nazi site that supports racism, hate speech and violence.

If the Internet is considered, from a legal point of view, as a public medium, there is a question of responsibility, as this forum pleads for hate

speech and the worst possible crimes. As it is registered in the USA (Florida), it is impossible to determine its webmaster, i.e. its owner as the person responsible. The only way to deal with website content that is against the law is to forbid access to such web pages. Similar practices are applied in Germany and France, where local providers are demanded to block access to internet sites that include racist, xenophobic or Nazi content. Access can at least be denied from public institutions, such as libraries, universities, schools, etc. “Stormfront” is forbidden in Germany at regional level, but this prohibition is expected to expand to the whole country.

## 8.2. JOKE IN THE DAILY “KURIR”

On 27th December 2003, in the weekend edition of the daily, “Kurir”, for 27th and 28th December 2003, within the column “joke of the day” the daily published a text that incites discrimination, hatred and violence against members of the Roma national minority. This was the content of the text:

*A man is walking down the street and sees a guy with a Gypsy on his shoulder.*

*-Hey, man, what have you done?!*

*-You don't know? It is allowed to hunt Gypsies. You just have to go to the hunters' association, take a gun and...*

*The man goes there, takes a gun, sees two Gypsies beside a garbage can, shoots and kills them. A policeman approaches him, takes out handcuffs and arrests him.*

*-What's the matter? Isn't it allowed to hunt Gypsies?*

*-Yes, but not on the feeding place!*

According to Articles 39, 79 and 80 of the Law on Public Information, on 22 March 2004 the Minority Rights Center, the Humanitarian Law Centre and the European Roma Rights Centre lodged a complaint against the daily, “Kurir”, for hate speech.

On 19th December 2004 the First Municipal Court in Belgrade made the first-degree ruling in the “Kurir” case. The court determined that the controversial “joke” is not hate speech. At the same time, the court prohibited “Kurir” from having or publishing again the controversial text and other similar texts containing ideas, information or opinions that stir discrimination, hatred or violence against members of the Roma national community. The

MRC, the HLC and the ERRC appealed against this decision. The case is still in the second-instance court.<sup>60</sup>

### 8.3 TEXTS OF RACIST CONTENT IN THE WEEKLY MAGAZINE "NAŠA KRMAČA"

In the weekly magazine "Naša krmača", in issue No. 106 of 27th March 2004 and in issue No. 107 of 3rd April 2004, a made-up, quasi-satirical text about a programme on a Roma television station was published, with the headline „We present a new media giant - TV station Romovizija-Amarodrom“. The authors did not sign the text, and the politics of racial and religious intolerance was clearly expressed in the text, as well as the pro-fascist idea calling for "the final solution to the Roma issue." In the third column, in the "TV programme preview for 11 p.m.", the following is written:

*"In honour of Adolph Hitler – dedicated to the man, who was the first to realize the problem of Roma overpopulation, who gave a historical example of solving such problems quickly and efficiently, in the most humane way possible."*

The following text is from the "preview" of the show that was to be broadcast at 8 p.m.:

*"Sandokan and Tarcan meet Frankenstein – master-piece of Romany cinematography ...our tireless heroes don't rest even at night. They are attacked by a creation of the crazy doctor, a veteran from Nazi Germany. In a unique drama, Tarcan and Sandokan voluntarily agree to burn themselves in the concentration camp furnaces, thus suffocating the hellish creature with the stench, so bringing freedom to the German nation."*

The following text is from the "preview" of the show that was to be broadcast at noon:

*"Pogrom – a show in which the fastest Gypsy in the Republic will be chosen. Skinheads time them with a stopwatch. The loser gets an immediate beating with a baseball bat, while the winner has to throw a die. If he throws 1,2,3,4 or 5 he wins the baseball bat, and if he throws 6, he has to throw again."*

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<sup>60</sup> Daily "Kurir", 27th December 2003

In addition to indecent photos in the text, one of the photos shows an injured or dead young woman, carried by three young Roma men on stretchers. The following text accompanies the photo, „Brothers Sandokan and Vinetu hold a going-away party for their twelve-year-old sister Frtutmi before she leaves for hospital to deliver her baby.“

On 16th June 2004, the Minority Rights Center, the Humanitarian Law Centre and the European Roma Rights Centre, brought charges with the District Public Attorney in Belgrade against the weekly magazine „Naša Krmača“, on the grounds that the texts published in this magazine on 27th March 2004 and on 3rd April 2004 were criminal offences of stirring national, racial and religious hatred, bigotry or intolerance, from Article 134, Paragraph 1 of the General Criminal Code and of besmirching nations and nationalities of Yugoslavia, from Article 100 of the Criminal Code of the Republic of Serbia.

The magazine claimed that the text was in fact satirical.

In addition to the criminal charges, the Minority Rights Center, the Humanitarian Law Centre and the European Roma Rights Centre asked the Public Attorney in Belgrade to recommend the District Court in Belgrade to forbid distribution of the aforementioned issues of the magazine, “Naša krmača”, according to Article 17 of the Law on Public Information of the Republic of Serbia and to remove all copies of the magazine.<sup>61</sup>

## **OVERVIEW OF RELEVANT REGULATIONS**

### **Constitutional Provisions**

Article 21 of the Constitution of Serbia, which prohibits any form of discrimination, refers to this area. A detailed description of the anti-discrimination provision is given in the chapter about abuse of rights in education.

### **Criminal Law Regulations**

The criminal offence of stirring national, racial and religious hatred and intolerance (Article 317) and the criminal offence of violating the reputation

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61 Magazine “Naša krmača“, 27th March 2004

of nations, national and ethnic groups (Article 174 CCRS) refer to this group of cases. Both criminal offences are described in chapter two.

## Other regulations

**The Law on Public Information**<sup>62</sup> in chapter 3 explains the notion of medium, where the Internet and other means of informing the public that use words, pictures or sounds to publish ideas, information and opinions intended for public distribution to an indefinite number of users, are defined as media (Article 11).

Article 38 prohibits hate speech, or publishing ideas, information or opinions that cause discrimination, hatred or violence against a person or a group due to their belonging or not belonging to a certain race, religion, nation, ethnic group, gender or sexual orientation, whether the publishing of such information is a criminal offence or not. A person to whom the published information refers can file a complaint against the author and against the editor-in-chief of the medium in which the information has been published. The complaint can include a request for prohibiting further publishing of this information and publishing of the ruling, the expenses of which will be paid by the offender. Any legal subject, whose activities are aimed at protecting human rights and freedoms, can also sue the author and editor (Article 39).

A text will not be forbidden as hate speech if the published information is part of scientific or objective text and published without intention to encourage discrimination, hatred or violence or if the information is published with the aim of critically highlighting discrimination, hatred or violence against previously mentioned persons or groups (Article 40).

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62 The Law on Public Information, Official Gazette of RS 43/03.

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## 9. FINDINGS

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There is very little political will to ensure legal respect of Roma's human rights in Serbia. General anti-discrimination law has not been adopted yet, which would define basic notions and standards that courts should apply as well as mechanisms of protecting victims of discrimination. Prosecution and punishment of perpetrators and investigation are not efficient in any cases of discrimination.

**Police acts** – The Minority Rights Center has researched 15 cases of unlawful acts by the police since the beginning of 2006. Prejudices towards Roma as people prone to crime are still widely spread in the whole of society, even among members of police forces. The most frequent form of violating Roma rights among documented cases are insults on nationality bases, numerous violations of regulations during routine controls, police torture and cases where police have refused to provide protection for Roma (case of Jordan Vasić).

Investigations and criminal proceedings against police officers suspected for performing acts of abuse or any other unlawful act are launched quite rarely. However, when they are and the court passes a guilty verdict, sentences are very mild and do not reflect the severity of the criminal offence<sup>63</sup>. It shows that authorities' treatment of torture and mistreatment has not changed significantly.<sup>64</sup> The work of General Inspectorate is also inefficient, as most complaints against law enforcement officers have either been rejected or insufficiently investigated. Additionally, these cases are considered as "irregularities", not as violations of human rights or discrimination.<sup>65</sup>

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63 In October 2006, the District Court in Belgrade confirmed the first-instance acquittal for police officer Predrag Pavlović and was sentenced to 7-month imprisonment, or 2 years suspended sentence. The sentence refers to a case from 2000 when Marković Saša, a Roma, was arrested and taken to the police station in Barajevo, where policemen insulted him and beat him up.

64 "Human Rights in Serbia 2006", Belgrade Human Rights Centre, Belgrade, 2007

65 "Guide for Lawyers for Representing Roma - victims of discrimination", ERRC & HLC & MRC, CD-rom edition, 2005

**Violence** – Attacks on Roma by private individuals take place almost every day. Most frequent are attacks by groups of young people (skinheads, sport fans, etc.), attacks on Roma settlements and destruction of property. When such an incident takes place, police do not react efficiently and often treat Roma as the perpetrators instead of treating them as victims.

**Education** – Adoption of the 2005 Action plan created an opportunity for Roma inclusion in the educational system at all levels and this is the area where the best results have been achieved. There is good cooperation with the Ministry of Education and Sports. However, a lack of initiative by this institution has been noticed, although the education of Roma in its Education Strategy 2005-2010 is referred to as one of the priority issues. Current projects in the area of education are instigated by the National Roma Minority Council, the non-governmental sector and international organizations. Though significant results have been achieved, such as the introduction of Roma assistants, functional education of adults, affirmative action to enrol Roma students in high schools and faculties, some key problems, such as segregation, remain unsolved.

During child enrolment in schools there is a series of administrative obstacles, first of all with regards to documents that should be enclosed. Therefore, a number of Roma children do not enrol, as their parents do not have all the required documents. However, this year in March the Ministry of Education sent an official letter to all school administrations in Serbia, recommending enrolment of Roma children even if their parents did not have complete documentation, undertaking to submit them to schools later.

Segregation is still a burning issue that is denied or ignored. MRC research has confirmed that there have been classes consisting of Roma children only, in elementary schools “10. oktobar“ in Horgoš, “Temerkenj Ištvan“ in Tornjoš, “Žarko Zrenjanin“ in Apatin, “Branko Radičević“ in Bujanovac and “Vuk Karadžić“, where Roma children make up about 90% of the total number of pupils, as parents belonging to the majority population decided to enrol their children in some other schools. An example of good practice is “Matko Vuković“ elementary school in Subotica, where Roma classes have been disbanded. Mixed classes have been formed and Roma assistants have been hired to help children in studying.

This year there was a problem enrolling children that had not attended pre-school. Pre-school education has become compulsory in the school year 2006/2007. Many children do not meet this requirement, as only 4% of Roma children attend pre-school institutions. And while some schools considered

lack of a pre-school education certificate “incomplete documentation” and allowed enrolment, others refused to enrol children, explaining that to do so would be illegal and recommended parents to wait for another year.

Another problem in education is the large number of Roma children (50-80%) that attend special schools. One of the causes is inadequate categorization, as tests for evaluating school readiness have not been adjusted to children that grow up in a different environment. Namely, most Roma people in Serbia live in separate settlements in outskirts or villages within undeveloped municipalities. Furthermore, they use Romany language when communicating with each other, so that their children do not have opportunities to learn another language. As few children attend pre-school institutions, they do not get good results at categorization tests. Often, members of the categorization commission tell Roma that it would be better for their children to attend special schools due to the many benefits, such as free books or free lunch. The consequences of such practices are very serious, since children that complete special schools have limited opportunities for continuing their education.

The situation is slightly improved by the official letter<sup>66</sup> of Minister Slobodan Vuksanović to all school administrations. The letter contains recommendations for enabling parents, Roma assistants or representatives of relevant Roma organizations to be present at testing for enrolment in the first grade, so that difficulties in understanding Serbian can be overcome. It is also stated that test results should not be of an eliminating character.

Peer violence in Serbian schools is widely spread, among non-Roma children too, but Roma are an extremely sensitive target as they are excluded from the rest of pupils. In most documented cases, teachers do not react adequately and do not punish children for expressing religious or national intolerance.

**Employment** – It is impossible to determine the accurate number of unemployed Roma, as information about nationality is not entered in the registry of the National Employment Agency. However, the unemployment rate among the Roma population is high, and key factors are discrimination, insufficient qualifications, administrative obstacles and lack of information. According to research, 35.5% of Roma in Belgrade have not been registered

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66 Official letter of the Ministry of Education and Sports No. 616-00-190/2007-06, 14th March 2007

at the labour market. A person that wants to register at the National Employment Agency must have a registered residence. Roma that live in informal or illegal settlements cannot do so. Without registration at the National Employment Service, they cannot realize their right to social insurance in cases of unemployment.

**Health care** – The most serious violation of rights in the health care sector is the inability to realize health care. The right to health care is guaranteed to all citizens of Serbia, but the situation is rather different in practice. Article 22 of the Law on Health Insurance stipulates that insurance is also guaranteed to people belonging to the socially imperiled category of the population, including Roma, who do not have a permanent residence, due to their traditional way of life. The provision itself is not discriminatory, but due to lack of another act that would define this Article more precisely, realization of health care is not provided (except in urgent cases) to individuals without registration of residence, as is the case with most Roma.

Research has confirmed that Roma are often insulted by medical staff because of their nationality, but they seldom make complaints to heads of institutions or to individuals authorized to act in such cases.

**Public places and public services** – Roma are exposed to discrimination in public places, particularly when those owned by individuals. Most difficulties in such cases appear when collecting evidence to prove discrimination in court. Therefore, criminal proceedings are launched rarely, while in legal proceedings the burden of proof is with the victim, which additionally reduces the chances of a fair outcome. Accepting the technique of situational testing has made the procedure of proving discrimination significantly easier, and in most cases it is the only way to prove violation of equality.<sup>67</sup>

MRC research shows that abuses of rights in public services happen often, particularly by people working in centres for social work. These abuses are take the form of denial or restriction of the right to social care. Roma face mistreatment and insults every day, often followed by remarks that “one should be strict with them“ and that “they don’t understand when you tell them nicely“.

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67 "Guide for Lawyers for Representing Roma - victims of discrimination",  
ERRC & HLC & MRC, CD-rom edition, 2005

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## 10. RECOMMENDATIONS

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**General** – Urgent adoption of the Law against Discrimination is a priority task. This law should comply with European Union recommendations. Without compliance, Serbia cannot meet its commitments to its citizens regarding equality and respect of human rights, as well as obligations towards the international community.

It is necessary to develop prevention mechanisms and sanction discrimination in all areas.

It is also necessary to change the Regulation on determining house numbers so that this operation together with marking streets in informal settlements could be performed. Thus, Roma that live in such settlements could register residence and realize their social and economic rights, just as all other citizens.

**Police acts** – In cases of police torture it is necessary to perform prompt investigation and to determine stricter punishments for perpetrators. Offenders should also be suspended in disciplinary procedures and fired in more serious cases.

It is necessary to organize specialized training for law enforcement officers about international standards and internal regulations that refer to the protection of minority rights and prohibition of discrimination.

**Violence** – On the issue of discrimination and violence against Roma, it is necessary to recognize motive in cases of racially motivated criminal offences. Accordingly, attorneys should qualify such offences adequately (e.g. instead of criminal offence of inflicting grievous bodily harm, perpetrators should be charged for stirring national, racial and religious hatred).

In order to provide victims of discrimination with remedy, the state should adopt the legal process principle, accepted by the European Court of Justice, for subsequent transfer of the burden of proof to the offender, unless the prosecutor himself makes it clear, or at least possible, that the victim was exposed to discrimination.

Discrimination should be stipulated in the Law of Obligations as a special form of non-material damage.

**Education** – The priority in area of education is to disband segregated classes, as well as strict control that would prevent new classes such as these forming in the forthcoming school year.

All schools should accept the recommendation of the Ministry of Education that facilitates the enrolment of Roma children in the first grade.

The Ministry of Education should cooperate with school administrations and local governments in adopting temporary regulations for reconsidering the status of children that have been wrongly categorized in special schools, particularly those in grades 1-3.

Part of the funds allotted for special schools should be redirected to regular ones, in order to prevent the current practice of Roma parents agreeing to enrol children in special schools for economic reasons.

It is recommended to reexamine the concept of testing psychological, social and educational maturity before enrolment in the first grade and hiring more Roma assistants in schools.

It is necessary to develop a spirit of tolerance in schools and to organize classes about Roma culture, so that existing prejudices among non-Roma pupils could be removed and peer education prevented.

**Employment** – There should be affirmative action in the area of employment, aimed at increasing the number of Roma employed in administration, providing a certain number of places for Roma students in internship or volunteer programmes in public administration organs and at providing scholarships for the best Roma students.

It is recommended to organize training and to support unemployed Roma when they apply for micro grants.

It is necessary to apply the principle of gender equality and to ensure larger participation among Roma women in training programmes and gaining new knowledge and skills.

**Health care** – As for the people who live in illegal settlement or for any other reason cannot register place of residency and obtain personal documents, it is necessary to find a solution, even a temporary one that would enable them to exercise their right to health care.

It is recommended to determine the number of people without health insurance and then to provide continued information about the procedure of obtaining health cards.

It is also advisable to take a stronger attitude regarding relocation of residual funds to people without health insurance until they become integrated in the health care system.

The role of “patient’s advocate” should also be encouraged.