



HUMANITARIAN LAW CENTER

ROMA

in Serbia

Spotlight series



Humanitarian Law Center

ROMA

in Serbia



The publishing of this book was made possible by PRESS NOW

Table of Contents

Introduction	7
I HLC Report: Roma in Serbia (1998–2003)	11
1. Police violence against Roma	11
1.1 Offences against human dignity and physical integrity	11
1.2. Domestic standards	35
1.3. International standards	42
1.4. Extortion of information and unlawful deprivation of liberty	43
1.5. Domestic standards	72
1.6. International standards	82
1.7. Communications to the Committee against Torture	85
2. Violent attacks on Roma by private individuals	89
2.1. Violent attacks by skinheads	89
2.2. Violent attacks by other private individuals	101
2.3. Violent attacks in schools	115
2.4. Domestic standards	119
2.5. International standards	121



3. Discrimination against Roma	123
3.1. Discrimination in education	123
3.2. Discrimination in housing	137
3.3. Discrimination in employment	145
3.4. Discrimination in access to social welfare benefits	148
3.5. Discrimination in public places	151
3.6. Discriminatory practices by landlords	155
3.7. Domestic standards	157
3.8. International standards	163
4. Findings	168
5. Recommendations	175

II HLC Report: Kosovo Roma: Targets of Abuse and Violence

(24 March – 1 September 1999) 181

1. Kosovo Roma during the NATO military intervention	181
1.1. Compulsory work	185
1.2. Larceny	188
1.3. Discrimination in distribution of food aid	190
1.4. Kosovo Roma's collaboration with Serbian police	191
1.5. Roma harassed for maintaining contacts with Albanians	191
1.6. Fear of paramilitary groups	192



2. Kosovo Roma after the withdrawal of Serbian security forces and the return of Kosovo Albanians	193
2.1. Murders of Roma	193
2.2. Battery and torture	195
2.3. Rape	197
2.4. Abductions and disappearances	199
2.5. Looting and destruction of property	200
2.6. Forced displacement	201
2.7. Using Roma as forced labor	202
2.8. Roma displaced forced to return	203
2.9. Inhuman and degrading treatment of Roma in refugee centers in Serbia	205
2.10. KFOR ineffective in protecting Roma	206
2.11. Recommendations	208

Introduction

The report 'Roma in Serbia' is based on statements of Roma victims of unlawful acts by the police, of discrimination, and of attacks by individual citizens or groups of citizens. In 2000-2002 the Humanitarian Law Center (HLC) investigated over 250 incidents in which Roma alleged to have been victims of police brutality, racist attacks, and discrimination.

The investigation reveals that the police are in the habit of arresting Roma on a mere suspicion of committing a criminal offence irrespective of whether or not there is any evidence supporting the suspicion. Roma are thus often treated as scapegoats. The police take no steps to prevent racist attacks on Roma by young skinheads and bring no charges against the culprits. Street sweepers in particular are victims of such attacks. Roma settlements are often the target of attacks by drunk racists and bullies who abuse their inhabitants with impunity.

Roma children are disadvantaged in education. The educational authorities subject Roma school entrants to psychological tests which take no account of their particular linguistic and social difficulties and consign them to 'special classes' with curricula adapted for children with mental problems. Roma children are severely disadvantaged by their poor command of the Serbian language. Enrolment in 'special classes' is often preferred by the Roma parents themselves because this entitles their children to free school meals. Roma pupils are victimized and shunned by their peers and sometimes abused in the school yard or on their way to or from school with impunity. In most



cases Roma children drop out before completing their compulsory eight-year schooling and the education authorities simply do not bother to bring them back.

Roma encounter severe problems when they apply for work of any kind, and even those in possession of requisite skills or high school or university diplomas are no exception. Private employers as a rule do not want any Roma on their staff.

The HLC's regular tests with regard to access to public places show that owners of private discotheques and sports centres do not admit Roma visitors. The most frequent explanation given by the staff at the entrance is that the premises have been hired for a private party or simply that there is no more room inside.

Both Roma individuals and Roma non-governmental organizations find it very difficult to rent accommodation. The most frequent excuses of the landlords are that the flat has just been let or that there would be problems with neighbours.

Roma are the main victims of forcible evictions by municipal authorities from illegal settlements and buildings scheduled for clearance in accordance with urban plans. They are often forced to move out under threats of police intervention and simply told to find what new accommodation they can. Street protests by residents of such settlements, strongly supported by the HLC and Roma non-governmental organizations, have widely publicized the obligation of the state to draw up a programme for providing alternative accommodation to the evictees. Thus it was in 2002 that for the first time a state organ - the then



Federal Ministry of National and Ethnic Communities - honoured its obligation to find alternative accommodation for the Roma residents of a settlement due for demolition. The problem was solved expeditiously thanks to the determination of the Roma protesters, the wide media coverage of their demands, and the vigorous backing of non-governmental organizations. Nonetheless, the residents of scores of other Roma settlements have been forced to leave their makeshift homes and find temporary shelter in other Roma shanty towns not scheduled for clearance yet.

This publication includes a report entitled 'Kosovo Roma Targets of Abuse and Violence' and made by the HLC on the basis of research carried out after the arrival of international forces in Kosovo. The report shows that the Serbian police employed Roma during the NATO bombing to bury the bodies of killed Albanian civilians, to disinter bodies from primary graves and rebury them elsewhere, to load bodies on to lorries heading for Serbia, to loot and commit other offences in contravention with the laws and customs of war. The report also deals with cases of Roma who went missing or fled Kosovo because they feared Albanian retribution, were in imminent danger, or received death threats. The report also describes how the Serbian police prevented Roma from entering Serbia.



I HLC Report: Roma in Serbia (1998–2003)

1. Police violence against Roma

The HLC has investigated a number of cases of unlawful police treatment of Roma on the basis of interviews with victims and other information. In all these cases police officers employed physical violence as their customary method of dealing with Roma. The information shows that physical abuse was combined with methods producing feelings of shame, humiliation and inferiority, and causing destruction of property. The victims were kicked, punched, beaten with batons and metal bars, handcuffed to radiators, denied food, water and the use of the toilet. The police also behaved violently towards children, women, and expectant mothers.

1.1. Offences against human dignity and physical integrity

The investigated cases show that during routine procedures such as identity checks police officers regularly maltreated and physically abused Roma. Cases of physical abuse, even of children, were registered in connection with other police work such as execution of court orders. In one case a police officer even used a firearm after a group of Roma had made jocular remarks about his dog.



1.1.1. The case of the cigarette seller

On 25 February 1998, Branko Kostić, a cigarette seller in the Crveni barjak market in Kragujevac, was severely beaten by a member of the Kragujevac Secretariat for Internal Affairs (SUP - police department) for not carrying an identity card on his person.

Kostić was hawking cigarettes in the market as he had regularly done before when a plainclothes police officer by name Radovan Veličković approached him and asked him to produce his identity card. Kostić replied that he did not have it on him. The officer first searched Kostić roughly then started to beat him. Following is Kostić's description to the HLC of what followed:

The SUP member thrust his hands into my pockets looking for the identity card. He slapped me in the face several times and squeezed my arm real hard. He punched me about the kidneys. Zoran Simić, an acquaintance of mine, asked the policeman why he was maltreating me. The policeman told him to shut his mouth and mind his own business. He cursed by Gypsy mother. [Roma often call themselves Gypsies or cigani in Serbian; however, when a Serb uses this word it is invariably taken as an insult.] I couldn't take any more of this abuse and wrenched myself free, my torn jumper and jacket remaining in his hands. I ran towards the Kragujevac SUP members who were on duty in the market. I knew those policemen from before. I told them that the policeman Radovan Veličković had beaten me. Radovan and I made our statements. The policemen advised me to forgive Veličković and said I had to carry my identity card on me or I'd be fined.

The witness, Zoran Simić, confirmed to the HLC that Veličković had physically abused Kostić:

I saw a man I didn't know go through Branko's pockets. I went up to the gentleman and asked him why he was maltreating him. He told me it didn't concern me and that I should mind my own business. The stranger started to beat Branko on the head. He punched him in the kidneys, kicked him about the body and dragged him towards the police station. I then called out to the policemen on duty in the market.¹

Kostić went to see a doctor the same day to have his injuries examined. The doctor found that he had suffered head concussion.

On 31 March 1998, Kostić filed a criminal complaint against Veličković for inflicting a civil injury. It was only ten months later, on 22 January 1999, that the Municipal Public Prosecutor's Office in Kragujevac initiated an investigation. Eleven months later, on 21 December 1999, the Public Prosecutor initiated criminal proceedings against Veličković by filing an indictment request with the Kragujevac Municipal Court. After five hearings at which Kostić was represented by a HLC lawyer, the Kragujevac Municipal Court on 16 March 2001 found Veličković guilty of inflicting a civil injury and sentenced him to three months in prison suspended for a year. The judgement took effect on 28 May 2001.

¹ HLC files, statement by Zoran Simić, 8 December 1999.

1.1.2. The case of the brothers Marinković

The brothers Miroslav and Masimo Marinković were wounded by a plainclothes police officer in Belgrade on 25 November 1998. Their youngest brother Zoran had recently won fourth place in the World Junior Boxing Championship in Argentina, so the three brothers went out to celebrate in the company of Zoran's friend Zoran Jovanović. They arrived in Slavija Square at about 3 a.m. The two Zorans queued up for hamburgers in front of a kiosk while Masimo and Miroslav waited for them at a trolley-bus station a few metres away. A man, who turned out to be a plainclothes police officer, was walking by the kiosk in the company of a young woman. They had a dog on a leash. Zoran Marinković said something funny about the dog and the man abruptly turned on him, shouting a stream of abuse in his face. In order to protect his brother, Miroslav went up to the man and seized him by the jacket. Masimo too approached and tried to separate the two. Meanwhile both Zorans had backed off a few paces. All of a sudden, the man pulled out a large-calibre pistol, pointed it upwards then brought it down and aimed it at Miroslav's chest. Afraid that Miroslav might get shot, Masimo impulsively jerked him aside. At that moment the man fired, hitting Miroslav in the chest and Masimo in the forearm.²

² Article 23 of the Law on Internal Affairs of the Republic of Serbia states that a person acting in an official capacity may use firearms only if by using other instruments of restraint he cannot protect people's lives, prevent the escape of persons caught in the act of committing specified serious criminal offences, prevent the escape of a wanted person in connection with criminal offences prosecutable ex-officio, remove an immediate threat to his own life, repel an attack on the facility or person in his charge.

Masimo told the HLC what happened immediately before he and Miroslav were wounded:

My brother Miroslav went up to the plainclothes policeman, not knowing who he was, and said to him, 'Wait a minute, why are you molesting my brother?' The policeman pulled Miroslav by the jacket, took out a large pistol and pointed it up briefly, said he was a policeman, then aimed the pistol at Miroslav's chest. Miroslav lowered his arms. As he pulled out the pistol, the policeman held Miroslav by the jacket. As I pulled my brother aside, the pistol fired. The same bullet hit both of us, Miroslav in the chest and me in the forearm where it remained.³

After firing the shot, the plainclothes police officer gave Miroslav first-aid treatment while his girlfriend called an ambulance. Police in patrol car arrived first and pushed the two Zorans into the vehicle to separate them from the wounded men. When special riot police arrived, Zoran Jovanović and Zoran Marinković were transferred to their van where they were insulted and struck several times. An ambulance car took Miroslav and Masimo to the Casualty Centre where Miroslav was kept five days and Masimo a month.

On 23 December 1998, the Second Municipal Public Prosecutor's Office in Belgrade requested an investigation against Miroslav and Masimo Marinković and Zoran Jovanović on charges of violent behaviour.⁴ An investigation was carried

³ HLC files, statement by Masimo Marinković, 3 December 1999.

⁴ Article 220 of the Penal Code of the Republic of Serbia (Serbian Penal Code) states:
'1. A person who disrupts the public tranquility or disturbs the peace by grossly insulting or abusing another person, committing violence

out during which the three accused men and the police officer were examined. The prosecutor dropped further criminal prosecution and the investigating judge discontinued the proceedings on 20 October 1999. The police officer who fired the shot was never investigated.

Because the plainclothes police officer fired from a service weapon, the HLC brought an action against the Republic of Serbia, claiming compensation to Masimo Marinković for the physical pain and fear inflicted on him and for the mental suffering resulting from his partial incapacity.⁵ Proceedings before a court of first instance are pending.

against another person, provoking a fight, or behaving insolently and recklessly, a predilection for such behaviour having been manifested by his earlier conduct, shall be punished by imprisonment from three months to three years. 2. If an offence referred to in paragraph 1 of this was committed by a group of persons, if a person suffered minor bodily harm as a result, or if severe indignity was inflicted on citizens, the perpetrator shall be punished by imprisonment from six months to five years.'

5 Article 25 of the Constitution of the Republic of Serbia: '1. Every person is entitled to compensation of property and non-property damage inflicted on him through unlawful or irregular work of an official or a state agency or organization exercising public powers, in accordance with law. 2. The damages shall be paid by the Republic of Serbia or the organization exercising public powers.'

Article 200 of the Law on Obligations: '1. The court shall award just indemnity in money to a person who has suffered physical pain, mental suffering due to impairment of faculties, disfigurement, injury to reputation or honour, infringement of liberty or personal rights, death of a close person, and fear, if it finds that the circumstances of the case, and especially the intensity of pain and fear and their duration, so warrant, irrespective of any material compensation or absence thereof. 2. In deciding on a claim for non-pecuniary damages, as well as on its

1.1.3. The case of Ratko Mitrović

On 30 January 2000, Ratko Mitrović was abused by police officers who had stopped him in Narodnog fronta St. in Belgrade to check his identity. He says that two police officers stopped him and his acquaintances, Ljubica Đorđević and Ana Ivanović, and asked to see his identity card. Following is his account of what happened:

I had my identity card on me and gave it to them to inspect it. One of the policemen told me he knew I dealt in hard currency and started to kick me and beat me on the back with a truncheon. He said, 'You're just a Gypsy.' He ordered me to gaze at the sky and eat the snow. The other told me, 'You're in Stari Grad municipality territory now, you can't walk about as you please.' They cursed my Gypsy mother. They beat and insulted me for fifteen minutes.⁶

Ljubica Đorđević witnessed the whole incident:

The policemen started to beat Ratko. They punched him in the chest and beat him with a truncheon on the neck and back. They insulted him. They cursed his Gypsy mother. They told him he couldn't walk around in Stari Grad municipality as he pleased.

Mitrović did not file a criminal complaint because he feared retribution.

amount, the court shall take into consideration the significance of the good damaged and the purpose of the damages, as well as make sure that the damages do not subserve aspirations incompatible with their nature and their social purpose.'

⁶ HLC files, statement by Ratko Mitrović, 15 February 2000.

1.1.4. The demolition of the Roma settlement Antena

By 8 June 2000, the population of the Roma settlement Antena in New Belgrade, erected during the 1970s, numbered 126 people. At the time of its demolition most of its residents were Roma displaced from Kosovo. On June 6, the residents received orders from New Belgrade municipal authorities to move out in a day because their illegal houses were scheduled for demolition. As soon as they received the orders, they asked the municipal authorities to give them more time to move out. Their request was not considered.

Two days later the police arrived with bulldozers, tore down the houses and levelled the whole settlement. Many residents had their furniture and household appliances destroyed. The bulldozers also wrecked several cars.

Bekim Mujoli says in his statement to the HLC that while the houses were being demolished he was confined by plainclothes police officers in their van for an hour.

A police team led by police commander Bulatović arrived at about 10 a.m. on June 8. There were ten of them. These uniformed policemen did not harass us. One of them said, 'Gypsies, you've no right to live on government land.' Then they called in a plainclothes team, which arrived at 10.40. They too numbered ten or so. They charged at us with their van but did not hurt anyone then. When they got out of the van they started to beat us. They hit and handcuffed me. Later they beat me with fists on the back and head. While they beat me they cursed my Gypsy and Shqiptar mother [The Albanians call themselves Shqiptars; but when a Serb calls an Albanian a Shqiptar or

Šiptar in Serbian, it is resented as a disparaging epithet]. They kept me in their van for an hour while they were pulling the houses down. After that they took me to the police station in Bežanijska kosa. They kept me there until 1 p.m.⁷

Ivan Stevanović, aged 12, was also beaten. He said this in his statement to the HLC:

A police van entered the settlement at great speed. I ran to avoid being run over. Six men came out of the van and one of them hit me with his hand on the head. As I ran away from him I dropped my toy and tried to pick it up. At that moment the policeman caught up with me and gave me a kick in the back.⁸

Fahri Osmani told the HLC that the police beat people indiscriminately and that he begged them not to destroy his furniture:

One plainclothes policeman struck my brother Besim. He punched him in the left arm while Besim held a three-year child with his right. Besim only said, 'Man, why are you hitting me, don't you see that I've a child in my arms?' I went up to my brother and told him to run. At that moment, the policeman who'd struck my brother gave me a kick in the right leg and I couldn't move. After that he made to strike my wife Hata on the back. She was in her fourth month of pregnancy. When our neighbour Iseni Iseni begged him not to beat a pregnant woman, the policeman struck him on the back and kicked him

⁷ HLC files, statement by Bekim Mujoli, 12 June 2000.

⁸ HLC files, statement by Ivan Stevanović, 12 June 2000.

in the thigh. At that moment we all ran away. I tried to pick up some things from the house. I managed to take some things outside, but the bulldozer ran over them although I'd begged them to leave the things alone. Hardly anybody from the settlement escaped without being slapped by the policemen.⁹

In connection with the incident, the HLC on 12 August 2000 filed with the Fourth Municipal Public Prosecutor's Office a criminal complaint against a number of unidentified members of the Serbian Ministry of Internal Affairs (MUP) for inflicting light injuries and abusing people while on duty. The HLC also submitted medical certificates testifying to the nature of injuries suffered by Ivan Stevanović and Besim Osmani and a list of witnesses. In May 2001 the Public Prosecutor's Office dismissed the HLC criminal complaint on the grounds that the 'policemen merely assisted the workers who were demolishing the settlement on orders from the Municipality'. The Office took no steps to establish the identity of the alleged perpetrators and concluded, solely on the basis of the incident report issued by the New Belgrade police station (OUP), that the police officers had not overstepped their authority.¹⁰ Its criminal complaint having been dismissed, the HLC on 21 May 2001 proceeded in the capacity of private prosecutor and requested an investigation. The investigative proceedings are pending.

⁹ HLC files, statement by Fahri Osmani, 12 June 2000.

¹⁰ Article 66 of the Serbian Penal Code: 'A public official who in the exercise of his duties abuses or insults another person, or treats him in such a manner as to injure his human dignity, shall be punished by imprisonment from three months to three years.'

1.1.5. The case of a Roma from Mali Idoš

On 13 March 2001, Tomislav Petrović (29) of Mali Idoš in Vojvodina was beaten by a police patrol outside his house. Following is his description of the incident to the HLC:

At about 2 a.m. I was on my way back from the public house. I was about to enter my yard when a patrol car with two policemen inside came along. I knew the policeman sitting next to the driver from before, he's Zoran Žmukić from the Mali Idoš police station. I didn't see the driver. Zoran Žmukić asked me through the window if I knew where Šandor Lakatoš lived. I replied that I did and that Šandor was my neighbour. He next told me to go there and ask Šandor to come outside. I told them they could do that themselves because I didn't want to enter the man's house in the middle of the night. Thereupon Zoran said to me, 'Don't you play smart with me or I'll make the lot of you pay!' and struck me with the torch above the right eye. Blood gushed from the wound and I tottered and fell. He got out of the car, slapped me on the right cheek and gave me a kick in the ribs on the right-hand side. When he saw that I was bleeding badly he got a little worried. He told me to show him Šandor's house and go to sleep. I walked a few metres with him and showed him where Šandor lived, after which I went home where my wife gave me first-aid treatment. I'd had a few bottles of beer that night but wasn't drunk and did nothing to provoke the policemen.

On 30 April 2001, the HLC complained to the head of the Mali Idoš police department about the incident and requested him to institute disciplinary proceedings against the police officer who had beaten Tomislav Petrović. On 22 June 2001, the HLC received a letter from the Subotica SUP stating that the police

officer Žmukić neither insulted Petrović nor caused him bodily harm.¹¹

1.1.6. The severe harassment of a Roma family in Novi Sad

At about 5 a.m. on 12 June 2001, two Novi Sad police officers burst into a flat occupied by displaced Roma from Kosovo. At the time, two women and four children aged four to nine lived in it. One of the women, R.B. (b. 1966) described the incident to the HLC:

I was woken by a noise. I raised the curtain and saw two uniformed policemen banging on the door for all they were worth. I got terribly frightened and quickly put on my clothes. Before I knew where I was they'd broken the door open and entered the house. I couldn't make out what they wanted as I speak no Serbian. I told my sister to go fetch the neighbours who spoke Serbian. They didn't let her go. The tall one rushed at me, grabbing me by the hair with one hand and shutting my mouth with the other. I tried to wrest away and he started to beat me. He punched me in the forehead and struck me about the body. The same policeman pulled my sister by the hair and punched her in the face and body. While she struggled to break free the policeman pulled hard at her clothes and tore her bra. The other policeman did not beat us. They next went into the room and started to rummage through our things. They yelled the name of my husband, Š.B., and I realized that they were looking for

¹¹ Letter from the Subotica SUP, 22 June 2001, No. AP-07-3-11/01.

him. He wasn't at home. He'd left for Germany. While they searched the room they woke up my children. Seeing the policeman beat me, they started to cry and ran towards me. The policeman who'd been beating us tore the children away from me and shut them in another room. The children are my sons aged six, five, and four. My daughter, aged nine, wouldn't be pushed into the room, so he got hold of her hair and started to pull her around. Afterwards, he grabbed me by the hair and started to pull me towards the police car. He yelled at the other policeman because he did nothing to help him. In the end, they crammed all of us into the car but didn't take us to the police station. They let us go when our neighbours gathered around.

R.B.'s sister A.S (b. 1977) described the incident as follows:

I was woken up by the police banging on our door. A little later they broke the door open and entered the house. There were two of them, wearing uniforms. I was in the house with my sister Remzija and her children. I'm currently living in her house. After they broke the door and came in, they started to shout, 'Where's Bajrami?' My sister told me to go and fetch the neighbours, but when I tried to leave the house one of the policemen attacked me. He was tall with short wavy hair. He grabbed both me and my sister by the hair and pulled us around. He first beat me, then my sister. He struck us on the face and body with fists. He jerked at me so hard that he tore my bra. I begged the policeman to let me bring in a neighbour who spoke Serbian and Albanian to help us out because we don't speak Serbian. My sister speaks no Serbian at all and I speak it only very little.

The tall policeman said, 'We don't need any neighbours.' While I begged him to let me go, he held me by the hair and struck me

below the right eye and on the nose with his free hand. My nose started to bleed. He struck me so hard that I fell down. Then he started to kick me. The other policeman told him, 'Let her go, aren't you sorry for her?' He wasn't even sorry about the children. He pulled Hava by the hair because she wouldn't be separated from her mother and shut up with the children in the other room. He told Hava, 'You stay here. We're going to take your mum away and then bring her back and bring you chocolate and candies.' But Hava wouldn't hear of it. She screamed and tried to break free. He then made Hava, me and my sister stand in a corner of the room.

The policeman asked my sister where her husband was. He was asking for some mobile phone and said that her husband had stolen it. He cursed her Shqiptar mother and swore at me too. I somehow got out and ran to fetch our neighbour Muhamed Hašimi. He went there at once and started to interpret for us.

One of the Roma witnesses, M.H. described the incident to the HLC as follows:

I was asleep when S. woke me up. Crying, she told me, 'Get up, they're going to kill my sister.' She went ahead and I followed. I went to help with interpretation. I saw a police car and two policemen. I asked them what I could do to help. The tall one told me, 'Help us get this woman into the car.' She wouldn't go inside, saying her husband wasn't there and had gone to Germany. The tall one punched her in the forehead and cursed her Shqiptar mother. After that he asked me if I knew where Bajrami was. When I confirmed that he'd gone to Germany, he threatened to beat me too if I didn't say where Bajrami was.

Then he forced Remzija to get into the car together with her sister and children. The other policeman asked him, 'Surely you can't take these naked and barefooted children away. Aren't you sorry?' The neighbours gathered round. The tall policeman started to swear and yell, 'Get out of here! What are you watching for?' Finally he let everybody go and the two of them went away.

1.1.7. Wedding party harassed over Roma music

On 14 September 2001, the police broke up a family wedding party given by Ali Kećaj, a displaced Ashkali from Kosovo. He had invited 150 guests to celebrate the wedding of his daughter. Following is his description to the HLC of what happened:

On 14 September 2001 I was giving my daughter Milira Kećaj in marriage. We'd set up a tent in our yard and were expecting some 150 guests to turn up. I'd reported the wedding to the president of the Roma society, Radojko Nikolić, and he'd given me written permission to play music from 6 p.m. to 3 a.m. I'd asked him if I should report the event to the police and he'd promised to do it himself.

The guests were already there at about 5 p.m. and the music began. I ought to mention that we Ashkalis listen mostly to Albanian folk music and that it was mostly such music that was being played. Soon after the music started a police patrol arrived. A policeman wanted me to turn the music off and threatened to smash everything to pieces if they heard any more Albanian music. He said he'd go and bring back all the Serbs he knew to beat the hell out of us. One of the guests asked the policemen to let us alone as this was only a wedding after all.

The policeman got mad, seized him by the head and banged it against a glass door. The man was injured and started to bleed. I don't know the guest's name, only that he is a Roma from Veliki Rit. After that the patrol left and I went to see the policeman on duty at the police station in Klisa. I told him what had happened and that two policemen had broken up my daughter's wedding celebration. He told me we were free to celebrate but had to keep the music down. Although I'd taken the loudspeakers into the tent and turned the volume down, the police patrol came twice again, first at 10 p.m. and then around midnight, when they forced me to send the guests away.

1.1.8. The case of Jovica Petrović

On 26 November 2001, police officers beat and insulted on ethnic grounds Jovica Petrović in the Svetozar Miletić housing estate in Vojvodina's Sombor municipality. Following is Petrović's statement to an HLC investigator:

On the morning of 26 November 2001, four members of the Sombor SUP entered and searched my house without a warrant from an investigating judge. They found 300 German marks, took them and gave us a receipt stating that the money had temporarily been seized. After finding the money, they ordered me and my common-law wife Svetlana Jovanović to come along to the Sombor police station on Istarska St. At the police station we were kept separately, she in a second-floor office and I on the first floor. I was questioned by several inspectors - I think there were seven or eight of them but can't say for sure because they kept switching about. They wanted to know where we'd got the money from and I told them that I'd borrowed it from my brother Živko Jovanović who lives in Čonoplja. An inspector started to

shout at me and told me to admit that I'd stolen it. I denied. By the way, the inspectors kept bombarding me with questions simultaneously without waiting for me to answer them. They mostly shouted and insulted me for being a Gypsy, saying Gypsies stole because had no work habits, and some such things. An inspector whose name I don't know started to punch and slap me on the neck, arms and shoulders and yelled, 'Admit your wife gave you the 200 marks!'; I got scared and said that she had; then he yelled, 'Admit your wife gave you the 300 marks' and again I confirmed. Svetlana and I were released from the police station after being questioned for four or five hours.

1.1.9. The case of Nebojša Maljić¹²

On 5 March 2002, Nebojša Maljić (44) was severely beaten outside his flat in Leskovac by two local traffic policemen. The policemen, Dejan Jovanović and Dragan Stanković, handcuffed Maljić's hands behind his back, accused him of obstructing them in the exercise of their duty, and tried to push him into a police vehicle. As they did so, one of them called him a 'Gypsy motherfucker'. The other punched him twice in the head on the spot where he had had an operation for tumour. As a result of the blow, Maljić passed out and was dumped unconscious on to the back seat with his hands handcuffed behind his back. A doctor with the Leskovac Health Centre and Maljić's neighbour, Dr Jovica Vučković, happened to be there and he fished Maljić's

¹² Source: Human Rights Committee in Leskovac.

tongue out to prevent him from suffocating. Dr Vučković urged the policemen to take Maljić to hospital where he could get proper medical help but they refused. A second police car arrived and the handcuffs were removed at a police officer's insistence. Dr Vučković then took Maljić to his flat and gave him medical help.

On behalf of Nebojša Maljić, the Committee for Human Rights in Leskovac filed a criminal complaint with the District Public Prosecutor's Office in Leskovac against the police officers for harassment. As of time of writing, the District Public Prosecutor's Office had not taken any action.

On the other hand, at the request of the District Public Prosecutor's Office acting on a police criminal complaint, the investigative judge of the Municipal Court in Leskovac instituted an investigation against Nebojša Maljić for interfering with a public official on security duty, an offence punishable under Article 23, paragraph 2 in conjunction with paragraph 1, of the Penal Code of the Republic of Serbia.

1.1.10 The beating of Dž.S.

On 19 April 2002, Dž.S., an Ashkali minor aged 17, was severely beaten by several police officers in Novi Sad. He suffered serious injuries diagnosed as chest haematoma.¹³ Following is his statement to the HLC made the same month:

¹³ Medical certificate dated 19 April 2002 and issued by the Novi Sad Emergency Surgery Department.

On 19 April 2002, I was in the amusement park by the coach station in a large group from our neighbourhood. At about 8 p.m. a uniformed policeman and three or four men in civilian clothes strode into the park. At that time I was watching my mates play video games. All of a sudden, all of them started to run in all directions. I had no clue what was going on. Somebody gave me a shove and I turned round. The uniformed policeman stood behind me. Without saying a word, he grabbed me by the lapels of my jacket and pushed me on to the dodgem track. He and several others kept tugging at my sleeves and hair, lifting me up, and pushing me on to the platform. I was in a shock and didn't have the faintest idea what was going on. One of the plainclothes men said, 'I know this one, he's the leader of a Gypsy gang.' and the uniformed policeman replied sarcastically, 'You ought to show respect for national minorities; he's not a Gypsy, he's a Roma.' and slapped me on the right cheek. After a while the uniformed policeman started to chase some people around the park while these men I didn't know held me by the lapels lest I should escape. Soon the uniformed policeman returned running and, charging at full speed, kicked me in the chest. I slumped down on to the track and gasped for air. I was scared stiff. The policeman raised a hand to give me another blow, but one of the men holding me stopped him. The policeman then called in reinforcements. Policemen in camouflage uniforms arrived, marched me to their van, spread my arms and legs, handcuffed me and shoved me into the boot of the van. They took me to the police station on Kraljevića Marka street where an inspector asked me to tell him what happened. I told him I hadn't a clue and he let me go home after ten minutes. When I got home I had a bad pain in the chest. My hands were swollen from the handcuffs. My mother Adilje got worried and

went to the police station at once. She came back in no time and took me first to the duty medical service on Njegoševa street and than to the emergency surgery clinic where they found that I had injuries.

1.1.11. Police officer maltreats children

On 29 June 2002, two Roma minors, Lj.R. (14) and D.S. (13), were physically and verbally abused by a police officer in Belgrade. The children were washing windscreens of cars waiting at the traffic lights on the corner of Ustanička and Južni bulevar streets when a police car drew up. One of the two police officers in the car got out and started to shout at the children. He then slapped D.S. in the face and the boy's lips started to bleed. Following is the boy's statement to the HLC describing the police officer's language and attitude toward the Roma children present at the scene:

'How long am I supposed to keep chasing you away? Do you take me for a monkey?' He grabbed me by the ear and slapped me on the mouth with the back of his hand. I turned around at once, wiped the blood off my mouth with a handkerchief and walked away towards Južni bulevar street. I walked around a bit and went back to join the other windscreen cleaners.

The police officer then turned on the girl, Lj.R. This is her statement to the HLC:

The policeman said to me, 'I'm gonna fuck your mother! What you're staring at?' He slapped me on the left cheek, than punched me on the same place, though not hard. I backed off from them, leaving behind my bag with my keys in it. I stepped forward to pick up my bag and they told me to buzz off. So I

backed off again. Later they told me I could have my bag back and promised not to beat me. As I picked up my bag I had a look at their badges and the car licence plate and memorized them.

The HLC requested the police to carry out a prompt and impartial investigation into the incident so that the culprits could be identified and punished. In a reply carried by the media, the police denied the allegations set out in the HLC public statement and said: 'The traffic police officer, Stevo Blagojević, approached a boy and a girl of Roma nationality aged about 13 or 14 who were washing car windscreens and begging for money and asked them to pull back from the carriageway as their presence on the carriageway was hazardous and obstructed the normal flow of traffic. The caution was delivered in a loud and clear voice, without any insult and physical contact being made, whereupon they voiced their displeasure and withdrew.' A citizen nettled by the police statement contacted the HLC and told of a case of police officers harassing Roma children on the same spot, but this turned out to be just another incident of this kind.

1.1.12. Roma man ill-treated at a police station in Čačak

On 29 July 2002, Boban Spasojević (b. 1975) of Čačak was insulted and slapped in the face in a local police station by a police officer wearing the badge No. 109948. The victim was brought in from his younger brother's birthday party because he could not produce his identity card. Following is his statement to the HLC:¹⁴

¹⁴ HLC files, statement by Boban Spasojević, 16 August 2002.

That evening we were celebrating my younger brother Bojan Spasojević's eighteenth birthday on the Roma society premises at 59 Kneza Miloša street in Čačak. The police came twice to tell us to keep the music down, which we did after their second visit. However, twenty minutes later, the police broke open the front door without any warning and asked who was in charge of the party. I said I was. They asked to see my identity card. I didn't have one and told them I kept my passport at home and could show them that. Immediately they pushed me into the police van and drove me to the police station. When we got there, they put me in a ground-floor room. Inside were policeman Vladan Popović, policeman Kuzeljević, and their shift commander. As soon as I was brought in, policeman Popović came up to me and slapped me hard on the face without cause. A little later, he approached me again and slapped me twice, first with the left and then with the right hand. I stood up and asked him, 'What did you hit me for?' He stepped forward and hit me again, this time with both hands at the same time. Then he yelled at me, 'You scum, you ill-mannered cattle!' After they took down my particulars I asked him why he was beating me. He said nothing but Kuzeljević and the shift commander said that no one had touched me.. Then Popović took off his belt and challenged me to step out into the police station yard so we could have a fight, saying he was free to fight as long as he wasn't in uniform. I didn't know why he was treating me that way and said nothing. Then Popović told me, 'I'll keep after you as long as you live, I'm gonna beat you wherever I see you.' I replied that I'd make sure he lost his job. I spent over two hours at the police station, having been brought in after 1.30 a.m. and released around 4 a.m.

Shortly after Popović was brought in, his brother Boško and his wife Jasna Spasojević arrived at the station, saw what was going on through the window and went in. In her statement to the HLC, Spasojević described the incident as follows:

I was there all the time from the moment the police arrived at the party to the moment Boban was released from the police station. Five minutes after Boban was taken away, we arrived at the police station by car. From the car I saw a policeman slap Boban on the face. My husband Boško and I went into the station. Boško went to the reception booth to show his identity card and I proceeded to the office in which Boban was held. Having seen the policeman slap Boban, I entered the office and asked at once, 'What kind of harassment is this?' Policeman Vladan Popović took me by the arm and out into the corridor. Then he pulled me by the hair and said, 'Get out, you cute Gypsy broad.' My husband grabbed him by the hand and he let go of my hair. We insisted on being told the policeman's name, but at first they didn't want to tell us. We persisted and the duty policeman told us that the policeman in question was Vladan Popović and that his official badge number was 109948.

Boban Popović was kept at the police station for two hours before being released.

1.1.13. The beating of Jovan Nikolić

On 11 November 2002, Jovan Nikolić (b. 1950) of Dobrinac village in Ruma municipality presented himself for an interview at the police station in Petrovaradin near Novi Sad. On his arrival at the station, he was requested by an inspector whom his colleagues called Peđa to admit to stealing television sets, tyres,

power generators, and some other articles. After Nikolić refused to admit, the inspector first slapped him in the face several times, then pressed his head against a wall and squeezed his temples with both hands. A police officer came in and began to beat Nikolić on the shoulder with a truncheon. Nikolić described this torture in his statement to the HLC:¹⁵

They kept telling me I had to admit and I kept refusing. I begged them to stop beating me because I'd had pneumonia recently and had breathing problems. The policeman replied, 'You Gypsies think you can get away with murder. I'd make a mincemeat of you if I could.' After a short while a police patrol from Bački Petrovac arrived and took me there. At the police station I was questioned by inspector Miškar, who was surprised to see me there because he knew me as an honest man. He talked with me without harassing me in any way and I was released at about 7 p.m.

Three days later, on November 14, a police patrol arrived at Nikolić's house at about 1 p.m. and took him to the police station in Ruma where he was taken over by Petrovaradin police. The police officers beat him again and insisted that he admit to stealing. Following is his account to the HLC of what happened:¹⁶

Several policemen, some in civilian clothes and others in uniform, kept entering and leaving the room where I was. I think I saw two plainclothes inspectors and four uniformed policemen

15 HLC files, statement by Jasna Spasojević, 16 August 2002.

16 HLC files, statement by Jovan Nikolić, 18 November 2002.

in all. I recognized inspector Peđa as one of them. They pushed me against a wall with my face towards it and started to beat me again. I was ordered to lean against the wall supporting myself on my hands and a uniformed policeman picked up a shovel and struck me four times on the buttocks and thighs. The beating left bruises which later I had taken pictures of. They insisted again that I admit to stealing.

Nikolić then threatened the police officers with court action and said he would see a doctor at once and request a medical certificate about his injuries. As a result, a judge was consulted and Nikolić was ordered to spend forty-eight hours in detention.¹⁷ On November 16 he was examined by an investigating judge and released. Nikolić later visited the Health Centre in Ruma where he obtained a medical certificate establishing light physical injuries.¹⁸ On 10 December 2002, the HLC filed a criminal complaint with the District Public Prosecutor's Office in Novi Sad against unidentified police officers with the Petrovaradin police station.

1.2. Domestic standards

The right to physical and psychological integrity of person, including the right to dignity, honour and reputation, is inviolable under domestic legislation.

¹⁷ Apprehension and transfer report of 16 November 2002, Petrovaradin police station, ref. No. KU-5911/02.

¹⁸ Ruma Health Centre, medical certificate, 19 November 2002.

a) Constitutional guarantees

The Constitution of the Federal Republic of Yugoslavia (FRY)¹⁹ guaranteed the inviolability of the physical and psychological integrity of the individual, his privacy and personal rights, and his dignity and security. The FRY Constitution also prohibited all torture, degrading treatment and punishment. It also penalized the use of force against a person deprived of his liberty, any extortion of confessions and statements, and any torture, humiliating punishment and treatment.²⁰ However, these provisions did not include prohibition of cruel or inhuman treatment or punishment laid down under Article 7 of the International Covenant on Civil and Political Rights.

When the FRY was transformed into the State Union of Serbia and Montenegro, the FRY Constitution was superseded by the Constitutional Charter which incorporates a Charter on Human and Minority Rights and Fundamental Freedoms.²¹ The Charter

¹⁹ Article 22 of the FRY Constitution: 'The inviolability of the physical and psychological integrity of the individual, his privacy and personal rights shall be guaranteed.'

²⁰ Article 25 of the FRY Constitution: '1. Respect for the human personality and dignity in criminal and all other proceedings in the event of detention or restriction of freedom, as well as during the serving of a prison sentence, shall be guaranteed. 2. The use of force against a suspect who has been detained or whose freedom has been restricted, as well as any forcible extortion of confessions or statements, shall be prohibited and punishable. 3. No one may be subjected to torture, or to degrading treatment or punishment.'

²¹ The Charter on Human and Minority Rights and Fundamental Freedoms was adopted and promulgated on 4 February 2003.

guarantees the inviolability of physical wellbeing and mental integrity²² and stipulates that an arrested person must be treated humanely and be entitled to compensation in case of an unlawful arrest.²³ Separate articles provide for additional²⁴ and special²⁵ guarantees to persons deprived of their liberty. These

22 Article 12 of the Charter on Human and Minority Rights and Fundamental Freedoms: '1. Everyone is entitled to inviolability of his or her physical wellbeing and mental integrity. 2. No one shall be subjected to torture or to inhuman or degrading treatment. 3. No one shall be subjected to medical or scientific experiments without his freely given consent.'

23 Article 14 of the Charter of Human and Minority Rights and Fundamental Freedoms: '...6. Everyone who is arrested shall be entitled to take proceedings by which the lawfulness of his arrest shall be decided speedily by a court and his release ordered if the arrest is not lawful. 7. The arrested person shall be treated humanely and with respect for his personal dignity. Any violence against the arrested person and the extortion of evidence shall in particular be prohibited. 8. Everyone who is arrested unlawfully shall have a right to compensation.'

24 Article 15 of the Charter on Human and Minority Rights and Fundamental Freedoms: '1. The arrested person shall be informed promptly that he has the right not to make any statements and the right to have a defence lawyer of his own choosing present during the hearing. 2. The arrested person shall be promptly, and not later than within 48 hours brought before a competent court. Otherwise, he shall be released. 3. A person reasonably suspected of having committed a criminal act may be detained only upon the decision of the competent court, if that is necessary for the purposes of conducting the criminal proceedings. 4. Duration of detention shall be reduced to the shortest necessary time in accordance with the law, which shall be taken care of by the competent court.'

25 Article 16 of the Charter on Human and Minority Rights and Fundamental Freedoms: '1. Everyone has the right to be informed promptly, in detail and in a language which he understands, of the nature and reasons for bringing charges against him, and is entitled to a prompt trial. 2. Everyone has the right to a defence, including the right

guarantees are more comprehensive than those provided by the FRY Constitution.

The Constitution of the Republic of Serbia²⁶ guarantees respect for human personality and dignity, prohibits torture and degrading punishment or treatment, and stipulates that human dignity is inviolable.²⁷

b) Criminal law provisions

The Penal Code of the Republic of Yugoslavia protects the dignity and integrity of the individual against unlawful acts by public officials, treating such criminal offences as infliction of civil

to take a defence counsel of his own choosing before the court or other authority competent for conducting the proceedings, to communicate without hindrances with his defence counsel and to have sufficient time and facilities for the preparation of his defence. 3. The law shall specify the cases in which the interests of fairness require that the accused be given a defence counsel *ex officio* if he is not able to pay for the defence counsel's services. 4. The accused shall have the right to be assisted by an interpreter if he can not understand or speak the language used in the proceedings. 5. No person that is accessible to the court or other authority competent for conducting the proceedings shall be punished unless he has been given the opportunity to be heard and to defend himself. 6. No one shall be forced to testify against himself or to admit guilt.'

26 Article 26 of the Serbian Constitution: '1. Respect for the human being and his dignity shall be guaranteed in criminal and any other proceedings, in the event of deprivation or restriction of liberty, as well as during imprisonment. 2. No one shall be subjected to torture, humiliating punishment or treatment. 3. It is prohibited to use a man, without his consent, as an object in medical and other scientific experiments.'

27 Article 18 of the Serbian Constitution: 'Human dignity and the right to a private life are inviolable.'

injury.²⁸ These offences are grouped together with criminal offences against the rights and liberties of man and the citizen. Infliction of civil injury by public officials implies any action which threatens the physical and psychological integrity of an individual, violates his honour and reputation, and causes him physical pain or mental suffering (e.g. swearing, insulting, disparaging, slapping of cheeks, pulling of hair, etc.). These criminal offences are punishable by imprisonment from three months to three years.

If a public official inflicts bodily harm on the victim through harassment, he shall be tried for the criminal offence of inflicting a civil injury in conjunction with the criminal offence inflicting bodily harm, that is, for both.

As regards the criminal offences against life and limb, the Serbian Penal Code distinguishes between four categories of injuries: slight bodily injuries, serious slight bodily injuries,²⁹

28 Article 66 of the Serbian Penal Code: 'A public official who in the exercise of his duties abuses or insults another person, or treats him in such a manner as to injure his human dignity, shall be punished by imprisonment from three months to three years.'

29 Article 54 of the Serbian Penal Code: '1. A person who causes another light injuries or impairs his health slightly shall be punished by imprisonment of up to one year. 2. If such injury is caused by a weapon, an offensive implement or another object suitable for causing severe injury or serious impairment of health, the perpetrator shall be punished by imprisonment of up to three years. 3. The perpetrator of an offence referred to in paragraph 2 may be given judicial caution if he was provoked by improper or rude behaviour on the part of the aggrieved party. 4. Prosecution of an offence referred to in paragraph 1 of this Article is instituted on the basis of a civil lawsuit.'

ordinary severe bodily injuries, and particularly severe bodily injuries.³⁰ A person is deemed to have suffered a slight bodily injury if his life is not in danger and/or if his health has not been permanently and seriously impaired. Judicial practice considers bruises, abrasions, scratches, slight dislocations, etc., as such injuries. Punishment for inflicting such injuries is imprisonment for up to one year. If a slight bodily injury was caused with a weapon, a dangerous implement or a similar object, the perpetrators will be imprisoned for up to three years.

A severe bodily injury implies severe harm to physical integrity or severe impairment of health without however endangering the victim's life. Punishment for such an offence ranges from six months to five years in prison.

30 Article 53 of the Serbian Penal Code: '1. A person who causes another severe injuries or impairs his health severely shall be punished by imprisonment of up to one year. 2. A sentence of imprisonment from one year to ten years shall be imposed on a person who causes another severe bodily harm or serious impairment of health so as to threaten his life, or destroy or permanently or substantially damage an important part of his body or organ, or render him permanently unfit for work, or permanently and seriously impair his health, or render him disfigured. 3. If the injured person dies as a result of injuries referred to in paragraphs 1 and 2 of this Article, the perpetrator shall be punished by imprisonment from one year to twelve years. 4. A person who commits an offence referred to in paragraphs 1 and 2 of this Article involuntarily shall be punished by imprisonment of up to three years. 5. A person who involuntarily commits an offence referred to in paragraphs 1-3 of this Article because, through no fault of his own, he was strongly provoked by an assault or grave insult by the victim, shall be punished by imprisonment of up to three years in respect of an offence referred to paragraph 1 or by imprisonment from one to five years in respect of an offence referred to in paragraphs 2-3.'

A person is deemed to have suffered a particularly severe bodily injury if his life is in danger, if any of his vital organs has been destroyed or damaged, if he has been rendered permanently incapable of work, if his health has permanently been impaired, or if he has been disfigured. Punishment for such offences ranges from one year to ten years in prison. The gravest offence of this kind, leading to the death of the victim as a result of the injuries inflicted, is punishable by imprisonment from one year to twelve years.

c) Compensation

The civil-law protection against violations of fundamental human rights, including the right to physical and psychological integrity, provides for compensation by the state. A claim for compensation is submitted under Article 14 of the Charter on Human and Minority Rights and Fundamental Freedoms, Article 25 of the Serbian Constitution and Article 172 (2), Articles 193-197, and Article 200 of the Law on Obligations. Article 25 of the Serbian Constitution and Article 172 (2) of the Law on Obligations lay down the criteria of liability of a legal person (including the state) whose organ inflicts damage on a third person in the discharge of its functions or in connection thereof. Articles 193-197 of the Law on Obligations regulate the indemnity in money for physical damage in the event of death, bodily harm or impairment of health. Article 200 of the Law on Obligations regulates the indemnity in money for non-pecuniary damage as a special form of recompense for physical or mental pain resulting from injury to physical or psychological integrity.

1.3. International standards

The Constitutional Charter of Serbia and Montenegro provides that ratified international treaties and generally accepted rules of international law have precedence over both the law of Serbia and Montenegro and the laws of the member states,³¹ and the FRY Constitution contained a similar provision.³² The Constitutional Charter also provides for the direct implementation of provisions of international agreements on human and minority rights applicable in the territory of Serbia and Montenegro.³³ Many international documents ratified by the FRY or having the force of recommendation protect the physical and psychological integrity of the individual against acts by public officials and prohibit any torture, cruel, inhuman or degrading treatment or punishment.³⁴ Precise instructions for public officials on how to proceed in the discharge of their functions are contained in numerous recommendations by interna-

31 Article 10 of the Constitutional Charter of Serbia and Montenegro.

32 Article 16 (2) of the FRY Constitution.

33 Article 9 (3) of the Constitutional Charter of Serbia and Montenegro.

34 Article 7 of the International Covenant on Civil and Political Rights: 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.'

Article 2 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment: '1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. 3. An order from a superior officer or a public authority may not be invoked as a justification of torture.'

tional organizations. Thus Article 2 of the UN Code of Conduct for Law Enforcement Officials lays down that in the performance of their duty law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.³⁵ Although recommendations and rules of international bodies are not binding international documents, their authority as an elaboration of norms in international human rights conventions is considerable.

1.4. Extortion of information and unlawful deprivation of liberty

As a rule, the police look for perpetrators of criminal offences against property, such as theft and fraud, first in Roma settlements. Roma are treated as suspects merely for being present in the part of the town where a criminal offence has been committed. In their operational work, police officers arrest Roma without giving them the reasons; they present them with detention orders only rarely; and, as a rule, they use force and threats to extort confession. Several cases of extortion of evidence from children and minors under sixteen years of age were registered during 2001.

1.4.1. The case of Krsta Kalinović

On 8 July 2002, the Fifth Municipal Court in Belgrade sentenced Voždovac SUP police officers Dragan Ninković and Goran Krstić

³⁵ The Code of Conduct for Law Enforcement Officials was adopted by General Assembly resolution 34/169 of 17 December 1979.

to three months in prison each for severely beating Krsta Kalinović (b. 1976) on 7 May 1998. In order to extort information about a number of criminal offences committed in Kalinović's neighbourhood, the two police officers kicked, punched and beat him with truncheons for over an hour, causing him numerous injuries in the form of haematoma and swellings. On bringing Kalinović to the Voždovac police station from his home, Ninković first ordered him to kneel so that he could handcuff him to the table, then struck him on the soles with a truncheon scores of times. Ninković next removed the handcuffs and used the truncheon to beat Kalinović on the knees and fingers. Krstić struck him on the head with a chair, then bashed his head against a wall several times. As he did so, he told Kalinović that he would have him 'locked up' for six months and that his wife would have to prostitute herself in order to feed herself. The police officers continued to torture Kalinović by placing a plastic bag over his head, kicking him in the testicles and beating him on the head with a truncheon. After that Kalinović was confined in a solitary cell and released the next day. Although the HLC had filed the criminal complaint in June 1998, the judgement was passed four years later. This was one of the few cases in which police officers were sentenced for torturing Roma (see case 1.1.1.).

1.4.2. The case of Stevan Dimić

On 23 July 1998, Stevan Dimić (47) of Novi Sad was unlawfully deprived of his liberty on charges of raping a fifteen-year-old girl from his home village of Lok. In order to extort confession from him, police officers at the Novi Sad police station on Kraljevića Marka St. forced him to lie face down on the floor and

placed a chair on his back. A police officer sat on the chair and beat Dimić with a truncheon and an iron bar all over his body while another pressed his head against the floor with a foot. Dimić was handcuffed throughout the interrogation. He was also handcuffed to a clothes rack with his legs spread wide apart and kicked in the testicles and beaten all over his body with a truncheon. The police officers asked him if he had any children; when he replied that he had none, they said he was not going to have any anyway. A police officer insulted Dimić with the words: 'You filthy Gypsy! You half-wit! Confess or we're gonna kill you!' During his stay at the police station Dimić discharged blood with his urine. The investigating judge who took Dimić's statement saw his injuries and advised him to see a doctor. However, when he was returned to the detention cell he received no medical help because the guards told him that 'the doctor's off duty at weekends.' He was examined by a doctor only a few days later. During his detention Dimić was also humiliated: the guards insulted him on account of his ethnicity and left his food on the floor; the other detainees in the cell were handed their food properly.

Dimić was released on 3 August 1998. He was later widely boycotted and had to close down his cafe and store in the village. He suffered numerous other embarrassments because frequent police visits to search his home had not escaped the notice of his neighbours.

On 8 April 2000, the Municipal Court in Novi Sad pronounced Dimić not guilty of statutory rape. The judgement of acquittal was confirmed by the District Court on 12 December 2000.

Dimić claimed damages for being unlawfully detained. On 11 September 2002, the Municipal Court in Novi Sad ordered the Republic of Serbia to pay Dimić 240,000 dinars in compensation for his unlawful detention and harassment by police officers at the police station and during his twelve-day detention.

1.4.3. The case of Dejan Mitrović

On 25 March 1999, Dejan Mitrović of Belgrade went out at about 2 a.m. to buy bread at a nearby store on Grčića Milenka St. He was stopped by a police patrol, accused of being a thief, and abused and beaten for several hours. This is his statement to the HLC:

They asked me what I did for a living and if I thieved. I said that I didn't thieve but sold things in the market. They said I was lying and ought to confess that I'd been stealing things. They said, 'Tell us what you've stolen, you Gypsy motherfucker!' I told them they could see for themselves that I kept no stolen things if they went to my home. They took me to a place where there'd been a burglary that night. They first took me to a kiosk on Maksima Gorkog street that'd been broken into. They dragged me out of the car, slapped me in the face, and asked me to admit to having stolen some things. I said I hadn't, so they drove me to a burglarized boutique on Južni Bulevar street. They dragged me out and told me to admit to breaking in. One of them keep saying, 'Tell us, you Gypsy motherfucker, all you've done, what you've stolen and the places you've broken into.'

The police officers drove Mitrović home after about four hours. While he was in the car, they spoke with his father Vlada Simić:

They asked me where Dejan was and whether he was in the air-raid shelter since a NATO bombing raid was in progress. I said he'd gone to the store to buy bread. Then the policeman told me, 'Dejan is in the car. Why did you send him to buy bread at two o'clock in the morning? We've had a little chat with him.' The policeman said he'd given Dejan a beating and that Dejan was a stubborn lad.

After this conversation the police officers let Mitrović go. One of them gave him this piece of advice: *'Don't you go out at night to buy bread. You see what happened to you.'*

Dejan Mitrović did not want to file a criminal complaint because he feared retaliation.

1.4.4. Roma man beaten in front of wife and child

On 10 November 1999, Ljubomir Jovanović of Kragujevac was beaten in front of his wife and two-year-old child.

On the afternoon of that day a police patrol entered the Jovanović family's yard looking for Ljubomir's son Dejan. They told Ljubomir that Dejan had stolen a bicycle and wanted to know where he was. Ljubomir said he did not know. He told the HLC what happened next:

They cursed my Gypsy mother and accused me of hiding Dejan. One of them punched me about the left ear. I fell down. They pushed me into the car. Inside, they punched me on the head and slapped me on the face. They took me to the Kragujevac

SUP. While I was entering the building, one of them kicked me in the right leg so hard as to cause me an injury.³⁶

Ljubomir's wife Snežana was inside the house with their child while he husband was beaten in the yard. This is what she told the HLC:

The policemen asked Ljubomir where our son Dejan was. Ljubomir said he didn't know. One policeman yelled, 'Don't give me that shit, you Gypsy motherfucker!' and punched him on the head. He fell. They dragged him away towards the car and drove away.³⁷

Ljubomir was released from the police station after half an hour. He had a severe headache and was sick and confused, so he sought medical assistance. The doctor's certificate says he sustained '*contusio capitis*'.

On 8 November 1999, the HLC filed a criminal complaint against the unidentified Kragujevac SUP employees for extorting a confession³⁸ and inflicting slight physical

³⁶ HLC files, statement by Ljubomir Jovanović, 5 May 2000.

³⁷ HLC files, statement by Snežana Jovanović, 5 May 2000.

³⁸ Article 65 of the Serbian Penal Code: '1. A public official who in the performance of his duties uses force or threats or other unlawful methods with the intention of extorting a confession or a statement from an accused person, a witness, an expert or another person, shall be punished by imprisonment of at least one year. 2. If a confession or a statement was extorted by using heavy violence, or if the accused person is put at a particularly grave disadvantage during the criminal proceedings as a result of a statement extorted from him, the perpetrator shall be punished by imprisonment of at least a year. '

injuries.³⁹ On 10 May 2000, the Municipal Public Prosecutor's Office dismissed the criminal complaint and informed Ljubomir Jovanović that he could proceed against the perpetrators, whose identity had meanwhile been established, in the capacity of private prosecutor by filing a prosecution request.⁴⁰ On 12

39 Article 54 of the Serbian Penal Code: '1. A person who causes another light injuries or impairs his health slightly shall be punished by imprisonment of up to one year. 2. If such injury is caused by a weapon, an offensive implement or another object suitable for causing severe injury or serious impairment of health, the perpetrator shall be punished by imprisonment of up to three years. 3. The perpetrator of an offence referred to in paragraph 2 may be given judicial caution if he was provoked by improper or rude behaviour on the part of the aggrieved party. 4. Prosecution of an offence referred to in paragraph 1 of this Article is instituted on the basis of a civil lawsuit.'

40 Article 61 of the Criminal Procedure Code: '1. Where the State Attorney determines that no grounds exist to institute prosecution for a criminal offense subject to public prosecution or where he determines that there are no grounds to institute prosecution against one of the accessories reported to the authorities, he is bound within eight days to notify the injured person thereof and instruct him that he can assume prosecution by himself. The same procedure shall apply to the court when it renders a ruling discontinuing the proceedings because the State Attorney has desisted from prosecution. 2. The injured person shall be entitled to institute or continue prosecution within eight days following receipt of the notice referred to in paragraph 1 of this Article. 3. If the State Attorney withdraws the indictment, the injured person may, in assuming prosecution, adhere to the charge raised or bring a new charge. 4. The injured person who is not notified that the State Attorney has failed to institute prosecution or has desisted from prosecution may, within three months from the day the State Attorney dismissed the crime report or the ruling discontinuing the procedure was rendered, declare to the court having jurisdiction that he shall institute or continue proceedings. 5. When the State Attorney or the court notifies the injured person that he may assume prosecution, they shall inform him of the procedural actions he may undertake in order to realize that right. 6. If the sub

April 2000, the HLC filed a prosecution request with the Municipal Court in Kragujevac against police officers Oliver Rajović and Žarko Borovićanin for committing the criminal offence of extorting information in contravention of Article 65 of the Serbian Penal Code. On 19 December 2001 the Municipal Court decided to stay the proceedings because the injured party's attorney was late for the hearing, whereupon the HLC attorneys applied for a reversion to the previous stage of the proceedings. The Municipal Court dismissed the application on 26 September 2002 and the HLC attorneys appealed the decision on 7 October 2002.

1.4.5. The case of Đorđe Toči

At about 11 a.m. on 3 December 1999, Đorđe Toči and his father were repairing a car in Jovana Bijelića St. in Belgrade. Three plainclothes police officers approached Đorđe and asked him whether he dealt in hard currency. This is his description of the incident to the HLC:

One of the policemen called out to me, 'Hey you, baldy, come over here!' I asked him what he wanted. He said he knew me for a good guy and asked me how much the German mark was

sidiary prosecutor dies pending the term for assuming prosecution or pending proceedings, his spouse, his cohabitee or a person living with him in some other type of a permanent life community, children, parents, adopted child, adoptive parent, or his siblings may within three months after his death assume prosecution or declare that they shall continue proceedings. 7. The ruling discontinuing the proceedings rendered because the State Attorney has desisted from prosecution shall enter into force after the terms referred to in paragraphs 2 and 4 of this Article have expired.'



worth. I told him I didn't know. They said they were policemen, showed me their badges, and told me to accompany them to the police station. They didn't tell me why they were taking me away. My father wanted to come along, but they told him to back off or he'd be pulled in too. I calmed Father and got into the police van. They took me to the police station in the company of several young men. I was kept in the corridor till noon. I was questioned by a plainclothes inspector, I think his name's Dejan. He asked me who'd been stealing around the neighbourhood. I said I didn't know. He said, 'Since you don't know, you're going to the Central Prison.' I was taken to the Central Prison at 9 p.m. I was kept in a solitary cell for three days.⁴¹

Toči was released after three days. No criminal or misdemeanour charges were brought against him. Fearing retaliation, he did not want to press any charges against the police officers who had unlawfully deprived him of his liberty.

1.4.6. Pregnant woman and her husband harassed

Saša Mustafić was beaten twice by police officers from the Čukarica police station in Belgrade to make him confess to stealing. His wife Demira Gezvira, who was heavily pregnant, was psychologically abused.

At about noon on 3 August 2000, four plainclothes police officers swooped down on Mustafić in a street in the Belgrade dis-

⁴¹ HLC files, statement by Đorđe Toči, 23 June 2000.

trict of Banovo Brdo, punching him on the back and stomach. Although he did not resist, they handcuffed him and took him to the police station in Čukarica. They insisted that he confess to breaking into a kiosk on Lješka St. in Banovo Brdo and stealing a bag. Mustafić had never been detained before. This is his statement to the HLC:

At the police station, they removed my shoe-laces and took me to a solitary cell. After half an hour, they took me to a room where the policemen who'd brought me in were waiting for me. They asked me about some housebreaking job. One of them said, 'Come on, tell us what you stole.' Then they started to beat me. One of them punched me on the ribs and stomach. They swore about my Gypsy mother. When I said I didn't know where that flat was, they replied, 'OK, that's not important, tell us where the bag is.' He was talking about some bag which was missing from the 'Suncokret' kiosk on Lješka street. I said I knew nothing about it. One of them said, 'Don't you lie to us, you Gypsy motherfucker. You Gypsies always lie and swear on your children's heads. You Gypsies are full-time thieves.' Another started to beat me on the hands, small of the back, spine and head with a truncheon. One policeman said, 'He's playing it dumb, why doesn't he own up? Pass me that Albanian flag, I'd love to whack him with it.' They asked if I was circumcised. I said I wasn't. One of them picked up a pair of pliers and a knife and said, 'Take off your clothes, I'm gonna do it for you.' But the telephone rang just then and he went out.

After being tortured like that for five hours, Mustafić was released from the police station at about 5 p.m.

Mustafić's wife made the following description of his condition when he returned home:

He had four large bruises on the back and arms. One of them was at least 5 cm wide. His left arm was swollen real bad. He had a bump on the head. There was a gash on the back of the head. He was very pale. He said he had a pain in the chest. He couldn't eat for two days. He didn't see a doctor because he was afraid they'd bring him in and beat him again.

Four days later, at 8 a.m. on August 7, two police officers burst into their flat and detained both of them. At the Čukarica police station, four police officers again beat him on the arms with truncheons in order to make him admit to stealing the bag:

They asked me where I'd got the twenty German marks from. I replied I worked in a flea market and that was my earnings. They told me I was lying and that my wife had already admitted that I'd stolen a bag with 120 marks and some documents inside.⁴²

Although heavily pregnant, Gezvira was humiliated, threatened and sadistically abused to admit to a theft she had not committed:

They asked me where I'd thrown the bag away. I cried and said I knew nothing about it. They threatened me, 'Now we're going to beat the hell out of you and you're gonna lose that child of yours in fifteen minutes.' They said, 'Don't make us take out our truncheons, better own up.' One of them asked, 'How about

⁴² HLC files, statement by Saša Mustafić, 15 August 2000.

licking my balls?’ and another said, ‘Don’t let’s just stand around looking at each other. Which one of us do you like best?’ I kept silent. They kept at me to tell them how I stole the bag. I kept my hands on my belly and they ordered me to take them off. One of them took a truncheon out of a drawer and said they’d make me watch Saša being beaten. They brought Saša in and took me to a solitary cell. Half an hour later they brought me back into the room where Saša was. They again questioned me about the bag in his presence, then they let us go.⁴³

Demira Gezvira and Saša Mustafić were released at about 2 p.m. following six hours of uninterrupted abuse.

On 3 January 2001, the HLC filed with the First Municipal Public Prosecutor’s Office in Belgrade a criminal complaint on behalf of Saša Mustafić against the unidentified public officials for harassment, extortion of information and infliction of slight injuries. Saša Mustafić and Demira Gezvira made statements to an investigating judge of the Second Municipal Court in Belgrade on 23 August 2001.

1.4.7. The torture of Roma men from Vinarce settlement

On the pretext of looking for illicit weapons, Leskovac police on 28-29 January 2001 searched the Roma settlement Vinarce near Leskovac and detained eight Roma, the oldest of whom was aged seventy-six. At the Leskovac police station, they were treated brutally: during the two days they were beaten inter-

⁴³ HLC files, statement by Demira Gezvira, 15 August 2000.

mittently, they were handcuffed and given no food and water, and some of them were also denied the use of the toilet.

Daka Zekić (76) was taken to the police station at about 10 a.m. on 27 January 2001. Until he was released at 1 p.m. on January 29, he was given no food and water. For two days and two nights Zekić was handcuffed alternately to a metal cupboard and a radiator, as well as slapped and punched in the face and beaten on the back with a truncheon by inspectors and uniformed police officers. He vainly begged them to stop because he had recently had four ribs broken as a result of a fall. The police officers continued to kick him on the legs even after completely dislocating a knee joint.

On behalf of Daka Zekić, the Committee for Human Rights in Leskovac and the Yugoslav Committee of Human Rights Lawyers filed with the Municipal Public Prosecutor's Office in Leskovac a criminal complaint against the police officers for extortion of information and unlawful deprivation of liberty.⁴⁴ As of this writing, no indictment had been brought in.

Trajče Bakić of Vinarce was arrested in the Leskovac market at about 10.30 a.m. on 27 January 2001. At the police station in Leskovac until late that night he was given no food and water and was denied the use of the toilet. All that time an inspector and a uniformed police officer took turns slapping him on the head, punching him on the back, and striking him on the palms and backs of the hands with truncheons. When he slumped to

⁴⁴ Kt. No. 662/01.

the ground in pain, he was kicked all over the body. The inspector kept calling him 'Gypsy motherfucker' and the unformed police officer kept saying, 'I'm worse than Hitler for Gypsies and Jews.' On his release from the police station Bakić was helped home by his neighbour Saša Ramić because he could hardly walk.

On behalf of Trajče Bakić, the Committee for Human Rights in Leskovac and the Yugoslav Committee of Human Rights Lawyers filed a criminal complaint⁴⁵ with the Municipal Public Prosecutor's Office in Leskovac against the police officers for inflicting civil injury. The criminal complaint having been dismissed, the Committee for Human Rights requested the investigative judge of the Municipal Court in Leskovac to institute an investigation. As of this writing no action had been taken.

Miroslav Ajdarević of Vinarce was arrested at about 8 a.m. on January 28 and detained at the Leskovac police station until 11.30 p.m. on January 29. To extort from him a confession that he had a weapon, an inspector beat him while he was handcuffed to a metal cupboard. The inspector used his hands and a metal bar to beat Ajdarević repeatedly all over the body, causing him large haematoma on the right arm and shoulder. At one time the inspector inserted into his nostrils the sharp points of a 40 cm long crowbar for extracting nails and threatened to kill him unless he admitted to possessing a weapon. In the evening of January 28 the inspector did not allow Ajdarević to drink the mineral water his brother had brought him. He spent the whole

⁴⁵ Kt. No. 662/01.

night handcuffed to a bench. Ajdarević was the only one of the eight Roma from Vinarce to have obtained a medical certificate testifying to his injuries. However, he had to wait twenty days for it because the doctors to whom he had applied said they were afraid of the police. The certificate says he suffered slight injuries inflicted with a blunt object. The police never discovered the weapon they had accused Ajdarević of possessing.

The Committee for Human Rights in Leskovac filed with the Municipal Public Prosecutor's Office in Leskovac a criminal complaint⁴⁶ against the police officers who had abused Ajdarević while attempting to extort a confession from him. As of this writing, no indictment had been raised.

Around noon on 28 January 2001, Dejan Zekić and his wife Violeta Jašarević were visited at their house in Vinarce village near Leskovac by three Leskovac police officers. One of them was known to Dejan and Violeta as Ljubiša Zdravković. Zdravković came upon Violeta on the porch and asked her whether Dejan was at home, to which she replied that she could not tell. Dejan, who had heard the question directed to Violeta, went out immediately and introduced himself to the police officers. Zdravković slapped Violeta on the face so hard that she fell down, then demanded that she hand over the pistol her husband allegedly possessed. Violeta replied that her husband's pistol had already been confiscated by the police. Displeased with what he heard, Zdravković continued to slap her in the face in

⁴⁶ Kt. No. 662/01.

front of children and relatives. Zdravković then ordered Dejan, who describes himself as a Christian Evangelic Church cleric, and Violeta to show him the room in which Dejan held service. In the room Zdravković slapped Violeta again and demanded that she give him the weapon, then slapped Dejan because he denied possessing a weapon. The police officers then confiscated Dejan's passport and took Dejan and Violeta outside, where Zdravković gave Violeta another slap in the face. A Leskovac police inspector known to Dejan as Saša appeared at the yard gate, called out to Zdravković and told him to return the documents to Dejan. After that the police officers allowed Violeta and Dejan to go back into the house. The police officers had no search warrant, issued no certificate of search and found no weapon.

The Yugoslav Committee of Human Rights Lawyers and the Committee for Human Rights in Leskovac filed a criminal complaint with the Municipal Public Prosecutor's Office in Leskovac against police officer Zdravković (Kt. No. 663/01) for inflicting a civil injury. As of this writing, the submitters had no knowledge of an indictment having been brought in.

Sadrija Kurtić of Vinarce village presented himself at the Leskovac police station at about 3.30 p.m. on 27 January 2001. He had been telephoned from the police station by his brother Srđan Kurtić on orders by the police. On his arrival, Sadrija Kurtić was taken by an inspector named Saša into an office where he saw another Roma from the village, Šerif Bakić. The inspector ordered Bakić out and told Kurtić to confess everything. When Kurtić said that he had informed a lawyer of his

summons and was not going to talk without his being present, the inspector started to beat him with open hands on the head and back to make him disclose where the weapons were. When Kurtić raised his hands to ward off the blows, the inspector called in two colleagues who handcuffed him to a leg of a metal table. The police officers then went out and searched Kutrić's home. Not having found any weapons, they released him at about 9.30 p.m.

The Yugoslav Committee of Human Rights Lawyers and the Committee for Human rights in Leskovac filed with the Municipal Public Prosecutor's Office in Leskovac a criminal complaint against the police inspector for extorting information and making an unlawful arrest. As of this writing, the submitters had no knowledge of an indictment having been brought in.

At about 10 a.m. on 28 January 2001, Miodrag Bakterović of Vinarce village was visited by three uniformed police officers and an inspector by name Saša. They took him to the Leskovac police station although they had no arrest warrant.

On their arrival at the police station, inspector Saša took Bakterović into an office and fastened his leg to a metal table by means of handcuffs. The inspector interrogated him for about three hours and insisted that he admit to buying a pistol from a Roma named Sejdo. The inspector next drove Bakterović into a corridor and handcuffed him to a radiator. Five minutes later, a police officer named Ljubiša Zdravković removed the handcuffs and let Bakterović go. Bakterović was presented with no arrest or detention warrant. The Yugoslav Committee of Human

Rights Lawyers and the Committee for Human Rights in Leskovac filed with the Municipal Public Prosecutor's Office in Leskovac a criminal complaint⁴⁷ against the police officers involved for making an unlawful arrest. As of this writing, the submitters were unable to confirm that a proceeding had been instituted.

1.4.8. Roma youth beaten with a wooden pole

On 5 March 2001, Miroslav Milić (18) was severely beaten by four police officers from the Zvezdara district police station in Belgrade to make him confess to stealing things from his former girlfriend's flat.

A plainclothes police officer arrived at Milić's parents' flat around noon and took Milić to the police station. Milić was led into a third-floor office. Following is his account of the incident to the HLC:

The policeman who'd brought me in started to curse my Gypsy mother at once. He went out for a minute or two and returned in the company of two others. They started to insult me and say I had to admit to stealing. They threatened to keep me in a cell for a month and then transfer me to the Central Prison.

The policeman who'd brought me in started to beat me first. He struck me with a long, thick wooden pole on the buttocks and legs. I was standing the whole time. Next he forced me to place my hands on the table and hit me on them. The other two first

⁴⁷ Kt. No. 661/01.

watched, then took turns beating me with the same wooden pole. I was beaten with the pole for about twenty minutes. What with so many blows I stumbled and fell, and they proceeded to kick and punch me in the back of the head. A fourth policeman entered the room after those three had left off and struck me with the pistol handle on the head. Throughout the beating they swore about my Gypsy mother and kept saying that stealing was Gypsy business.

Next day Milić sought medical assistance because he felt dizzy and sick and had pain all over the body. The doctor established that he had suffered slight injuries. On 9 March 2001, the HLC filed a criminal complaint against the four unidentified police officers from Zvezdara for beating Milić in order to extort a confession. As of the end of October 2002, the Public Prosecutor's Office had not responded to the complaint.

1.4.9. Two Roma beaten in Bačka Topola

On 7 May 2001, a police patrol entered the homes of two Roma men, Stevan Braničić (b. 1963) and Saša Gojkov (b. 1973) of Ravno Selo village in Vojvodina, and ordered them to present themselves at the police station in Vrbas at 1 p.m. the same day. The first thing they were asked on their arrival at the police station was why they had been stealing things from residents of Bajša village. They had both been to the village the previous day to buy piglets in order to resale them. They denied stealing anything. After being questioned for two hours, they were transferred at about 3 p.m. to the police station in Bačka Topola. Braničić was taken into an office where an inspector named Josip Fontanji and two police officers were waiting. Fontanji

urged Braničić to make a confession and proceeded to beat him without further ado:

While I was standing, I felt unexpected punches in the stomach and the small of the back. After this, Fontanji and a policeman left the room. I remained alone with the other policeman whose name I don't know. He started to beat me for all he was worth with a club about half a metre long - I think it was braided wire wrapped up in leather or rubber. First he told me to turn the palms of my hands upwards, then he struck me on them with the club a couple of times. When I tried to withdraw my hands, he struck me with the club on the top of the head, which gave me an enormous bump. He ordered me to face the wall and place my hands against it. Then he started to beat me mercilessly all over the body - the kidneys, shoulders, thighs, buttocks. A kick in the thighs sent me down on my knees and he switched over to kicking me in the stomach. He promised me that neither of us would leave the police station until we both started to bleed from the nose and had to carry each other out of the office.

After slapping Gojkov in the face about ten times, inspector Fontanji took him into an office from where he could hear clearly that Braničić was being beaten next door. The police officer who was with Gojkov ordered him to face the wall. Then he started to beat him with a truncheon on the back, legs and buttocks while shouting, 'Have you changed your mind? Confess! You're gonna squeal! You Gypsy motherfucker!'

Braničić and Gojkov made no confession and were released at 7 p.m. As they were taking their leave, the police officers threat-

ened to beat them again if they ever set their foot in Bačka Topola or Bajša villages again.

In May 2001, the HLC filed a criminal complaint with the Municipal Public Prosecutor's Office in Bačka Topola against inspector Josip Fontanji and the two unidentified local police officers for trying to extort information and for inflicting slight injuries. On 7 June 2001, Braničić and Gojkov were detained at the Bačka Topola police station and threatened by Fontanji and another police officer in connection with the complaint. Braničić said this in his statement to the HLC:

Inspector Fontanji asked me why I'd complained against him and I replied because he'd beaten me. Then he said in a threatening voice, 'Looks like this thing won't end just like that.' While I was writing a statement, a plainclothes policeman entered the office and asked, 'Is he one of those who've complained against us? If you'd reported me, I'd go right to your house and kill you. I can beat you right here senseless and you'll never be able to prove a thing.'

After the Municipal Public Prosecutor's Office in Bačka Topola failed to respond to the criminal complaint, the HLC sent it a request for expedition of proceedings on 23 August 2001 and received a reply from it on 6 September 2001. A criminal investigation of the police officers involved started on 11 December 2001. As of this writing, both the victim and a witness had been examined.

1.4.10. The beating of a twelve-year-old boy

On 21 June 2001, F., a Roma boy aged twelve was brought to the Belgrade SUP headquarters on 29. Novembra St. He lives in one of Belgrade's numerous unhygienic shantytowns and begs for a living. He has no personal documents and does not attend school. The following statement he made to the HLC shows that the police resorted to severe violence in order to extort a confession from him:

I live with Dad, Mom, three brothers and a sister. My sister is the youngest, she's two. My brother K., who's also twelve, steals and the police know that. They come to our flat often to ask about stolen things. I don't steal. That day, K. had forced open the boot of a Zastava car parked near the 'C' supermarket in Flower Square and taken two track suits and two small car loudspeakers. The policeman nicknamed Caki - he knows us because he sees us in Slavija Square and round there all the time - came to our place and took me to the police station on 29. Novembra street. He didn't beat me on our way there. Caki took me to a room on the fourth floor where we were alone. He asked me my first and family names and wrote them down somewhere. After that he asked me to give back the things my brother had taken from the car. Then he started to slap me in the face and hit me with the truncheon on the palms of the hands, thighs, arms, back, and neck. I don't remember how long he beat me. My Dad and Mom got scared when the police took me away, so they waited in the corridor of the police station all that time. They didn't ask policeman Caki why he'd beaten me, they just took me home.

Fearing retribution, the boy's parents did not want to press charges against the police officer. On 30 July 2001, the HLC disclosed the incident to the public and urged the competent state authorities to punish the perpetrator adequately. On 11 September 2001, Colonel Ivan Đorđević, chief of cabinet of the Minister of Internal Affairs, informed the HLC about the results of the investigation carried out by the Belgrade SUP Internal Security Division. He said that according to the records no Roma boy had been detained that day and concluded that the HLC had published 'untrue and unverified information'. The HLC replied to Colonel Đorđević that it had great confidence in the accuracy of the boy's statement and observed that owing to their ignorance of human rights and ingrained prejudices public officials did not treat Roma, including their children, as human beings.

1.4.11. The case of Ramon Jeseti

Ramon Jeseti (b. 1982) of Kraljevo was physically and psychologically abused by the police on several occasions during 2001. Ever since the police opened a file on him several years ago for stealing, he has regularly been visited by police officers and requested to inform on local offenders. In his statement to the HLC, Ramon described what happened to him after he was brought to the Kraljevo police station in July 2001 (he could not recall the exact date of the incident):⁴⁸

I got the worst of it in July this year. It was about seven or eight o'clock in the morning when two inspectors in a white Zastava

⁴⁸ HLC files, statement by Ramon Jeseti, 22 November 2001.

car pulled up outside my house. Their names are Perica Vučković and Dejan who's nickname's 'Čarapan'. They told me to get the car cassette-player and loudspeakers from the house and come along with them. I went in, picked up the cassette-player and loudspeakers I'd stolen from a car, and took them outside just as they'd told me to do. They put handcuffs on my hands and helped me into the car. At the Kraljevo police station, we went into Room 108. There were just the three of us inside. As soon as we walked in, I explained where I'd nicked the cassette-player and they started asking me questions about others. When I said I knew nothing about other cassette-players, Dejan 'Čarapan' knocked me down and started to kick me all over the body. Perica beat me with the truncheon on the back, palms of the hands, head, and all over the body. They cursed my Gypsy mother and urged me to confess. There was a bottle of plum brandy in the room and they made me drink some. They didn't drink any and I only had a small glass, after which I refused to drink more. Dejan 'Čarapan' took out a cigarette-lighter and lit first my hair then my beard. I put out the flames with my bare hands. I was badly singed. This went on for about half an hour.

After that an inspector named Bucu entered the room. He's short and plump and has black hair. He just came in, asked who I was, took a baseball bat out of the cupboard and started to thrash me all over the body. The bat broke in two and he continued to beat me with the stump until he knocked hell out of me. He wanted me to admit what other things I'd stolen - cars, phones, TV sets. I said nothing, but even if I'd known anything I'd have confessed after that kind of beating. They kept coming in and going out. A man would walk in, call me a Gypsy moth-



erfucker, spit at me, and go out. None of those in uniform touched me, it was only those in civilian clothes that did it. I was handcuffed to the radiator. Dejan and Perica got out at about 3 p.m. and I was left alone till 5 p.m. Some young policemen in uniform came in then and told me to clear off.

I went home covered with blood, my hair and beard badly singed. I saw a doctor and was given painkillers. I spent a few days in bed during which time I passed blood with urine. I haven't stolen a thing since that day, so here I am, sifting through garbage. They're still coming to my place and accusing me of all sorts of things, and I just can't convince them that I don't steal any more. The inspectors who keep visiting me are not always the same ones. Three or four days later I was in Room 108 of the police station again. An inspector called 'Čunga' and Dejan 'Čarapan' told me, 'Don't let us ever hear again that you've been to a doctor or complained to somebody.' They said this because we'd told Nebojša, the president of the Roma society, what'd happened. The last time they picked me up was ten days ago. They took me to Room 202 where inspectors 'Čunga' and 'Mitre' were waiting for me. Again they wanted me to admit to something, slapped me in the face and beat me with a small truncheon. I cried and begged them not to touch me. They left off and told me I could go home.

Jeseti's paternal uncle Akif described his cousin's condition on his return from the police station:

Ramon came home covered with blood. His hair was singed and he had hematoma. We went to a hospital where he gave blood and urine samples. Then they sent him to a surgeon to find out

if he had any internal bleeding. The surgeon said that fortunately there was none because Ramon was a hefty fellow. The surgeon sent us to a general practitioner to give us a certificate. As it was nearly closing time, they told us to come back tomorrow and pay 300 dinars for the certificate. We didn't have the money and left it at that. I was given some drugs to ease the pain. We were also given some papers but we don't know where they are now.⁴⁹

1.4.12. Police officers break a boy's arm

On 22 September 2001, a police patrol brutally beat a group of Roma children collecting old paper from refuse containers in downtown Novi Sad. The police officers insisted that the children admit to stealing. They knocked down the fourteen-year-old boy E.M. and broke his arm while kicking him. Following is the boy's statement to the HLC:

On Saturday shortly after midnight, me and seven other children from Veliki Rit set out for the city centre to collect old paper. We were all Roma, none of us older than sixteen. At 2.30 p.m. we were outside McDonalds taking old paper out of containers when two policeman in uniform came up to us. One of them asked us what we were doing, and we replied that we were collecting old paper. The policeman suddenly hit me on the head and I started to run. I saw him hit a girl from our group with a walkie-talkie on the head, so she too started to run. One of the policeman came running after me and yelled that he was going

⁴⁹ HLC files, statement by Akif Jeseti, 22 November 2001.

to shoot me if I didn't stop. I stopped, he caught up and started to kick me savagely. He kicked me so hard that I slumped as if scythed down. The other policeman came up and joined in. They kicked me all over the body. When I covered my head with my arms for protection, they kicked me so hard that they broke my arm. I started to cry because it hurt me terribly and they stopped. We started for home soon afterwards. I couldn't sleep because of the pain. Next day my arm was so swollen that Mum took me to the doctor. He put my arm in a cast.

E.M.'s brother M.M. said this about the incident:

At about 2 a.m. on Saturday, I was collecting old paper in the city centre with my brother and neighbours from Veliki Rit. Two policemen came up and said, 'Tell us what you've stolen.' I saw one of the policemen strike my brother on the head with the hand and a girl with a walkie-talkie. She's twelve. The two of them started to run in different directions. I remained standing with the others in front of the container and heard the policeman who was chasing Enis shout, 'Stop or I'll shoot!' I saw my brother fall after receiving a kick from the policeman. Then both of them kicked him all over the body. That happened outside the Athens restaurant. One of the policemen then told us to go home and called us 'Albanian motherfuckers'.

The boys' mother, Nafija Mamutovski, described the condition of E.M. on his return from Novi Sad that night:

My sons returned from Novi Sad sometime about 5 a.m. on Saturday. They go to Novi Sad to collect old paper almost every night because that's what we do for a living. My son at once told me everything and went to bed. H was in pain and could-

n't sleep all night. In the morning I saw that his arm was swollen. At about 7 a.m. I took him to a doctor and he put the arm in a cast. The doctor told me that the arm was broken.

In its reply of 4 December 2001 to the HLC's request for investigating the incident, the MUP said, among other things, that '...on the basis of the inquiries made, it was not possible to establish with certainty whether the injury of the minor E.M. was inflicted by members of the police force, that is, what caused it, not were the perpetrators of this criminal act identified, for which reasons the Secretariat in Novi Sad continues its investigations for the purpose of clarifying the circumstances of this incident.'

1.4.13. The case of Danijel Jovanović

On 5 June 2002, two uniformed police officers beat Danijel Jovanović (b. 1983) of Kraljevo after founding a stolen bicycle in his possession. After questioning Jovanović about the bicycle for some time, the two police officers called in two plainclothes colleagues because he would not tell men anything. Following is Jovanović's statement to the HLC:⁵⁰

Two policemen arrived: one was youngish with black hair and of medium build, and had a scar running from the forehead to the top of the head (later I learned that his name's Draško Vučićević and his nickname Vučko); the other was youngish and stocky, of medium height, with black hair and small pimples all over the

⁵⁰ HLC files, statement by Danijel Jovanović, 1 October 2002.

face. Both were in civilian clothes and arrived in a civilian car. They drove me to a place called Farmer's Gate near Drakčiči village. While we were riding in that direction, the policeman not driving the car took off his shoes and kicked me repeatedly with the soles. When we arrived at the Farmer's Gate they took me out of the car and started to beat me with fists, hands, and feet. Vučko beat me on the back along the length of the spine. As they did so, they kept telling me that I had to cooperate with the police, that is, to report thefts and thieves. I denied any such knowledge and they continued to beat me with fists, hands, and feet. The other policeman told me I was a tough nut to crack. They beat me for about half an hour, then took a break. After that, Vučko grabbed me by the collar and dragged me off into a nearby copse. He took out the pistol, cocked it, and asked me, 'Do you want me to kill you?' He told me that if I didn't talk he'd shoot me in the knee and asked me which one I liked to have it in. Then he lost his temper and started to hit me on the head with the pistol. As I used my hands to protect myself, he struck me with the pistol on one hand so badly that later I had to have it stitched up. He led me back to the car and they continued to punch and kick me there while urging me to collaborate by telling on people. Vučko told me, 'You really are a tough nut.' They took turns at beating and holding me for half an hour. When they finished beating me, they drove me to a fountain to wash myself, then took me back to the Farmer's Gate and left me there. My parents took me to a doctor. The doctor told them they had better report the incident to the police. While I was at the doctor's a policeman came and took my statement. After that my parents and I went to see the chief of police. I described the two policemen and made a statement. The chief of police

asked me, 'Must you really sue them?' Two or three days later we went to see lawyer Sakić in Kraljevo and asked him to write a complaint. I don't know whether he did it. The documents and the doctor's certificate are with him.'

Jovanović's parental uncle, Dragan Milenković, described to the HLC the victim's condition as it was two days after the incident:⁵¹

I saw Danijel two days after the incident. He had black bruises all over the body and a bump on the head. Most of the bruises were along the spine.'

1.5. Domestic standards

a) Unlawful deprivation of liberty

The Charter on Human and Minority Rights and Fundamental Freedoms prohibits unlawful deprivation of liberty. A provision to this effect was also contained in the FRY Constitution. The Charter regards as unlawful any deprivation of liberty which is not carried out according to the cases and manners prescribed by law of the state union or its member states. A person deprived of his liberty must be given the reasons for the arrest and allowed to inform his next of kin and a lawyer of his own choice of the fact. Any unlawful deprivation of liberty is punish-

⁵¹ HLC files, statement by Dragan Milenković, 1 October 2002.

able and there are guarantees which enable an arrested person to have the matter promptly investigated.⁵²

A person for whom there is ground for suspicion that he has committed a criminal offence may be arrested and held in detention only on the basis of an order by a competent court and if necessary for the conduct of a criminal proceeding.⁵³ The Serbian Constitution contains similar provisions.⁵⁴ While the Charter on Human and Minority Rights and Fundamental Freedoms provides that an arrested person must be brought before a court within forty-eight hours of arrest at the latest,⁵⁵ the Serbian Constitution stipulates that detention must be of the shortest possible duration.

The Charter on Human and Minority Rights and Fundamental Freedoms and the Serbian Constitution⁵⁶ entitle persons unlaw-

- 52 Article 14 (6) of the Charter on Human and Minority Rights and Fundamental Freedoms: 'Everyone who is arrested shall be entitled to take proceedings by which the lawfulness of his arrest shall be decided speedily by a court and his release ordered if the arrest is not lawful.'
- 53 Article 15 (3) of the Charter on Human and Minority Rights and Fundamental Freedoms.
- 54 Article 15 of the Serbian Constitution: '1. Man's liberty is inviolable. 2. No one may be deprived of his liberty, except on such grounds and in accordance with such procedure as is established by law.'
- 55 Article 15 (2) of the Charter on Human and Minority Rights and Fundamental Freedoms.
- 56 Article 23 of the Serbian Constitution: '1. No one shall be punished for an act which prior to the commission was not provided as a punishable offence by the law or statutory instruments based on law, nor be subject to pronouncing a punishment which has not been established for such

fully deprived of their liberty to rehabilitation and compensation for pecuniary and non-pecuniary damage and guarantee their other rights established by law (such as rights acquired on account of employment). The damages must be settled by the Republic of Serbia.

The new Criminal Procedure Code was adopted in December 2001 and took effect on 28 March 2002.⁵⁷ It incorporates improvements on the provisions contained in its predecessor, the Law on Criminal Procedure.⁵⁸ The novelties relating to police work during proceedings prior to the bringing in of the indictment include the following obligations: a person taken into custody without a court order must be brought before an investigating judge at once and informed of its right to a defence counsel already during the first hearing;⁵⁹ if the police

an act by the law. 2. Criminal offences and penalties for the offenders may be established only by law. 3. No one may be considered guilty of a criminal offence until so proven by a final judgement by a court of law. 4. A person who has been unjustifiably convicted for a criminal offence or wrongfully deprived of his liberty shall be entitled to compensation of damage from public funds, as well as to other rights established by law.'

⁵⁶ *Službeni list SRJ (FRY Official Gazette)*, No. 70/2001.

⁵⁸ The Law on Criminal Procedure ceased in its effects on 28 March 2002 as the new Criminal Procedure Code took effect.

⁵⁹ Article 5 of the Criminal Procedure Code: '1. A person deprived of his liberty shall be immediately informed in his language or in the language that he understands, of the reasons for deprivation of liberty, that he is under no obligation to testify, that he is entitled to a defense counsel of his own choice, and that he is entitled to request his family or his other close persons to be informed that he is deprived of his liberty. 2. A person deprived of his liberty without a court decision shall be brought immediately before the competent investigative judge.'

wish to interview a person, the summons must be in writing and the interview may not exceed four hours;⁶⁰ etc.

If a person is suspected of having committed a criminal offence, the Criminal Procedure Code empowers the police to take him into custody and to bring him before an investigating judge immediately or not later than twenty-four hours after arrest.⁶¹

⁶⁰ See Article 226 of the Criminal Procedure Code.

⁶¹ Article 142 of the Criminal Procedure Code: '1. Detention shall be orderedČ (1) Against a person suspected on well-founded grounds of having committed a criminal offence punishable by imprisonment for a term of twenty years or more severe punishment. Where circumstances indicate that according to law a milder sentence may be imposed [Article 42, paragraph 1, of the FRY Penal Code], detention does not have to be ordered. (2) Against the accused sentenced by the court at the first instance to a punishment of imprisonment of five years or more if the accused is not already in detention and if this is justifiable because of the manner in which the criminal offense was committed or other special grave circumstances of the criminal offense. 2. If there exists reasonable suspicion that a person has committed a criminal offense and there are no grounds for detention referred to in paragraph 1 of this Article, for the purpose of the tranquil conduct of criminal proceedings, detention against this person may be orderedČ (1) If the person is in hiding or his identity cannot be established, or if there are other circumstances indicating a danger of flight; (2) If there are circumstances indicating that he may destroy, hide, change or forge items of evidence or traces of the criminal offence or if particular circumstances indicate that he may impede the proceedings by influencing witnesses, co-principals or accessories; (3) If special circumstances indicate that he may repeat the criminal offense or complete the attempted one, or perpetrate the criminal offence he threatens to commit; 4) If a duly summoned defendant obviously evades appearance at the trial. 3. In the case referred to in paragraph 2 subparagraph 1 of this Article, detention ordered only because it was not possible to establish the identity of the person shall last until this identity is established. In the case referred to in paragraph 2 subparagraph 2 of this Article, detention shall be vacated as soon as

Under this provision, the police may only carry out the arrest while the decision to keep the arrested person in detention rests with the investigating judge when that person is brought before him. Until 7 December 2000, when a Federal Constitutional Court ruling restricting police powers, the police were authorized to bring a person into custody in the following cases: if the person was suspected of having committed a criminal offence punishable by death; if the person was likely to abscond, destroy material evidence, or influence witnesses, accessaries, or harbourers; if, under the circumstances, he was likely to commit the same offence again, complete the commission of a criminal offence, or carry out a threat to commit a criminal offence, or if he was suspected of having committed a criminal offence car-

the evidence because of which detention was ordered is secured. Detention ordered in accordance with paragraph 2 subparagraph 4 of this Article may last until the pronouncement of the final judgement, but not more than one month.'

Article 195 of the Law on Criminal Procedure: '1. Authorized Ministry of Internal Affairs public officials deprive a person of his liberty for any reason laid down in Article 191 of this law but must transfer him without delay to the competent investigating judge or to the investigating judge of the inferior court in whose territory the criminal offence was committed if the seat of that court can be reached more quickly. On delivering the person, the authorized Ministry of Internal Affairs public official shall inform the investigating judge why and when the person was deprived of his liberty. 2. If due to unavoidable circumstances the person deprived of his liberty could not be brought before the investigating judge within 24 hours, the public official shall explain the delay separately. An explanation shall be given also if a delay occurred while the person was being transferred at the request of the investigating judge. 3. If due to a delay during transfer the investigating judge was unable to issue a detention order within the time-limit laid down in Article 192 (3), he shall render such decision when the person deprived of his liberty is brought before him.'

rying a prison sentence of ten years or more, where such an offence might lead to a disturbance of public opinion likely to disrupt the conduct of the proceedings.

In addition to empowering the police to deprive a person of his liberty, the superseded Law on Criminal Procedure also authorized them to keep a person in detention up to seventy-two hours at their own discretion. The police had the power to order detention in the following cases: if the person was suspected of having committed a criminal offence punishable by death; if the person was likely to abscond or destroy the evidence of the criminal offence; if, under the circumstances, he was likely to commit the same offence again, complete the commission of a criminal offence, or carry out a threat to commit a criminal offence.

On 7 December 2000, the Federal Constitutional Court considered the constitutional character of Article 191 of the then-valid Law on Criminal Procedure with respect to the grounds on which a person could be arrested and/or detained.⁶² The Court

⁶² The Federal Constitutional Court reviewed, among other things, the constitutional validity of Article 191, paragraph 2, points 3 and 4, of the Law on Criminal Procedure. The provision of Article 191 lays down the general grounds on which an investigating judge or an internal affairs authority could order detention. Since Article 195, which empowers the police to take a person into custody, refers to Article 191 regarding the grounds for making an arrest, the Federal Constitutional Court, in restricting the grounds for detention laid down by Article 191, indirectly restricted the police powers laid down by Article 195 for taking a person into custody although it did not assess the constitutional validity of that article.

found the provisions of that article unduly broad and determined that there was constitutional incompatibility regarding the powers of arrest and/or detention in the following cases: if a person was likely to commit the same criminal offence again or complete the commission of a criminal offence or carry out a threat of committing a criminal offence, or if he was suspected of having committed a criminal offence carrying a prison sentence of ten years or more, where such an offence might lead to a disturbance of public opinion likely to disrupt the conduct of the proceedings. The Court took the view that the foregoing considerations constituted insufficient grounds for making an arrest and/or imposing detention in order to ensure the proper conduct of criminal proceedings. In its opinion, the purpose of these considerations was to support objectives not directly related to the conduct of criminal proceedings (such as preventing a disturbance of public opinion or eliminating a threat to public security). By rendering these provisions invalid, the Court considerably restricted the grounds on which the police could make an arrest and the investigating judge order detention under the Law of Criminal Procedure.

By the same decision the Federal Constitutional Court declared unconstitutional the provision of Article 196 of the Law on Criminal Procedure permitting the police to order detention for up to seventy-two hours, because the FRY Constitution stipulates that courts alone are vested with the powers of detention.

The Serbian Penal Code provides for the criminal offence of unlawful detention.⁶³ The offence is grouped together with criminal offences against the rights and freedoms of man and the citizen. Any person who deprives another of his liberty of movement may be considered as having committed this criminal offence. An aggravated (specified) form of this criminal offence involves the abuse of office or powers on the part of a public official and is punishable by imprisonment from three months to five years. If unlawful detention exceeds thirty days or was carried out in a cruel manner as a result of which the detainee suffered serious impairment of health or other grave consequences, the perpetrator may be punished by imprisonment from one year to eight years; and if this results in the death of the person unlawfully deprived of his liberty, the perpetrator may be punished by imprisonment of at least three years.

b) Extortion of information

The Charter on Human and Minority Rights and Fundamental Freedoms obligates law enforcement personnel to respect the

⁶³ Article 63 of the Serbian Penal Code: '1. A person who unlawfully detains another, keeps him in detention, or deprives him of his liberty of movement in any other way, shall be punished by imprisonment of up to one year. 2. Any such attempt shall be a punishable offence. 3. A public official who commits unlawful detention by abusing his office or powers shall be punished by imprisonment from three months to five years. 4. If unlawful detention exceeds thirty days or was carried out in a cruel manner as a result of which the detainee suffers serious impairment of health or other grave consequences, the perpetrator shall be punished by imprisonment from one year to eight years. 5. If this results in the death of the person unlawfully deprived of his liberty, the perpetrator shall be punished by imprisonment of at least three years.'

dignity of persons deprived of their liberty. It prohibits in particular any violence against detained persons. The Charter also prohibits the extortion of information.⁶⁴

The Serbian Penal Code prohibits public officials from extorting confessions or statements by any means.⁶⁵ The criminal offence of extortion of information is grouped together with criminal offences against the rights and freedoms of man and the citizen. The offence is deemed to have been committed if any force, threats or other impermissible means and methods were used in order to extort a confession from a person. An aggravated (specified) form is considered to have been committed if heavy violence was used or if the defendant was put at a particularly severe disadvantage during the proceedings as a result of a statement he made under duress. The basic form of this criminal offence entails imprisonment of three months to five years, and the aggravated form imprisonment of at least one year, which means that the perpetrator may be sentenced to fifteen years in prison.

64 Article 14 (7) of the Charter on Human and Minority Rights and Fundamental Freedoms.

65 Article 65 of the Serbian Penal Code: '1. A public official who in the performance of his duties uses force or threats or other unlawful methods with the intention of extorting a confession or a statement from an accused person, a witness, an expert or another person, shall be punished by imprisonment of at least one year. 2. If a confession or a statement was extorted by using heavy violence, or if the accused person is put at a particularly grave disadvantage during the criminal proceedings as a result of a statement extorted from him, the perpetrator shall be punished by imprisonment of at least a year.'

c) **Compensation**

Under the Criminal Procedure Code, every person who has been unlawfully or unjustifiably detained is entitled to compensation. Unlawful detention means detention imposed on grounds other than those laid down by law, detention not backed by a proper detention order, or detention exceeding the maximum time-limit laid down by law. In view of the outcome of the proceedings, detention was unjustifiable (though it may have been lawful) if the accused person was not found guilty.⁶⁶ The Republic of Serbia is bound to compensate every person if he was detained due to an error or illegal activity on the part of a public authority; if he was kept in detention beyond the statutory time-limit; if no criminal proceedings were instituted against him; or if the criminal proceedings against him were discontinued by a finally binding decision.⁶⁷ A claim for damages is submitted to the Ministry of Justice of the Republic of Serbia and must be processed within three months. If the Ministry dismisses a claim or does not respond within three months, the person who was unlawfully or unjustifiably detained is entitled to sue the state for damages before a competent court.

⁶⁶ Professor Dr Tihomir Vasiljević and Professor Dr Momčilo Grubač, *Komentar Zakona o krivičnom postupku* (Commentaries on the Law on Criminal Procedure), *Službeni glasnik*, Belgrade, 1999, p. 879.

⁶⁷ Article 560 of the Criminal Procedure Code: '1. Entitled to compensation of damages shall also be the person: (1) Who was detained but criminal proceedings were not instituted or were discontinued by a final ruling or who was acquitted by a final judgement or where the charge was rejected; ... (3) Who, due to an error or the unlawful action of state authorities, was deprived of his liberty without legal grounds, or kept in detention or penitentiary institution for a longer period of time than prescribed...'

A person who was unlawfully or unjustifiably detained or abused is entitled to pecuniary and non-pecuniary compensation from the Republic of Serbia because his physical and psychological integrity was violated. This kind of recompense is dealt with in some detail in Section 1.2. c) of this report.

1.6. International standards

Serbia and Montenegro are bound by a body of international documents which protect the physical and psychological integrity of the individual and prohibit torture and other cruel or inhuman treatment. Of special importance in this regard is the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the FRY has both signed and ratified it⁶⁸ and recognized, by making a special declaration, the competence of the Committee against Torture to receive and consider communications from or on behalf of individuals.⁶⁹

⁶⁸ The Convention was adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984. It entered into force on 26 June 1987. Yugoslavia ratified it on 10 October 1991.

⁶⁹ Article 22 of the Convention against Torture: '1. A State Party to this Convention may at any time declare under this Article that it recognizes the competence of the Committee [against Torture] to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which had not made such a declaration. 2. The Committee shall consider inadmissible any communication under this Article which is anonymous or which it considers to be

The Convention obligates the State Parties to submit periodical reports on compliance with the Convention to the Committee against Torture.⁷⁰ In its annual report on the implementation of

an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention. 3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this Article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State. 4. The Committee shall consider communications received under this Article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned. 5. The Committee shall not consider any communications from an individual under this Article unless it had ascertained that: (a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement; (b) The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention. 6. The Committee shall hold closed meetings when examining communications under this Article. 7. The Committee shall forward its views to the State Party concerned and to the individual. 8. The provisions of this Article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this Article. Such declarations shall be deposited by the State Parties with the Secretary General of the United Nations, who shall transmit copies thereof to the other State Parties. A declaration may be withdrawn at any time by notification to the Secretary General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this Article; no further communication by or on behalf of an individual shall be received under this Article after the notification of withdrawal of the declaration had been received by the Secretary General, unless the State Party had made a new declaration.'

⁷⁰ Article 19 of the Convention against Torture: '1. The States Parties shall submit to the Committee, through the Secretary General of the United

undertakings under the Convention, the Committee against Torture voiced its concern at the omission of the criminal offence of torture from the Penal Code of the FRY with reference to Article 1 of the Convention.⁷¹

The International Covenant on Civil and Political Rights prohibits torture, cruel and inhuman or degrading treatment or punishment.⁷² The Covenant also provides for procedural guarantees against arbitrary and unlawful arrest, making it obligatory for State Parties to specify the conditions under which a person may be deprived of his liberty and to provide judicial con-

Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request. 2. The Secretary General of the United Nations shall transmit the reports to all State Parties. 3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee. 4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this Article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with Article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this Article.'

71 Concluding observations of the Committee against Torture: Yugoslavia (concluding observations), 21st Session, 9-20 November 1998.

72 Article 7 of the International Covenant on Civil and Political Rights.

trol of the lawful character of arrest and detention.⁷³ Article 9 (5) of the Covenant states that a person who has been victim of unlawful arrest or detention shall be entitled to compensation.

The UN Basic Principles for the Treatment of Prisoners provide that every person deprived of his liberty must be shown respect for his dignity as a human being.⁷⁴ Likewise, in treating such persons there must be no discrimination on the grounds of race or nationality.

1.7. Communications to the Committee against Torture

Owing to the failure of Serbia and Montenegro to abide by the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the HLC and the European Roma Rights Center (ERRC) submitted to the Committee against Torture three communications on behalf of the following Roma victims of torture: Jovica Dimitrov of Novi Sad, Danilo Dimitrijević of Novi Sad, and Dragan Dimitrijević of Kragujevac.

⁷³ Article 9 of the International Covenant on Civil and Political Rights.

⁷⁴ Basic Principles for the Treatment of Prisoners adopted by General Assembly resolution UN 45/111 of 14 December 1990.

1.7.1. The case of Jovica Dimitrov

On 5 February 1996, Jovica Dimitrov was first verbally threatened and then repeatedly struck with a baseball bat as well as punched and kicked at the police station in Novi Sad. A medical certificate established several bruises and stripe-shaped haematoma on the arms, shoulders, thighs, and knees. Although Dimitrov filed a criminal complaint on 7 November 1996, it was only on 17 September 1999 that the Municipal Public Prosecutor's Office instructed the investigating judge to undertake certain investigatory steps.

The HLC submitted the communication on 29 August 2000 and asked the Committee against Torture to establish whether the competent authorities, if they were aware of the fact that Dimitrov was tortured, omitted to order a prompt and impartial investigation, and whether such a failure on their part deprived Dimitrov of his right to compensation.

1.7.2. The case of Danilo Dimitrijević

On 14 November 1997, Danilo Dimitrijević was beaten at the police station in Novi Sad by an unidentified police officer who used a long pole and struck him especially around the kidneys and on the back. On 24 November 1997, Dimitrijević filed a criminal complaint with the Municipal Public Prosecutor's Office against the unidentified public official for trying to extort information from him. The public prosecutor never dealt with the criminal complaint in spite several written and oral requests by Dimitrijević to expedite the proceedings. The HLC submitted

the communication on Dimitrijević's behalf to the Committee against Torture on 7 August 2000.

1.7.3. The case of Dragan Dimitrijević

On 27 October 1999, Dragan Dimitrijević and his relatives were celebrating his family patron-saint's day, St Petka, at his home in Kragujevac. At about noon two police officers entered the house and took Dimitrijević into custody. At the police station in Kragujevac, Dimitrijević was asked to admit to stealing. Following is his account of what happened at the police station:

They handcuffed me to a radiator, then proceeded to kick me and beat me on the back and hands with a truncheon. I was beaten by several of them. Policeman Mića Crnogorac told them to lay off but they didn't listen to him. One of them picked up a metal bar and beat me with it on the back and arms. They unfastened me from the radiator and handcuffed me to a bicycle, then beat me with the hands, truncheons and bar all over the body. Worst of all was when they beat me on the head with the bar and blood started coming out of my ears. They let me go at about 4.30 p.m. I couldn't walk, so my brother Veroljub waited for me outside the police station and took me home.⁷⁵

The brother gave the following description of Dimitrijević as he came out of the police station:

He couldn't walk when he came out, his arms and legs hurt. His head was bleeding. The small blood vessels below his eyes had

⁷⁵ HLC files, statement by Dragan Dimitrijević, 17 December 2000.

*burst. He lay in bed at home for two or three days. He bled from the ears for some days. His legs were covered with bruises. His right arm was covered with bruises.*⁷⁶

On 31 January 2000, Dimitrijević filed a criminal complaint against unidentified public officials for committing the crimes of slight bodily harm and civil injury. Although the HLC submitted four requests for expedition of proceedings to the Municipal Public Prosecutor's Office in Kragujevac between 26 July 2000 and 26 July 2001, no action had been taken by June 2002. On 20 December 2001, the HLC and the ERRC submitted to the Committee against Torture a communication citing breaches of the Convention; although admittedly not all domestic remedies had been exhausted, there was clearly no intention on the part of the judicial authorities to provide the victim with redress.

⁷⁶ HLC files, statement by Veroljub Dimitrijević, 17 December 2000.

2. Violent attacks on Roma by private individuals

Physical and verbal attacks on Roma are often motivated by deep prejudices. They are perpetrated mostly by young men belonging to marginal sub-cultural groups with extreme nationalist or racist leanings (i.e. skinheads, soccer and basketball fans). The violence has the form of systematic molestation, threats, insults, humiliation, physical attacks, property destruction. Roma children too are victims of such violence.

2.1. Violent attacks by skinheads

The period covered by this Report was marked by an increase in the number of skinhead attacks on Roma, particularly those employed as refuse collectors.⁷⁷ In view of the increasingly frequent attacks on its personnel, the management of the public utility company Gradska čistoća on 15 November 1999 urged the police to take effective measures to protect its staff against skinhead attacks. The company director, Dragan Obradović, said that Roma employees were almost the sole target of these attacks.⁷⁸ Because making promises was about all the authori-

⁷⁷ Blic, 'Čistači Romi na meti skinhedsa' (Roma sweepers targeted by skinheads), 16 November 2000.

⁷⁸ *Ibid.*

ties did in connection with these incidents, the Roma Congress Party on 9 November 1999 issued a public statement urging the authorities to take effective action.

2.1.1. The beating of street sweepers

At about 1.30 p.m. on 30 November 1999, two Gradska čistoća public utility company workers, Zlatko Stanković and Slobodan Stanković, were beaten by a group of skinheads in the presence of numerous passers-by outside the Hotel Moskva in the very heart of Belgrade.

On that day, three men and a woman employed by the company were having a rest in front of the company shed located in the park opposite the hotel. A group of youths were sitting a few metres away smoking marijuana. One of the victims, Zlatko Stanković, described the incident to the HLC as follows:

Three Partizan fans wearing scarves with the club's colours around their necks were sitting opposite us. One of them was probably a skinhead. He had a short hair and wore a pilot's jacket, boots and military-style trousers. The skinhead stood up and started to piss against a tree right next to us. My colleague Đorđe Marković warned him that there was a woman with us and that it wasn't a proper thing to do in her presence. The youth pretended not to understand the problem. I repeated that we had a woman in our company. He came up to me and started to push and hit me. The other two joined in and brought me down with their blows. They kicked me all over the body. Our foreman Jasin Meleči came running and shouted that he'd called the police. While one of the youths suggested that they



should clear out, the skinhead urged them to kill me for tearing his sleeve. They trotted away in the direction of the Hotel Balkan. Immediately afterwards a horde of some fifty Partizan fans came along. I ran away.⁷⁹

Foreman Jasin Meleči describes what happened next:

All of a sudden, Partizan fans began swarming in from the direction of the Terazije fountain. My workers started to run away. Slobodan Stanković was caught, struck down and kicked. I shouted and cried for help. After being kicked for a few minutes he fought free and escaped.⁸⁰

On 18 January 2000, the HLC filed with the Municipal Public Prosecutor's Office a criminal complaint against unidentified persons for causing Slobodan Stanković slight injuries. As of this writing, the Office had not informed the HLC whether it had identified the attackers and whether it would prosecute.

2.1.2. Boy beaten in the street

On the evening of 8 April 2000, Dragiša Ajdarević (15) was beaten by a group of skinheads while his was on his way to a nearby store in the company of a friend. Following is Ajdarević's statement to the HLC:

Some fifteen skinheads stood about outside the 'Lembi' store. They wore green pilot jackets and army boots, most had their

⁷⁹ HLC files, statement by Slobodan Stanković, 9 November 1999.

⁸⁰ HLC files, statement by Jasin Meleči, 9 November 1999.

hair trimmed short, and were about nineteen or twenty years old. They ran towards us shouting 'Gypsies!' My friend Miloš said he wasn't a Gypsy and ran away. I was caught and punched on the head and stomach. I fell under the blows. They started to kick me.⁸¹

Miloš informed Dragiša's parents that some unknown youths were beating their son. The parents arrived running and saw their son lying on the ground half naked and covered with blood, with skinheads standing in a circle around him. Dragiša's father Nebojša says he tried to protect his son:

I approached them empty-handed. One of them said this was no country for Gypsies and took a swing at me with a bottle. I hit him and we started to fight. Some of the skinheads brandishing bottles chased Dragiša around while others made for my wife. A girl threw stones and bottles at my wife and struck her on the arms. She also tried to hit Dragiša with a bottle. I hit one of them with a stone.

None of the passers-by reacted. Nebojša Ajdarević called the police and was taken to the police station together with some of the skinheads who had taken part in the fight. At the police station, he learned that the name of the girl who had attacked his son and wife was Nataša Marković. He asked her why she hated the Roma:

Nataša told me that she'd always hated Gypsies and that they ought to move out of Serbia. The policemen laughed. They took

81 HLC files, statement by Dragiša Ajdarević, 28 April 2000.

me into another room and told me to remove my shoe-laces, hand over my watch, and empty the pockets. Then they took me into a cell. I was locked up inside from 5 p.m. to 9 a.m. As they let me go, one policeman said that Nataša was well connected all over the city because her father is the director of the Hotel Ambassador.⁸²

Nebojša Ajdarević and two of the skinheads, Oliver Mirković and a minor named A.K., were charged with misdemeanour. Ajdarević was acquitted and the other two fined 600 dinars each.

On 25 May 2000, the HLC filed a criminal complaint against Nataša Marković, Oliver Mirković and A.K. for inciting national, racial and religious hatred and fomenting dissension and intolerance.⁸³ On 16 May 2001, the District Court in Niš sentenced

82 *Ibid.*

83 Article 134 of the FRY Penal Code: '1. A person who incites to or excites national, racial or religious hatred, dissension or intolerance among the nations and national minorities living in the FRY shall be punished by imprisonment from one year to five years. 2. A person who commits an offence referred to in paragraph of this Article by coercing or harassing others, threatening their security, holding up to ridicule national, ethnic or religious symbols, damaging other people's possessions, desecrating monuments, memorials or graves, shall be punished with imprisonment from one year to eight years. 3. A person who commits an offence referred to in paragraphs 1 and 2 by abusing his office and powers and thereby provokes disturbances, violence or other grave consequences for the life together of the nations and national minorities living in the FRY shall be punished by imprisonment from one year to eight years in respect to paragraph 1 and by imprisonment from one year to ten years in respect to paragraph 2.'

the two members of the skinheads movement for inciting national and racial hatred and intolerance to six months in prison suspended for two years. This was the first time a court qualified an attack on members of a minority group as the criminal offence of incitement to racial, religious and national hatred.

2.1.3. The case of Gordana Jovanović

On 10 May 2000, Gordana Jovanović (13) was attacked by a group of underage skinheads outside her school in the Belgrade district of Bežanijska kosa. The girl suffered seventeen knife cuts. The Milan Rakić primary school had been the scene of several attacks on Roma children before. Its Roma pupils are isolated and keep to themselves.

During the break earlier that day, Jovanović and her friend Đ.V. had been threatened by the gang with rape, something which had been going on for months. After the classes, Jovanović was accosted by the skinheads who wore masks over their faces. She was brought to the ground and cut with a knife on the chest and thighs. She said this in her statement to the HLC:

One of them cut me on the chest with a knife. He wiped it on my face, licked it and told me that Gypsy blood was going to flow all over the world. He said he was going to kill all Gypsies. Another ripped off my clothes. The one giving the orders was almost bald, wore jeans supported by braces and 'Martin' boots. He said the skinheads were going to exterminate the Gypsies.

After tormenting the girl for an hour, the skinheads let go of the girl when they saw a group of Roma approaching. The passers-by did nothing to stop them. A Roma took Jovanović home. She sought medical assistance at once. In addition to numerous injuries, the doctor diagnosed a grave depression caused by the traumatic experience.

The school governor, Miodrag Kuburović, reported the incident to the police the next day. The girl was summoned to the New Belgrade police station to help with inquiries. She and her older sister Nataša were kept there for nine hours, from 9 a.m. to 6 p.m. The police threatened to arrest the victim's parents.

They kept doubting whether I was telling the truth. They also threatened to arrest my parents. The inspector ordered me into a room and didn't allow Nataša to come with me.

The inspector led me into an office and told me to show him the ones who'd attacked me. Then some youths were marched into the room. They stood right next to me. I didn't recognize any of them. There were five policemen in the room. They asked me if I had a boyfriend and if I had sexual relations. They accused me of lying. They asked me why I'd hung behind after the last lecture. I said I wasn't skipping classes. One of them threatened to arrest my whole family if I lied. I got scared and said I'd cut myself.⁸⁴

84 HLC files, statement by Gordana Jovanović, 12 May 2000.

The police filed a criminal complaint against the minors suspected of having attacked and injured Gordana Jovanović and launched an investigation. On 7 August 2001, the First Municipal Court in Belgrade informed the victim's attorney that a corrective measure had been imposed on a minor named Ž.M. and that further criminal proceedings had been discontinued.

2.1.4. Skinhead attacks a public transport ticket collector

On 12 June 2002, Radmila Milenković of Belgrade was attacked in a No. 28 trolley-bus while collecting fares. A skinhead assaulted her without a cause and spat at her and insulted her on ethnic grounds in front of the passengers who did not react. Milenković described her ordeal as follows:

He treated me as an animal. He first spat at me and shouted that Gypsies had polluted the city, stank, got in the way, and ought to be exterminated. Then he started to kick me on the legs and hips. When my husband, who was also in the trolley-bus, advanced on him he got out at the next stop.

A few days later, the Press Department of the Belgrade SUP announced that Darko Trifunović (21) of Belgrade had been brought before an investigating judge on suspicion of having beaten Radmila Milenković in a Belgrade Public Transport company trolley-bus on June 12. The Centre for Minority Rights, a non-governmental organization from Belgrade, on 19 June 2002 filed a criminal complaint against Darko Trifunović of Belgrade for inciting national, racial and religious hatred.

2.1.5. Roma beaten by skinhead fans in Novi Sad

On 9 November 2002, two skinhead fans of the soccer club Vojvodina kicked Ištvan Žiga (b. 1962) of Novi Sad on the head solely on account of his ethnic origin. Žiga suffered slight injuries in the form of bruises and hematoma on the face and has a medical certificate to prove this.

At about 2 p.m. Žiga was walking along Vase Stajića St. when he spotted three youths on the opposite pavement. This is his description of the incident given to the HLC:⁸⁵

As I was walking past them, one of them shouted, 'Hey, you Gypsy, come over here!' I replied, 'Let me be, brother, I've nothing to do with you.' I started to run but two of them caught up with me and started to beat me. The third one just walked away. They brought me down and kicked me with their boots, especially the bald one. This went on for six or seven minutes. I noticed a woman and a young man watching the scene from a window of a nearby building. They reported the incident to the police who arrived soon afterwards together with an ambulance car.

One of the attackers was caught by the police a little later, identified by Žiga, and taken to the police station on Radnička St. Žiga, who was also brought in, described his second encounter with the attacker:

⁸⁵ HLC files, statement by Ištvan Žiga, 28 November 2002.

They questioned us for about an hour. A commander named Adamović arrived at last, ordered that a record should be made, and said that I and the one who'd beaten me should be allowed to go. The attacker said I'd first made an insulting remark to him and that he'd been alone. This was completely untrue. He said that he was a registered member of the skin-head movement calling itself 'Blood and Honour'. I can't understand why the police let him get away with it, because he's known to have done such things before and to have behaved violently towards Roma.

The Novi Sad police later issued a public statement saying that they had filed a criminal complaint against Goran Stojković (b. 1982) for beating Ištvan Žiga.

On 23 December 2002, the HLC filed with the District Public Prosecutor's Office in Novi Sad a criminal complaint against Goran Stojković and two unidentified skinheads for beating Žiga on racial grounds and thus committing the criminal offence of instigating national, racial and religious hatred, dissension and intolerance.⁸⁶

2.1.6 Attack on a Roma settlement in Belgrade

Following the NATO bombing in 1999, some 200 Roma displaced from Kosovo built houses in a field next to housing blocks on Dr Ivana Ribara St. in New Belgrade. The non-Roma

⁸⁶ Article 134 of the FRY Penal Code.

population resented their Roma neighbours from the very start, throwing stones at their houses and telling them that they were unwelcome and must move out.

The local population's resentment culminated on 24 November 2002 when three underage youths armed with a knife and a pistol raided the Roma settlement. They beat up an eight-year-old child and smashed the windows on the house of Sali Gaši, as a result of which he and his family moved out. One of the attackers stabbed Neđmije Gaši, a displaced person from Kosovska Mitrovica, in the right arm.

The incident started with the three youths beating the eight-year-old boy, Fidan Gaši, just outside the settlement. Following is Fidan's statement to the HLC:⁸⁷

I was playing with the ball in the street when the three youths came up to me. Two of them were fair and the third, who was tall and lean, had black hair. They asked, 'What's your problem? You got a problem?' I said, 'No problem at all.' Suddenly they started to kick me and to curse my Gypsy mother. One of them took out a pistol and pressed it against my forehead. Then they knocked me down on the grass and went off towards our houses.

When Gzim Hasani (34) saw the three youths striding through the settlement, he had no knowledge that his son Fidan had been beaten. Following is his account of what happened next:⁸⁸

⁸⁷ HLC files, statement by Fidan Gaši, 26 November 2002.

⁸⁸ HLC files, statement by Gzin Hasani, 26 November 2002.



At about 3 p.m. on Sunday, November 24, I was in my yard and saw three underage males passing by my house in the direction of the house of Sali Gaši. They broke his fence and smashed his windows and shouted. Two of them were fair-haired while the third had short black hair and was taller. After that they turned back and entered my yard. The tall black-haired one told me, 'You Gypsy motherfuckers, only Serbs are going to live round here.' The fair-haired youth pointed a pistol at me. My wife Nedmije come out of the house and dragged me inside. Then I learned that the three had beaten my son Fidan and that the fair-haired one had held the pistol to his head. I picked up a bar and went out after them. We started to push one another about. I grabbed the blond one holding the pistol by the neck and we started to wrestle. The other two started to kick me. The blond one put the pistol to my temple and said, 'Move out of here or I'm gonna fuck your Gypsy mother.' My wife Nedmije moved in and struck one of them with a pole on the back. At that, the black-faired youth pulled out a knife and stabbed my wife in the arm so that the blade came out the other end. Then they ran away and said that they'd be back.

Nedmije Gaši said this in her statement to the HLC:

We were inside the house drinking tea when my daughter walked in and said that three youths had beaten my son Fidan. My husband was outside. I saw those three standing outside our house and heard them threaten him, 'You're not going to live here, you Gypsy motherfuckers!' I went out and pulled my husband inside. When he learned that they'd beaten our son, he went out again. They started to scuffle and I saw one of them point a pistol at my husband. I closed in with them with a pole

in my hand but don't remember what happened next because I had a blackout. All I felt was blood dripping down my arm. Afterwards I went to a hospital and had my arm bandaged.

The police arrived soon afterwards and found two of the attackers a little later. After being identified by the Roma residents, the attackers were taken to the police station.

2.2. Violent attacks by other private individuals

In connection with incidents involving physical attacks on Roma by private individuals, the attitude of the police gives rise to particular concern. The police are in the habit of justifying their failure to act on reports of such incidents by arguing that the victims must have somehow provoked the attacks and ought to bear the consequences.

2.2.1. Attacks on Roma families living on Vilovskog St. in Belgrade

Several Roma families live in dwellings connected by a communal yard on Vilovskog St. in Belgrade. They have been persecuted by a group of youths for a number of years without any consequences for the attackers. The police have ignored all their complaints.

The description of the following incident given by one of the residents, Dragan Petrović, was typical of what occurred almost daily:

At about 9.30 p.m. on 11 August 1999, they hurled bricks and stones into the yard yet again. I went out and asked them why they did it. They cursed my Gypsy mother. My neighbour Dalibor Gašić pleaded with them to stop throwing things at us because there were small children in the yard. They threatened him with a shovel, cursed his Gypsy mother, and promised to have all of us evicted. They struck me with the shovel on the shoulder.⁸⁹

Earlier that day, the bullies had attacked a six-year-old Roma girl, Milena Vujičić, in the neighbourhood. Her mother Danijela Vujičić said:

On 11 August 1999, my six-year-old daughter Milena went out to the store to buy something. Outside the store, she was accosted by three men and struck on the arm. None of the people inside the store tried to protect the child. Later I went with my other children to the store to find out what happened and to find those youths. There were three of them standing outside the store. One of them grabbed me by the arm, another by the hair. I was with a child then. I ran away.⁹⁰

Ljiljana Petrović and her neighbour Cvetko Glišić, both residents of the yard dwellings, were brutally attacked in the street in October 1999:

Cvetko and I were on our way home. A group of youths were standing at the corner of Vilovskog and Celjska streets. I recognized Branko Blagojević as one of them. Cvetko said hello to

⁸⁹ HLC files, statement by Dragan Petrović, 30 November 1999.

⁹⁰ HLC files, statement by Danijela Vujičić, 30 November 1999.

*them. We'd barely got past them when two of them crept on us from behind. They started to beat us with a bar. Cvetko ran away and I fell down under the blows. They beat me with the bar and dragged me along the ground.*⁹¹

On 29 November 1999, Jakup Haziri was brutally beaten and suffered serious injuries:

*Nine of them shot out of a car and started to beat me without mercy. They cursed my Gypsy mother and threatened to kill me. They used baseball bats on me.*⁹²

Having realized that they had no other choice but to defend themselves, the Roma residents began to set up night watches. Milorad Jeftić explained:

*We've got to organize night watches to protect ourselves. You see, I carry this pole tucked under my jacket all the time. You never know when they're going to strike, so I've got to defend myself.*⁹³

The HLC filed a criminal complaint against unidentified persons for causing serious injuries to Jakup Haziri. As of this writing, the Public Prosecutor had not identified the perpetrators in order to institute criminal proceedings.

91 HLC files, statement by Ljiljana Petrović, 30 November 1999.

92 HLC files, statement by Jakup Haziri, 30 November 1999.

93 HLC files, statement by Milorad Jeftić, 30 November 1999.

2.2.2. Expectant mother beaten in a public transport bus

On 12 March 200, six youths beat up an expectant mother, Dragica Vasić, her husband Irvan Useinović, and his sister Ivana Useinović.

That day Irvan had taken Dragica for a regular medical check-up at the City Hospital. His sister was with them. After the examination, they boarded a public transport bus at about 4 p.m. In the bus, they were accosted and attacked by six youths. Following is his statement to the HLC:

Three of them had a prison haircut and the other three had short hair. They wore tracksuits and sneakers. One of them approached Dragica and struck her hard in the stomach. I told him that my wife was pregnant and that he should try to hit me instead. He then punched her in the chest and slapped my sister in the face. Both women were felled by the blows. He swore at us and said he hated Gypsies. We got off and they followed us. We saw two policemen and asked them to protect us. The youths ran away. I told the policemen what'd happened and they said they didn't wish to do anything about it. One of them said that we gypsies loved to give trouble.⁹⁴

Fearing retribution, Useinović did not file a criminal complaint against the unidentified perpetrators.

⁹⁴ HLC files, statement by Irvan Useinović, 14 March 2000.

2.2.3. Persecution of Roma residents of Požeška St. in Belgrade

Several Roma families sharing a communal yard on Požeška St. in the Belgrade district of Banovo Brdo have been at the mercy of a group of youths for two years. The bullies visit the yard at night during weekends, throw stones and other objects around, and make insults and threats. One of the residents, Blagoje Mustafić, described the attacks as follows:

Besides us, there are three other families with a total of eight children living in the communal yard. Some youths have been coming in a red Ford at night for two years. They strike mostly at weekend nights - Fridays, Saturdays and Sundays. They throw stones at us, curse our Gypsy mothers, and threaten to burn us alive in our homes if we don't move out. They are bald and big. My sister Ljubinka Davkić's windows look onto the street. They smashed her window with a stone weighing at least six kilos. They also broke our windows, the stones flying into the rooms where the children sleep. They could've killed the children with them.

We have organized night watches. The last time they were around we called the police. The police said they couldn't come and that we'd probably provoked the youths, otherwise they wouldn't be attacking us. We'd called the police before and they sometimes came. They took our statements and told us to write down the car licence plate.⁹⁵

⁹⁵ HLC files, statements by Blagoje Mustafić, Dragan Dimić, Trajko Mustafić, Milentije Stevanović, and Imer Etemi, 17 August 2000.

2.2.4. Beočin Roma kept in isolation

The majority of Roma living in the municipality of Beočin in Vojvodina are adherents of Islam. Most of them live in a separate neighbourhood called Šljivik. Although the settlement is equipped with basic infrastructure facilities and the houses are well-kept, its residents are shunned by their non-Roma neighbours. The president of the Roma association in Beočin, Ramiz Selimi, described the education problems to the HLC as follows:

Although our children enrol at primary schools they often drop out before the eighth year. The number of Roma children attending secondary schools is negligible, and only one of our children is currently attending high school. Of the 150 Roma children currently attending primary school, 90 are attending special classes for handicapped children. The problem stems from their ignorance of the Serbian language. This is why our association has launched a campaign to get as many of our children as possible to enter pre-school institutions where they could be better prepared for school and taught Serbian. Our association too has provided additional classes for children with learning problems.

Because of their non-Serb names and Muslim faith, these Roma have lived in isolation especially since the NATO bombing. Says Selimi:

Since the outbreak of the conflict in Kosovo, our position has grown steadily worse. The fact that most residents of Beočin think that we are Albanians has caused us problems, especially during the bombing. In those days even the president of the municipal SPS board told the daily Dnevnik that we are

Albanians from Albania. During the bombing many workers of Romany nationality were sacked - as many as thirteen from the '16. Oktobar' public utility company alone. Also, there were more and more fights with the non-Roma population which called us Shqiptars and traitors. During the bombing the air-raid shelter was divided into a Roma section and a non-Roma one. An old Roma woman was denied access to the shelter during an air-raid only because she wore harem pants. Before the outbreak of wars in the territory of the former SFRY we had lived with the rest of the population on terms of equality; we had mixed with them and mixed marriages were common; now the situation is much worse although, unlike our youngsters, we speak the Serbian language much better. Things have deteriorated so much that we dare not let our children go to the town centre because they themselves are afraid to enter any cafe or disco. If you're brave enough to venture into the town centre, there's a strong chance that you'll get beaten up. There've been many cases of people being beaten by skinheads. But although the Beočin skinheads are well known, none of them has ever been charged with a criminal offence or misdemeanour. After the war in Kosovo another twenty or so Roma families arrived in Beočin. They haven't been accepted by the local population and some of them have even been stoned and advised to go back to Kosovo.

Some typical problems of young Roma were described by Muharem Diljaj (b. 1975):⁹⁶

⁹⁶ HLC files, statement by Muharem Diljaj, 8 February 2002.

My job consists mainly in transporting goods from the Beočin cement factory. During the bombing a foreman kicked me out, saying they weren't having any Gypsies carrying their goods any more. There are frequent fights between us and Serbs, who insult and call us Shqiptars, Gypsies, etc. At some time during 1998 there was a fight between a Serb and a Roma in the Beočin discotheque, and as a result of the incident the police forbade us Roma to visit the discotheque and the cafes in the town centre. Although that was a long time ago, everybody still remembers the event and Roma no longer go to the cafes in the centre of the town.

E.D. (b. 1988), who is repeatedly insulted at school by fellow children on account of his religion, said this in his statement to the HLC:⁹⁷

I'm a seventh-year pupil at the Jovan Grčić Milenko primary school in Beočin. At the end of December 2001, I was beaten in the school by a large group of eight-year pupils. They beat and insulted me for being a Roma and called me Bin Laden because of my religion. My father reported the beating and the insults to the school governor and the police. No one has been punished for the incident yet.

Hamdija Sabedin (b. 1980) complained that violence against the Beočin Roma goes on unpunished:⁹⁸

One day in October 1999 I was attacked in the market by Žarko Aranović and Jovica Doknić. They kicked my car and called me

⁹⁷ HLC files, statement by E.D., 8 February 2002.

⁹⁸ HLC files, statement by Hamdija Sabedin, 8 February 2002.

a Gypsy and Shqiptar. I got punched in the head a couple of times and had to be hospitalized. Aranović and Doknić chased away all the Roma from the market. I reported the incident to the police through our association, made a statement, and demanded that the perpetrators should be criminally prosecuted. All the same, no proceedings were ever taken against these persons and I learned from my lawyers that even the records had disappeared from the police station. As far as I know, no perpetrator has been punished yet although attacks on us Roma are quite frequent.

2.2.5. Testimony by electronic mail

On 12 April 2002, the HLC received via e-mail the following account of an incident from a resident of Pančevo named Vladan Kecman:

Dear friends,

It is a sad occasion that has prompted me to write to you, because I was appalled by what I saw with my own eyes in the very heart of Pančevo earlier today. At about 7 o'clock this evening, I was with my wife and our eighteen-month-old child by the children's sandpit in the city's central park opposite the TV Pančevo building when I witnessed an example of Nazi attitudes at their worst, unfortunately on the part of ten-year-old members of our society. While his parents were earning their daily bread by selling balloons not far away, a Roma boy who can't have been older than ten walked into the sandpit apparently wishing to play with the other kids, something all children like to do. But instead of receiving a welcome, he was greeted with abuse from two children about his own age. First they tried

to chase him away with the words, 'You've got no business here, you Gypsy boy, this isn't a place for Gypsies. You Gypsy motherfucker, your father and mother are both Gypsies.'; then they started to hit him. Like every other caring parent, the boy's mother arrived in no time and protected her child against these ill-bread young bullies. I'm not sure that my letter can change anything, but I feel morally bound to bring to your attention this case of outrageous Nazi-like behaviour by children whose minds are unfortunately already taken up with such odious ideas about life and people.

2.2.6. The case of Staniša Simić

On 8 May 2000, Staniša Simić (b. 1973), a Roma displaced from Kosovo, was drinking beer with his acquaintance Boban Bobić outside a store in the village of Zaovine on Mount Tara, in the municipality of Bajina Bašta. Three local men named Nikodin, Milovan and Dragoslav Jelisavčić were standing and drinking beer next to them. At one moment, Nikodin told Milovan, 'Get this Gypsy out of here.' Milovan seized Simić by the throat and started to push him around while shouting at him, 'Get out of here, this isn't a place for you, you Gypsy motherfucker!' Simić picked up a stone and hit Milovan in the head, then ran off towards the refugee camp where he was staying. Half an hour later, Nikodin and Dragoslav got in their car and drove away to look for Simić. Outside the camp they were confronted by Simić and other displaced Roma. In the ensuing brawl Simić struck Dragoslav on the head with a pole. As Nikodin and Dragoslav withdrew, they threatened the Roma with the words, 'We're going to fuck your Gypsy mothers! You won't live here as long

as we're around!' Fearing retribution by locals, Simić and his family moved out of the camp. On May 10 he was summoned to the police station to make a statement and told that he would be criminally prosecuted. Later the Municipal Public Prosecutor's Office in Bajina Bašta instituted criminal proceedings against Simić for inflicting slight injuries during a fight with local Serbs who had insulted and attacked him on ethnic grounds. During the hearing before the Municipal Court in Bajina Bašta Simić was represented by HLC attorneys. Following three hearings involving the examination of participants and witnesses, the Municipal Prosecutor dropped the charges against Simić in September 2002.

This case illustrates the discriminatory attitude of the police and judicial authorities towards Roma. While the prosecuting authorities throughout Serbia continue to ignore the numerous well-documented criminal complaints submitted to them against persons accused of gross violence, torture and discrimination against Roma, they and the police are quite willing to prosecute Roma even on the scantiest of evidence.

2.2.7. Racist attitudes of municipal officials in Titel

Slobodan Stojković is a member of the Executive Council (government) of the Assembly of the municipality of Titel and president of the local Roma association. In May 2002 he realized for the first time that he was unwelcome at his place of work when Lazar Paunić, the vice-president of the Executive Council, removed his desk and chair from the office they shared.



The attitude towards Stojković did not change after the incident, and Paunić told a group of municipal deputies that he had thrown Stojković out of the office because he could not stand all those Roma filing into and out of the office to seek Stojković's counsel and help.

Soon afterwards somebody stuck a poster on the door of Stojković's office bearing the hand-written message 'Out with the Gypsies'. Stevan Marjanov, the president of the Executive Council, was another official noted for his racist attitude towards Stojković. He and Paunić complained to the deputies that it was Stojković's 'fault that the municipality is full of Gypsies' and tried to enlist the support of the municipal president, Milivoje Petrović.

In his statement to the HLC, Petrović said:

At the beginning of May 2002, deputies Marko Simić and Milenko Gajić asked me to come outside the office of Slobodan Stojković. I saw a poster stuck on the door of his office bearing the message 'Out with the Gypsies' in large letters. We took it off and placed it on the desk of Stevan Marjanov because we were sure that he had written the message himself. Stojković was repeatedly insulted by Stevan Marjanov and Lazar Paunić for being a Roma both before and after the incident. The day before the poster appeared Paunić had thrown out all Stojković's things from the office because he resented the Roma visitors coming to Stojković for advice and help. Paunić and Marjanov had been complaining to us before that our 'municipality is full of Gypsies' and even urging me to do something about it.⁹⁹

⁹⁹ HLC files, statement by Milivoje Petrović, 3 February 2003.

Having failed to persuade the municipal president to have Stojković dismissed from work, Marjanov and Paunić in January 2003 filed a request for expelling Stojković from the Executive Council. Their explanation of this gesture to the deputies was that ‘the Gypsy must get out.’

In February 2003, the HLC and the Roma Association in Titel filed with the District Public Prosecutor’s Office in Novi Sad a criminal complaint against the two municipal officials for insulting and disparaging their Roma colleague at work, thereby committing the criminal offence of fomenting national, racial and religious hatred.¹⁰⁰

2.2.8. The stoning of Roma homes in Čačak

In July 2002, an unidentified person or persons stoned Roma houses in Čačak and smashed the windows. Two houses were stoned on July 20 and one of them again on the 27th. Mileša Mitrović (b. 1924), whose house was targeted on both occasions, said that she felt unsafe and lived in constant fear, and that she had to seek protection from friends and relatives because the police had failed to find the perpetrator(s). Mitrović said this in her statement to the HLC:¹⁰¹

On Saturday, July 20, I was alone in the house with my granddaughter Zorana. I was still awake around 2.10 a.m. when I heard a crash. I thought that something had happened in the

¹⁰⁰ Article 134 of the FRY Penal Code.

¹⁰¹ HLC files, statement by Mileša Mitrović, 15 August 2002.

street, but soon afterwards there was a second one and I thought that a bomb had gone off. I didn't dare go outside. When I went out in the morning I saw a stone lying in front of the door but still couldn't believe that someone had attacked us. Then my granddaughter vacuum-cleaned the house and spotted a stone that'd flown in through the window and landed in the living room. I called the police and they came. I told them what'd happened and they took notes but didn't take any pictures. They asked me if I suspected anybody and I didn't know what to say. I've lived here since 1939 and have never had problems before.

The second attack happened seven days later, it was also a Saturday. I was in the house with my granddaughter Zorana and grandson Marko. Like the first time there was a crash after midnight, but this time I knew that we'd been attacked again. Next morning we went out and saw that the vacuumized double glazing was broken. The bars which had stopped the brick from flying into the room were bent by the force of the blow. At about 10 a.m. the police came again, had a quick look around, jotted something down, and went off without coming in. I haven't had any information from the police whether they've found the attackers and continue to live in constant fear. My relatives sometimes stay with me overnight to protect me. Since my son Miroslav spent seven evenings here I haven't been attacked.

2.2.9 Public intolerance of Roma in Subotica

The attitude of the non-Roma population of Subotica towards their Roma fellow citizens is illustrated by letters addressed to Nikola Peručić, head of the Office for Appeals, Complaints and Petitions. In one such letter, a group of residents from the district of Mali Bajmok, wrote among other things:

Please do not interpret the point we wish to make as national hatred - that would be the least of our desires - for there are and always will be Roma. We should just like you to picture this situation: of the twenty-two pupils in a class at the Matko Vuković primary school, ten are Roma children aged seven to eleven. Can good, average and particularly bright children work in such conditions? Ten years hence, these ten Roma will have a total of 100 children (for we all know how numerous their families are). That is the logic of their numbers and our future.

While one may or may not agree with this, there is no denying that for the past two years or so the female teachers at the Matko Vuković primary school have been unable to hold physical education classes, particularly in the afternoons, because the courses and playing grounds are occupied by Gypsies. In most cases the police ignore teachers' calls to come and chase the Gypsies away; or, if they do come, they join the Gypsies in a game of football.

2.3. Violent attacks in schools

Roma children drop out of school at an early age also because they feel personally unsafe and rejected by their peers. Other

children do not want to associate with them, regard them as dirty and thieves, and also insult and beat them. The consequence is a mass ghettoization of Roma children in schools. The school system is ill-adapted for children from different cultural and social environments. The curriculum has not been modified during the last ten years or so, as a result of which it is dominated by Serb nationalism and ignores the existence of the Roma literary, historical, and cultural heritage in Serbia.¹⁰²

2.3.1. The case of Safet and Zaim Beriša

The mother of Safet and Zaim Beriša, Ljubica Stanković, complains that her two sons regularly return from their primary school covered with bruises. In September 1999, Safet and Zaim were attacked by a group of boys with a knife. Following is Safet's description of the incident:

At the railway station, five boys came up to us. I recognized three of them as being from our school. One of those I didn't know had a knife. They cursed our Gypsy mother and kicked and punched me. My brother Zaim ran away. Our neighbour Milica Stanković, who happened to be there, helped me out. She stood in front of me and told them to go away.¹⁰³

Safet went on to describe the attitude of his fellow pupils towards him:

¹⁰² *Glas javnosti*, 'Kao da ih je pisao Milošević' (The textbooks might have been written by Milošević), 1 April 2001.

¹⁰³ HLC files, statement by Safet Beriša, 8 September 2000.

Children in my class call me a Gypsy and say all kinds of nasty things about my Gypsy mother. One boy named Peđa sometimes hits me. During the break, many children call me a Gypsy, and sometimes I also get a kick or a punch into the bargain. I've complained several times to my teacher, Biljana Vuković. She promised that she'd ask them to stop it, but they still do it.

After one such incident, when Zaim came home with bruises on the head and a broken nose, the boys' mother asked the school governor, Ratko Jokić, to help protect her children. In spite of Jokić's promises that the school would take measures to protect its Roma pupils, the harassment continued as before and Safet and Zaim left the school. In order to protect her sons, Ljubica had their Albanian surname changed to Stanković.¹⁰⁴

2.3.2. The case of the little poetess

Ljiljana Burić (12) is a sixth-year pupil at the Desanka Maksimović primary school in Belgrade. Her mother Anđelka told the HLC that her daughter had been complaining that other children insult her and curse her Gypsy mother. The girl wrote the following poem to describe her daily distress:¹⁰⁵

¹⁰⁴ The surname Beriša indicates an Albanian origin or adherence to Islam.

¹⁰⁵ HLC files, statements by Anđelka and Ljiljana Burić, 12 July 2000.

They Keep Teasing Me

They keep teasing me
that I'm a little Gypsy girl,
and that I'm not one of their kind.

Just what they mean by that, I've no idea,
nor how they got it into their heads.
Isn't my dress just like hers?
And don't I smile in the same way she does?

Will they ever learn, oh will they ever learn,
that we Gypsies are honest and pure at heart?

I've a mother just like she does,
my house is big and clean too,
and my eyes glimmer in sunshine
in the same way hers do.

They keep teasing me
that I'm a little Gypsy girl
though they themselves don't know what that means.
At home we observe our family patron-saint's day,
and my heart is aglow with love.

2.3.3. The case of Kristina Stanojević

Kristina Stanojević is a fifth-year pupil at the Banović Strahinja primary school in Belgrade.

Until last year, I had been insulted by the children all the time. They would shout at me: 'Gypsy face', 'You Gypsy motherfuck-

er', 'You filthy Gypsy girl' and suchlike. Five of the boys were at it all the time. One would start it and the rest would chime in. Some of the girls also treated me that way. I was one of the three Roma in my class and we were all insulted in the same way. Once in May this year one of the boys gave me a kick and said, 'Clear out of here, you Gypsy girl, have a good look at yourself in the mirror.' Another boy hit me in the face with a ball and accused me of stealing a coin from him. A girl from my class used to hit, insult and push me around all the time. I complained to my teacher. She told them to stop it and that we children should stick together. But the children continued to tease me. I'm now in my fifth year and I've not been bothered so far. The Serb schoolchildren don't want to associate with their fellow Roma pupils. I keep company with my sister Jelena and my Roma girlfriends. Only one Serb girl mixes with us. Her name's Nataša. She's a very good pupil. She's never insulted us or called us Gypsies.¹⁰⁶

2.4. Domestic standards

a) Constitutional guarantees

The Charter on Human and Minority Rights and Fundamental Freedoms prohibits any incitement and encouragement of national, ethnic, religious and other inequality, as well as any incitement and fomentation of national, ethnic, racial, religious and other hatred and intolerance.¹⁰⁷

¹⁰⁶ HLC files, statement by Kristina Stanojević, 27 September 2000.

¹⁰⁷ Article 51 of the Charter on Human and Minority Rights and Fundamental Freedoms.

b) Criminal-law provisions

The FRY Penal Code¹⁰⁸ treats racism and discrimination against racial, national and religious groups as the criminal offence of incitement of national, racial and religious hatred, dissension and intolerance.¹⁰⁹ This offence is grouped together with criminal offences against the constitutional order and the security of the FRY. Commission of this offence can either engender hatred, dissension or intolerance or encourage and deepen existing sentiments. This criminal offence may be committed by insulting, ridiculing or belittling national, racial or religious feelings and historical, ethnic or cultural values. It may also be committed by denying a statutory right if the motive was incitement or fomentation of hatred, dissension or intolerance. The FRY Penal Code distinguishes between a basic form and several more serious forms of the offence.

¹⁰⁸ Since criminal legislation lies outside the competence of the new state-union of Serbia and Montenegro, the FRY Penal Code continues to be applied by each member state as a statute until it is abolished.

¹⁰⁹ Article 134 of the FRY Penal Code: '1. A person who incites to or excites national, racial or religious hatred, dissension or intolerance among the nations and national minorities living in the FRY shall be punished by imprisonment from one year to five years. 2. A person who commits an offence referred to in paragraph of this Article by coercing or harassing others, threatening their security, holding up to ridicule national, ethnic or religious symbols, damaging other people's possessions, desecrating monuments, memorials or graves, shall be punished by imprisonment from one year to eight years. 3. A person who commits an offence referred to in paragraphs 1 and 2 by abusing his office and powers and thereby provokes disturbances, violence or other grave consequences for the life together of the nations and national minorities living in the FRY shall be punished by imprisonment from one year to eight years in respect to paragraph 1 and by imprisonment from one year to ten years in respect to paragraph 2.'

The Serbian Penal Code protects the security of individuals and their right to live in peace and tranquillity.¹¹⁰ This criminal offence is grouped with criminal offences against the rights and liberties of man and the citizen.

c) Compensation

If the victim suffers an injury to his physical or psychological integrity, he is entitled to compensation for pecuniary and non-pecuniary damage. The civil-law remedies for injuries to physical and psychological integrity are given in some detail in section 1.2. c) of this report. The provisions of the Law on Obligations with respect to compensation are also applied where the perpetrator is a physical person acting in a private capacity.

2.5. International standards

Many international standards relating to the right to life and physical integrity and the right to human dignity imply the obligation and duty of the state party to protect these rights against individuals acting in a private capacity.

¹¹⁰ Article 67 of the Serbian Penal Code: '1. A person who endangers the security of another person by making a serious threat to the life or body of that person, or of a person close to that person, shall be fined or punished by imprisonment up to six months. 2. If the offence referred to in paragraph 1 of this Article is committed against several persons, or if the offence disturbs the public tranquillity, or if the offence causes grave consequences, the perpetrator shall be punished by imprisonment from three months to five years. 3. The offence referred to in paragraph 1 of this Article is prosecuted on the basis of a civil action.'

The UN Human Rights Committee¹¹¹ holds that the safeguards extended to individuals by a state party must include protection against torture or other cruel, inhuman or degrading treatment or punishment by persons acting in a private capacity.¹¹² The Committee holds that a state party is duty bound to give every person protection through statutory and all other necessary measures against offences prohibited under Article 7 of the International Covenant on Civil and Political Rights whether committed in an official, quasi-official, or private capacity.¹¹³

The UN Human Rights Committee holds states parties responsible for acts by third persons also in respect of Article 5 of the International Covenant on Civil and Political Rights. In its view, in order to safeguard the individual's right to security of person, the state party is bound to take 'sensible and appropriate' measures to protect the integrity of person against possible injury.¹¹⁴

111 The UN Human Rights Committee acts under the First Optional Protocol to the International Covenant on Civil and Political Rights and is the authentic interpreter of its provisions. The Committee interprets the Covenant by a) making general comments; b) reviewing periodical reports by state parties; c) deciding on individual submissions filed with it under the First Optional Protocol to the International Covenant on Civil and Political Rights. The Committee adopts its general comments by consensus. The comments are not binding and have the force of recommendations.

112 UN Human Rights Committee, general comment, 46th session, 1992, Article 7.

113 UN Human Rights Committee, *ibid.*

114 See Delgado Paez v. Colombia, No. 195/1985.

3. Discrimination against Roma

The beliefs that the Roma are less worthy as human beings and have no human dignity are the commonest prejudices and stereotypes as far as this community is concerned. To many ordinary people, the very fact that the Roma have a different skin colour is proof that they are unlike the rest. The general negative attitude is especially pronounced towards Roma with Albanian names.

3.1. Discrimination in education

Roma children in general do not complete their elementary education and drop out in large numbers especially during their third and fourth years at primary school. Most Roma children live in poverty and in inadequate housing. Their homes are usually makeshift shelters without running water, electricity and sewerage. The children displaced from Kosovo are especially indigent. Most of those who had attended classes in the Albanian language prior to their displacement in 1999 have not enrolled in schools in Serbia. These children do not speak Serbian, and the Serbian educational authorities do not provide instruction in Albanian. Owing to their ignorance of Serbian and their inadequate housing, such Roma children as continue their education in Serbia are less successful than they were in Kosovo. Since in Serbia there are no schools providing instruction in the Romany language, Roma children are educated in Serbian or in

a minority language. Although the law on primary schools provides for basic Serbian language lessons for pre-school-age children,¹¹⁵ this is rarely met in practice. As a result, Roma children enter primary school with no or little knowledge of the language in which instruction is given.

The so-called 'special schools' for handicapped children are a source of special problems in Roma education. Roma children account for some 80 per cent of all pupils attending these schools because they are graded according to inadequate tests designed specifically for handicapped children. The testing does not take account of the fact that Roma children come from a severely disadvantaged social environment and do not speak the Serbian language in which the tests are taken. As a result, mentally healthy Roma children are branded as mentally handicapped by the very fact that they attend a 'special school'. In a heavily prejudiced society, children who graduate from a 'special school' stand no chance of getting further education or employment.

By law, a child is tested by a medical board for its mental health and, if a mental problem is detected, a recommendation is made as to how the child should be categorized. On the basis of such a recommendation, a municipal authority determines the kind and degree of the mental handicap in question.¹¹⁶ The parent may appeal the determination to the competent

¹¹⁵ Article 25 of the Law on Primary School.

¹¹⁶ Article 85 of the Law on Primary School.

ministry. Some Roma parents accept the finding as it is in spite of the fact that their child is mentally healthy because attendance at a 'special school' brings them some advantages such as child benefit, free assistance and care, and all-day attendance coupled with free meals and free medical assistance. Even those few Roma parents who are aware of the disadvantages of 'special schools' do not appeal because they are ignorant of their rights.

Psychologist Mirjana Petrović, who works at the Novi Beograd special primary school in New Belgrade, says that the school has 104 pupils of whom Roma children account for 80 per cent. She attributes this high percentage of Roma children mostly to inadequate tests:

The Novi Beograd special primary school formally has no pupil of average intellectual capacity. The problem of the Roma children is the problem of the entire Roma population. The attitude of us 'whites' to the Roma population is another problem. Among ourselves we psychologists refer to the Roma children's IQ performance as the 'Gypsy IQ'. This means that our 'white' tests show them as retarded. But this also means that the tests are not adequate for the Roma population. The crux of the problem is that neither the requirements of regular schooling nor the tests are suitable for the Roma.

We're actually doing the Roma children a favour because by sending them to special schools we're pulling them out of regular schools where they cannot cope with the curriculum. But the Roma population does have a larger proportion of pseudo-mentally retarded children than others. The cause is well known,

namely the poverty and ignorance of their parents. Another problem lies in the curricula of the regular schools, which are not easy even for children characterized by average intellectual development. With better schooling there would be fewer Roma children attending special schools.

As far as the Roma children's IQ is concerned, I'm in the clear before the law. They cannot score more than 70 in the tests, which categorizes them as slightly retarded. How can a Roma child lay out a cartoon during a test if he has never seen a cartoon in his life? This doesn't mean that they're not bright. Just the other day two workmen tried to bring a cupboard into the room, but they couldn't get it through the door. Finally a Roma boy in his eight year came forward and instructed them how to manipulate the cupboard in order to negotiate the door-frame.

In this school the Roma children feel superior to their white peers. They are aware of this themselves because they master the curriculum with far greater ease. Most of the white children attending this school are moderately retarded, so they are naturally no match for the much more intelligent Roma pupils.

Psychologist Dragana Đakić, who works at the Sirogojno special primary school in Zemun, says that Roma children account for 70 per cent of the school's population of 250:

The problem of the Roma children is that they are educationally neglected. They find the test questions unintelligible. The Roma have no work habits. The Roma parents do not care whether or not their children go to school. The claims that educationally

neglected Roma children can fit into regular schools are fairy tales. All we get in the end is frustrated, neurotic children.

In testing Roma children I've noticed that they have problems with abstract terms. This has to do with the Romany language, which has a rather limited vocabulary. For instance, it contains no such word as 'dignity', so a Roma child cannot describe the meaning of that word because it has never heard it spoken. It just cannot conceptualize it.

Or if a child is asked in a test what he would do if he saw smoke rising from a building, he is expected to say that he would phone the fire-brigade or tell a grown-up person that the building is on fire. Roma children as a rule say that the wood or coal stove should be cleaned out and the chimney pipe adjusted. I've no other choice but to give such an answer zero rating. If I ask whether they would give money to the Red Cross or to a beggar in the street, Roma children say they would give it to the Red Cross. Now this is the correct answer, but when I ask them why, they reply, 'Because we get help from the Red Cross'. This second answer is incorrect. Or if I ask them what an apple and a pear have in common they know that both are fruit. But when I try to elicit a more abstract comparison, I get the answer, 'Both have a petal'. Such an answer is just not good enough.

Many parents of our pupils have graduated from this school, so they enroll their children here as a matter of course. They know that their children will have fewer problems graduating from this school than from a regular school with its much more difficult curriculum. Also, the parents know that their children will

*receive snacks, dinner and textbooks free of charge as well occasional humanitarian aid in this school. They are distinguished by their inclination to follow the line of least resistance.*¹¹⁷

Dr Smiljka Polomčić, a neuropsychiatrist on the Grading Board at the Institute of Mental Health attached to the New Belgrade health centre, pointed to some educational problems of Roma girls:

*Children belonging to the various subcultures are educationally neglected, linguistically inadequate, and poor test performers. Such children have a poor command of both Serbian and their mother tongue. Their parents are usually illiterate and have no ambition whatever to add to their knowledge. If asked during a test where bread comes from, the children say 'from the refuse container'; and if you ask them where milk comes from, they answer 'from the shop'. Our biggest problem are nine-, ten- or twelve-year-old children with such problems enrolling in the first year. What can you do with such children? I cannot put a physically developed twelve-year-old Roma girl who, according to their custom, is ready to have a child, in a class with seven-year-olds. Our resort is to send her to the evening school if she is not intellectually neglected. If she is, we then give her a chance in the special school.*¹¹⁸

The Milan Rakić primary school in Belgrade has a preparatory class for Roma children to help them attend regular classes. The

¹¹⁷ HLC files, statement by psychologist Dragana Đakić, 24 February 1999.

¹¹⁸ HLC files, statement by neuropsychiatrist Dr Smiljka Polomčić, 1 March 1999.

school's special education teacher, Tatjana Trajković, spoke about her experiences:

The intelligence tests are not suitable for the Roma population above all because it is educationally neglected. Roma children enroll in the school with almost no prior knowledge. Our preparatory class has so far graduated one generation of Roma children who are now attending regular classes and are doing fine. There are at present twelve children in the preparatory class.

The Roma children who received preparatory instruction were better able to adapt themselves to a regular school than other Roma children. They were more successful even than those coming from the more prosperous Roma families who had refused to let their children attend preparatory classes because they considered them fully adapted .

During our work with Roma children we noticed that their main problem was poor command of the language. Our team includes, in addition to a teacher of the handicapped, a psychologist and a woman teacher, a Roma student who acts as our interpreter. The children learn both Romany and Serbian. Besides paying great attention to the language, our chief concerns are improving the children's psychomotility, pre-operative and operative thinking and socialization, and taking them to places of cultural interest. We take them to the theatre to watch plays for children in Romany and Serbian, and we also take them to the zoo.¹¹⁹

¹¹⁹ HLC files, statement by special education teacher Tatjana Trajković, 25 February 1999.

At the Vidovdan school for children with special needs in Bor, Roma account for some 80 per cent of the 272 pupils. The school governor, Nada Todorović, described the problems as follows:

The Vidovdan primary and secondary education school is distinguished from other schools in that it caters for children with special problems, that is, mentally retarded ones. In some cases fluency of linguistic communication is all that is necessary to establish the right kind of contact with the child. However, the low social and educational standards of Roma families or 'subculture' is why Roma children attend 'special schools' in such large numbers.

Children were previously tested in the nursery and later directed to a regular or 'special school' as the case may be. These days, before a child is enrolled, it must appear before a grading board comprising a neuropsychiatrist, psychologist, paediatrician, speech therapist and, if necessary, a special education teacher. If, during a one-month period of observation, it is established that a child has been assigned to the wrong school, it is sent before a re-grading board. In order to be enrolled at a school, a child must present its birth certificate as well as the grading board certificate. The children attending this school enjoy certain pecuniary benefits such as free schooling, free meals, social welfare benefits, clothes. This is why parents tell their children not to answer the questions the members of the grading board are going to ask them, so these children end up in schools where they do not belong.

The Vidovdan school has 272 pupils, of whom ten are attending pre-school and 214 primary school classes, with a further

*forty-eight in their ninth year receiving vocational training. At the moment, we're training them to be locksmiths, printers, and ready-made clothes makers. The Roma, who account for 80 per cent of our pupils, are not mentally retarded but socially neglected. In my opinion, they're still not ready to attend a regular school. The re-grading board has decided that three Roma children from our school are now fit for a regular school.*¹²⁰

In the school year 2002-03, 344 primary schools were established in Vojvodina, an increase of two on the previous year. Roma attend regular classes in 234 of these schools. Their and general educational problems in Vojvodina were discussed by Rajko Jovanović, president of the Vojvodina Society for Romany Language and Literature and vice-president of the Central Roma Cultural and Publishing Society:¹²¹

The question of Roma general education and upbringing in Vojvodina has received serious attention since 1998. The number of Roma children attending primary schools in Vojvodina has been increasing steadily. However, it is only since the start of the current school year that their numbers have grown appreciably. Roma pupils are either present in or assigned to 231 of the total of 344 primary schools in Vojvodina which provide a regular curriculum. There are 570 Roma children in those schools.

In addition, twenty-one primary schools in Vojvodina with instruction in the Serbian language provide Romany language

¹²⁰ HLC files, statement by Nada Todorović, 28 November 2001.

¹²¹ HLC files, statement by Rajko Jovanović, 11 October 2002.

*classes within an optional subject called 'the Romany language with elements of the Roma national culture'.¹²² In the schools providing optional instruction, the Roma pupils are grouped in forty-six classes and taught their language by sixteen teachers. Their biggest problem is the lack textbooks in the Romany language. At present, they have at their disposal a primer, *Lil grafemengo*, and a workbook, *Lil bućarimasko*. You may have heard that the first Roma primer, *Lil grafemengo*, was promoted on Roma Day, 8 April 2000, in the Vuk Karadžić primary school in Deronje. The Vojvodina Society for Romany Language and Literature has set up a Board to work out an instruction plan and programme for Romany language lessons and textbooks, but the Board can't meet because we can't provide its members even with travelling expenses. Although we have asked the competent authorities several times to provide us with basic teaching aids, we still don't have even a computer. Our priorities in the period immediately ahead will be to have the Romany language accepted as a subject of study in primary schools as part of the regular curriculum, as well as that the marks earned in this subject be taken account of in calculating a pupil's average grade.*

According to our records, there are some 500 Roma pupils attending secondary schools in Vojvodina. The University in

¹²² Optional curricula are provided under Article 5 (5) of the Law on Primary School: 'Where instruction is given in the Serbian language, members of nationalities shall also be taught their own language and elements of their national culture.' *Serbian Official Gazette*, Nos. 50/92, 53/93, 67/93, 48/94 and 22/02.

Novi Sad has eighty-five Roma students of whom seventy-two are supported from the budget. We are now trying to provide grants to a number of Roma secondary school pupils and University students.

3.1.1. Segregation of Roma children in Subotica

On 19 September 2002, the Assembly of the Municipality of Subotica adopted a 'Decision to recommend the establishment of separate classes for children of Roma displaced from the territory of the Autonomous Province of Kosovo and Metohija'. The draft decision was adopted by the Assembly's Executive Committee the previous day. The decision thus formalized the state of affairs existing in the municipality since September 2001, i.e. the operation of separate classes for Roma children. At present there are separate classes for Roma children in three schools in Subotica.

Jelena Veljković, the governor of the Matko Vuković primary school in Subotica, one of the three having such classes, said this in her statement to the HLC:¹²³

At the start of the school year 2001-02, a large number of Roma children displaced from Kosovo began enrolling at our school. Since they live in the territory our school covers, we requested the Provincial Secretariat for Education and Culture to let us establish a separate class for these pupils. In applying for funds to be able to set up and operate such classes we had in mind

¹²³ HLC files, statement by Jelena Veljković, 16 October 2002.

the specific needs of these pupils. The problem is, a great many of them do not speak any of the languages in which instruction is given, and they were all of different ages although they were enrolling in the first year. We had even a number of thirteen-year-olds who had never attended school before. For this reason, we established a first-year class comprising twenty-two pupils who were given a simplified course of study. Although thirteen of them completed their first year successfully, they were not separated from the rest; they are all still together in a combined class receiving instruction according to first- and second-year curricula. This year we have established two other first- and second-year classes. The Roma who during the previous year had attended the first year together with other children, but were placed in separate classes owing to their poor command of the language, are now attending the second year.

The Provincial Secretariat for Education and Culture has voiced approval of our request for special classes, so we are now waiting for their written decision and the funds.

Mića Uzelac, the governor of the Đuro Salaj primary school, which has fifty-three Roma pupils displaced from Kosovo, said:¹²⁴

In view of the increase in the number of pupils, the teachers' board decided to request permission from the Provincial Secretariat for Education and Culture to set up two first-year classes. These classes comprise Roma aged seven to thirteen

¹²⁴ HLC files, statement by Mića Uzelac, 16 October 2002.

who speak neither Hungarian nor Serbian. I wish to point out that such classes are necessary in view of the Roma pupils' various ages and specific language problems. We've had complaints from non-Roma parents that their children cannot make progress because the Roma children are obstructing classes.

Mihajlo Kočić, the governor of the Sečenji Ištvan school, another which has a separate class for Roma pupils displaced from Kosovo, said:¹²⁵

In the school year 2002-03 the school enrolled more first-year pupils than in previous years partly because there are among them over twenty Roma from Kosovo. Some of them are over seven and speak neither Hungarian nor Serbian. This is a problem for both teachers and pupils, so I have pointed it out to the competent republican, provincial and municipal educational authorities. Since we've still had no reply from them, we've set up a class comprising nineteen pupils who will be instructed in Serbian according to a simplified curriculum as from 21 October 2002. The non-Roma parents have threatened to withdraw their children from the school because the Roma children distract them.

Balaž Piri Ištvan, member of the Executive Committee of the Municipality of Subotica in charge of education affairs, said:¹²⁶

The number of Roma children enrolled in primary schools increased at the end of August 2002. I'm referring primarily to

¹²⁵ HLC files, statement by Mihajlo Kočić, 16 October 2002.

¹²⁶ HLC files, statement by Balaž Piri Ištvan, 17 October 2002.

those displaced from Kosovo. Considering that these children speak neither Hungarian nor Serbian and that some of them are over eleven, the Assembly of the Municipality of Subotica ruled that special classes for these children may be formed. By the way, the pressure from the non-Roma parents on the municipality to solve this problem has been considerable. After the Roma children were organized in separate classes, their parents began to complain that if they remained isolated in this way they would not be able to learn the language of their new environment. While I agree with them, we couldn't find another solution. Although the Kosovo Roma settled in Subotica as far back as 1999, it is only this year that they started enrolling their children in schools. In my view, this is because certain social benefits, such as child benefit, are conditional on regular schooling.

Vesna Reljin, Deputy Provincial Secretary for Education and Culture in the Vojvodina Executive Committee, gave the following reasons for the establishment of separate classes:¹²⁷

At the beginning of the current school year, three primary schools in Subotica submitted requests for increasing the number of classes to cope with the influx of Roma children. I granted the requests orally and transmitted them to the Republican Ministry of Education and Sport for final approval because funding is still a responsibility of the republic. As far as I know, all the requests have been granted by the competent republican ministry.

¹²⁷ HLC files, statement by Vesna Reljin, 17 October 2002.

On 11 October 2002, the HLC and the ERRC made a public Appeal in which they protested against the establishment of separate classes in Subotica for Roma children displaced from Kosovo and Metohija. They pointed out that the establishment of such classes would amount to racial discrimination (segregation) and constitute a violation of several fundamental human rights. They suggested that linguistic problems in these schools be dealt with through mixed classes comprising Roma and non-Roma children, with additional instruction for children who speak none of the languages in which teaching is available. The HLC and the ERRC also proposed providing pre-school instruction and taking other measures to attain the universally-accepted goal of multi-cultural education for all children in Serbia.

The Appeal was addressed to the President of the FRY, the Federal Ministry for National and Ethnic Communities, the Serbian Ministry of Education and Sport, the Provincial Secretariat for Education, the Assembly of the Municipality of Subotica, the Office of UN High Commissioner for Human Rights, the Office of the UN High Commissioner for Refugees in Belgrade, the Office of the Organization for Security and Cooperation in Belgrade, and the Office of the Council of Europe in Belgrade.

3.2. Discrimination in housing

Roma live in poor hygienic conditions in illegal, isolated settlements devoid of basic infrastructure. The examples documented by the HLC bear witness to the indifference of the state

authorities towards Roma evicted from such settlements. The Roma thrown out of such settlements have no other choice but to find new illegal locations, only to be evicted yet again.

3.2.1. Eviction of Roma families from a house on Zimonjićeva St. in Belgrade

On 14 June 2001, fourteen Roma families were evicted, with police and private security assistance, from a house at 30 Zimonjićeva St. in the Belgrade district of Košutnjak. They were given five minutes to collect their belongings and vacate the building. The families found a temporary shelter in a nearby park. One of the evicted Roma, Nenad Memišević, described the incident as follows:

On June 14, four executors and two policemen arrived with construction machines and gave us five minutes to collect our things and move out. We begged them to give us more time, but they started to break and throw everything out. They smashed all our household appliances. The mother of a five-month baby was told the child would be handed over to the Welfare Work Centre unless she woke it up and took it out into the field. My brother begged them to postpone the eviction because he had a six-year-old child who was totally blind in one eye. They replied, 'Why do you make babies if you can't give them a normal life?'

We all gathered together in the field across from the house, at the corner of Zimonjićeva and Pustorečka streets by the Lola Institute. We constructed cardboard huts in the field to have at least some shelter. The field is strewn with rubble thrown out by the owners of the newly-adapted villas in the neighbourhood.

We've got to keep the fires going all night to protect our children from the huge rats prowling the field. The rats are afraid of light. A rat bit my younger child on the lip. I first rinsed the wound with brandy, but then I realized we had to see a doctor. Recently people have started to pelt us with stones from passing cars at night. They just pass by and hurl a brick at us because we're right there by the road. We keep all the children together in the most secure room and keep watch.

The Roma were warned by municipal inspectors that they would be thrown out of the park at the beginning of October. The HLC requested the city and municipal authorities to explain their action and warned them that the state or local self-government authorities had no power to evict people without providing them with provisional accommodation. It also pointed out that international document binding on the FRY prohibited the forcible eviction of persons belonging to vulnerable social communities such as Roma. As of this writing, the city authorities had not replied to the HLC letter. The president of the Executive Committee of the Municipality of Čukarica replied on July 24 that 'in issuing and executing an eviction order, the administrative agency does not have to determine the national or religious background of the unlawful tenant, only that its proceedings are according to the law. The Municipality of Čukarica is neither able nor bound to provide alternative accommodation to evicted persons or unlawful tenants.'

In November 2001, the HLC received 7,500 euros from the Netherlands Government to help find accommodation for these people. After a year of unsuccessful attempts to secure a site for

a building or to acquire additional funds through municipal and city authorities, the money was returned because it could not buy a building at market price.

3.2.2. Eviction of displaced Roma

Six Roma families displaced from Kosovo and living in makeshift shelters made up from cardboard, board, and plastic sheeting in a field near the Belgrade locality of Autokomanda were evicted by inspectors of the Municipality of Voždovac. Most of the twenty-seven people, including eight children aged one to ten, eight children aged ten to fifteen, and one two-month-old baby, had no personal documents whatever. Following their arrival from Kosovo, they had been chased by municipal officials and the police from one location in Belgrade to another. A few days before they were evicted, Ragib Azirović of Moravska village near Priština recounted the group's ordeal in Belgrade:¹²⁸

Since we ran away from Kosovo in 1999, we've been moving from one place in Belgrade to another. After Francuska street - that's where we stayed longest of all - we moved on to Dimitrija Tucovića street, then to Cara Dušana street, then here by the motorway. About two months ago they chased us away and flattened everything we had with bulldozers. We hid behind the bushes some 100 metres away and made up a shelter from board and plastic sheeting. My wife told me they were here again this morning, saying we had to go on Friday. My family consists of five members: myself, my common-law wife Indira

¹²⁸ HLC files, statement by Ragib Azirović, 10 April 2002.

Ademin, the sons Klaudijan aged two and Stiven aged one, and the baby, daughter Senada, aged two months. None of us has any document. I was afraid to apply because I had no document on me to prove who I was, everything we had got left behind in Kosovo. Apart from the people who stop by to give us something to wear, nobody's been here to see how we live. Those who keep chasing us around won't let us stay here and live honestly by selling old cardboard, rather than go out and steal. We're ready to move farther away from the motorway, but no, they've told us we've got to get out of here altogether.

3.2.3. Roma family evicted from flat after twenty-seven years

The Saiti family lived in a flat on Dvoržakova St. in Belgrade since 1975. They were ordered to vacate the flat on 28 October 2002 by the Property Rights and Housing Department of the Municipality of Čukarica.¹²⁹

The late Bajram Saiti, who took unlawful possession of the flat twenty-seven years ago, was unemployed and supported his nine-member family on his welfare benefits. Prior to the eviction, there were six members of the family in the flat. The only wage-earner, Samit Saiti (23), has supported the rest of the family since the death of his father, mother, and brother. Throughout their tenancy, the Saitis regularly paid all their bills and were registered at that address.

¹²⁹ Eviction order by the Property Rights and Housing Department of the Municipality of Čukarica of 3 October 2002.

Although the local Roma association, 'Roma Life', asked the municipal Executive Committee to postpone the eviction until the family had found another accommodation,¹³⁰ the eviction order was upheld.

On 28 October 2002, the HLC filed a suit against the FRY and the Municipality of Čukarica with the Second Municipal Court in Belgrade, insisting that the family had a statutory right to purchase the flat they had occupied for twenty-seven years. It also appealed to the then Serbian Prime Minister, the late Zoran Đinđić, and the federal Minister for National and Ethnic Communities, Rasim Ljajić, to help the family to exercise their statutory right. In spite of all, the competent municipal authorities passed a new eviction order and the family was thrown out into the street on 28 February 2003.

3.2.4. Eviction of the residents of the 'Old Airport' settlement

The shanty-town in New Belgrade known as the 'Old Airport' dates back to 1987 when the Yugoslav People's Army left the location. Between 1987 and 1990 its population comprised thirty-two Roma families. After the NATO bombing of 1999, the population swelled considerably owing to the influx of Roma displaced from Kosovo. In September 2001, sixteen families were evicted by order of the Municipal Construction

¹³⁰ Application to the Executive Committee of the Assembly of the Municipality of Čukarica, 16 September 2002.

Department of the Municipality of New Belgrade. Further evictions, scheduled for 24 March 2002, were prevented through joint action by domestic and international human rights organizations. The problem came to public notice again in August 2002, after the director of the IMT company of Belgrade had given the residents until 1 September 2002 to move out. At that moment the settlement housed a total of 205 families including 138 displaced families from Kosovo. Meanwhile, the settlement had been fenced off with wire and an appeal to the city authorities by the Roma residents had gone unanswered. The Roma reached an oral understanding with the IMT management to postpone the forcible eviction by a few days. When no reply came from the city authorities they began a protest on 2 September 2002. Although they spent two days in a park, no solution to their problem was found. The president of the city government, Ljubomir Anđelković, received a Roma delegation to inform them that the City of Belgrade Assembly had no obligations towards the Roma residents. He also advised them to seek help from the Office of Commissioner for Refugees and Displaced Persons and from the Ministry for National and Ethnic Communities. The embittered Roma ended their protest on September 3 due to hunger and cold.

During the protest, however, an understanding was reached to postpone the evacuation of a part of the settlement, due on 1 September 2002, until October 1 so that an alternative site could be found. The meeting at which this was decided was attended by representatives of the Roma settlement, the IMT director, and the Minister for National and Ethnic Communities, Rasim Ljajić. The agreement was not honoured, thirty-seven

families fearing violence pulled out of their own account from a fenced-off sector of the settlement, and demolition of that part began. As a result, the number of families in the settlement decreased to 124, the rest having found shelter at other locations.

Frustrated by the failure of the authorities to solve their problems and exposed to continued pressure to move out, the angry Roma on 15 October 2002 staged a protest in front of the Federal Palace in Belgrade. That day they were received first by Rasim Ljajić and then by Vojislav Koštunica, the FRY President. Koštunica promised to see to it that further evictions were halted until an alternative site had been found.

On 21 October 2002, HLC attorneys filed a suit with the Fourth Municipal Court in Belgrade against the FRY, the Republic of Serbia, the City of Belgrade, the Municipality of New Belgrade, and the IMT and Gaj companies for violating the personal rights of the residents of the Roma 'Old Airport' settlement. They requested the court to order a suspension of further forcible evictions pending the provision of alternative accommodation. On 7 November 2002, the HLC was informed by the court that no such provisional measure had been ordered.

3.2.5. A rare considerate gesture towards Roma

Dragoljub Petrović of Belgrade, a retired employee of the Čukarica A.D. joint-stock company, was evicted from his flat at 9 Prvog maja St. in the Belgrade district of Železnik at the end of lengthy litigation. He had occupied the flat since 1986. The

court established that the flat did not belong to the Čukarica A.D. joint-stock company, which had allotted it to Petrović in 1986, but to another company, the Ivo Lola Ribar Corporation A.D. After he was evicted at the end of January, Petrović, who has a serious heart condition, moved with his wife into a hostel for single persons belonging to the corporation. The room was kindly placed at their disposal until May by a corporation driver named Jugović, who in turn moved into the flat vacated by Petrović. The HLC asked the corporation's director, Lazar Bajčetić, and the director of the company's legal department, Radojka Prvulović, to allow Petrović to remain in a hostel room permanently with the possibility of even purchasing it at a later date. At the end of May, Bajčetić granted the request and permitted Petrović to stay in the hostel room indefinitely although he had never worked for the corporation. This humanitarian decision on the part of the Belgrade enterprise and its director was the only kind gesture towards the Roma known to the HLC.

3.3. Discrimination in employment

According to a study on the social integration of the Roma, only 20 per cent of the Roma population in Serbia fit for work are permanently employed, state enterprises providing work for 5 per cent of them.¹³¹ Flagrant and unpunished discrimination against Roma job applicants is one of the reasons why so many

¹³¹ 'Manjine u Srbiji' (Minorities in Serbia), Helsinki Committee for Human Rights in Serbia, Belgrade, 2000, p. 96.

Roma are out of work. Roma are discriminated against by both private employers (the case of the Toma butcher's shop) and institutions financed from the state budget (the case of Julijana Arandelović).

3.3.1. The case of Julijana Arandelović

Since Julijana Arandelović graduated from the Faculty of Medicine in Niš in 1992, she has been looking for work in vain. She has since passed the state examination and specialized in physical medicine while doing voluntary work. At the middle of June 1998, her mother Seada applied for help to the District Board of the then ruling Socialist Party of Serbia in Niš. At their recommendation, Arandelović went for an interview at the local Health Centre. During the interview, the Health Centre director, Vlasta Mitić, showed more interest in her origin than in her vocational qualifications. He told her he would have a job for her if and when the Health Centre opened an out-patient clinic in the local Roma settlement.

On 2 August 1998, Goran Nikolić of the SPS District Board got in touch with Julijana and her mother and advised them to go for another interview at the Niš Health Centre. This time, Julijana's husband Nebojša went along. The secretary of the Health Centre director told them that Julijana could have a job if she agreed to work in out-patient clinics in villages around Niš three or four days a week. She asked them for additional documents and told them to bring them by noon that day. When they returned with the documents, they were told flatly that there was no work for Julijana. This time Julijana was deter-

mined to seek an explanation from the director and waited outside his office until he came out. As soon as he saw them, the director started to insult and curse them. The medical staff present at the scene did not react.

3.3.2. Discrimination at the Toma butcher's shop

At the beginning of November 1999, the Toma butcher's shop in Belgrade published an advertisement in the newspapers for two cleaning work vacancies. Živana Miladinović and her neighbour Stanka Marinković reported at the shop on November 15 to inquire about the vacancies. The proprietor, Toma Grbić, told them that while Miladinović did not meet the requirements, he could give Marinković work on probation. Marinković described her subsequent conversation with the proprietor as follows:

I asked him why he'd admit only me if he needed two cleaning women. He said Živana was 'coloured' and that I would do because I was white. I replied that Živana might be more hard-working than me in spite of her darker skin. I told him that I too was a Gypsy and that what he did was deplorable because Gypsies had the same rights as everybody else. The owner said, 'Don't take offence, but such are the rules. The cleaner is supposed to prepare the butcher's breakfast, but the butcher can't eat what a Gypsy woman prepares for him.'¹³²

¹³² HLC files, statement by Stanka Marinković, 7 November 1999.

3.3.3. The case of Nataša Stević

Nataša Stević (b. 1983) of Kragujevac, a graduate of a secondary school of commerce, was looking for work in newspaper advertisements. She told the HLC what happened when, in October 2001, she answered one advertisement:¹³³

The advertisement said that the Vega bakery needed three females to sell pastry. They said you could phone or apply in person. I decided to go there because the bakery is near where I live. I went in and told the saleswomen, 'Excuse me, I've come in connection with the ad.' One of them told me to wait and went out through a back door to fetch someone. A woman about thirty years old came out. I heard the others call her Violeta. She asked me if there was anything she could do for me. I replied that I wanted a job. She looked me up and down - I'll never forget that disparaging look in her eyes - and asked me, 'You need a job?' I replied, 'Yes, the ad is still open.' Violeta replied, 'We don't need workers.'

A few days later, Nataša saw a non-Roma friend of hers working as a salesgirl in the bakery.

3.4. Discrimination in access to social welfare benefits

Roma are often discriminated against regarding their entitlement to social welfare benefits, particularly to the special kind

¹³³ HLC files, statement by Nataša Stević, 20 November 2001.

called family relief. Their applications are frequently turned down because their 'missed earnings' are set too high by social workers applying loose criteria. Under the Law on Social Welfare and Social Security of Citizens,¹³⁴ in working out the total income of unemployed persons fit for work, social workers take into account all the family receipts including income from unregistered business and 'missed earnings'.

3.4.1. Discrimination against displaced Roma

The six members of the Sahiti family, who settled in Zrenjanin following the NATO bombing in 1999, were deprived of their right to social welfare because, in the opinion of the Social Work Centre in Zrenjanin, they were not eligible on account of their total earnings. The Social Work Centre gave the following explanation for its decision to reject the family's application: 'During the period October-December 2001, Šaha Sahiti sold bags in the market and earned on average 1,250 dinars a month on that score. During the same period, her husband Baškim Sahiti let pass an opportunity to work and earn on average 2,500 dinars a month. If he had worked in farming for ten days a month, he would have earned 2,500 dinars a month since a daily wage was 250 dinars. Their total and missed earnings in

¹³⁴ *Serbian Official Gazette*, Nos. 36/91, 33/93, 53/93, 67/93, 46/94, 48/94, 52/96.

Article 62 of the Law on Social Welfare and Social Security of Citizens: 'The finding and opinion of a social work centre regarding facts which are not filed as official records and serve to assess missed earnings, serve as evidence of entitlements under this Law.'

the period October-December 2001 thus amounted on average to 3,750 dinars a month.¹³⁵

Since, in the opinion of the Social Work Centre, the Sahiti family's total 'earnings' in the period exceeded the 3,614.72-dinar maximum eligibility threshold fixed for families with five or more members, they were prevented from enjoying their right to social welfare benefits. Their appeal to the Provincial Secretariat for Health and Social Policy in Novi Sad was rejected and the decision of the first-instance authority upheld.

3.4.2. The case of Sadrija Kurtić

Sadrija Kurtić of Leskovac was receiving social welfare benefits until 5 May 2001, after which they were discontinued by decision of the Social Work Centre in Leskovac.¹³⁶ The Social Work Centre said in its statement of reasons that he owned a van with licence plates LE-398-85, was reselling goods, and was earning on average 50 dinars a day. Kurtić appealed to the Serbian Ministry of Labour and Veterans' and Social Affairs as a second-instance authority. The Ministry dismissed the appeal as unfounded and confirmed the decision of the Social Work Centre.¹³⁷

¹³⁵ Decision of the Social Work Centre in Zrenjanin, No. 553-384/2002, 9 April 2002.

¹³⁶ Decision of the Social Work Centre in Leskovac, No. 5457, entry No. 1702.

¹³⁷ Ruling of the Serbian Ministry of Labour and Veteran and Social Affairs, No. 553-02-582/2002-06 of 31 May 2002.

The Social Work Centre had calculated on 1 March 2002 that of the four members of the Kurtić family, Sadrija, his wife, and their son had been earning 3,000 dinars a month selling deep-freeze plastic bags during the first quarter of 2001, each of them earning 50 dinars a day for twenty days during a month. Since, in the opinion of the Social Work Centre, the Kurtić family's total earnings in the period exceeded the 2,099.50-dinar maximum eligibility threshold fixed for four-member families in the Municipality of Leskovac for the first quarter of 2001, the family could not exercise their right to social welfare benefits.

3.5. Discrimination in public places

Roma are denied access to many public places such as night-clubs, discotheques, restaurants, sports centres. Their chances of being admitted are less if the place is privately-owned. Publicly-owned establishments such as cinemas, theatres, some restaurants and most sports and recreational facilities rarely engage in this kind of discriminatory practice.

Discrimination in access to public places is very hard to prove before a court of law. The proprietors usually defend themselves by stating that on the day in question there was a private party going on in the establishment, that it is open for members only, or that the Roma visitors were not properly attired. For this reason, the victims of discrimination employ a 'testing' technique, which is very useful in detecting discrimination as to colour, eth-

nicity, sex, etc.¹³⁸ The tests are used for scientific purposes or as evidence in claims for damages.

The HLC carried out several such tests in Belgrade and other towns in Serbia during 2000. The persons who took part in the tests were Roma and non-Roma volunteers from the HLC and two Roma organizations: the Oasis Association and the Democratic Roma Association. They gathered unmistakable evidence of anti-Roma discrimination especially by four Belgrade private night-clubs: Trezor, Mondo, Lagum, and Bombo. A discriminatory practice was also detected at the Krsmanovača Sports Centre in Šabac.

The HLC filed criminal complaints against unidentified persons in the employ of the Trezor night-club and the Krsmanovača Sports Centre for violating the equality of citizens.¹³⁹ On receipt

¹³⁸ Article 2 of the EU Racial Equality Directive defines direct discrimination/facial discrimination and indirect discrimination/disparate treatment as follows: '(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on ground of racial or ethnic origin. (b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.'

¹³⁹ Article 60 of the Serbian Penal Code: 'A person who denies or limits the rights of citizens established by the Constitution, statute, another rule or general enactment, or by a ratified international treaty, on grounds of nationality, race, religion, political or other beliefs, ethnicity, sex, language, education or social status, or extends benefits or privileges to citizens on the same grounds, shall be punished by imprisonment from three months to five years.'

of the criminal complaint, the Municipal Public Prosecutor's Office in Šabac recommended the investigating judge to proceed to an investigation in order to identify the alleged perpetrators.¹⁴⁰ However, on 11 December 2001, the Municipal Public Prosecutor's Office in Šabac dismissed the criminal complaint. The HLC attorneys then filed a request for investigation and an investigation is pending.

On 21 July 200, the HLC filed a criminal complaint against unidentified persons in the employ of the Trezor discotheque in Belgrade. However, the Third Public Prosecutor's Office did not take action even after four HLC requests to expedite proceedings. At the end of January 2002, the HLC filed a petition with the Federal Constitutional Court as a court of last instance before taking the last step of turning to the UN Committee on the Elimination of Racial Discrimination.¹⁴¹

¹⁴⁰ Article 239 of the Criminal Procedure Code: '1. When the perpetrator of a criminal offense is unknown, the State Attorney may propose that the investigating judge undertake certain investigative actions if, regarding the circumstances of the case, it would be necessary or expedient to undertake such actions before the commencement of the investigation. If the investigating judge disagrees with this motion he shall refer it to the panel for disposition (Article 24 paragraph 6). 2. The records on the investigative actions undertaken shall be submitted to the State Attorney.'

¹⁴¹ The Committee on the Elimination of Racial Discrimination was set up under Article 8 of the UN Convention on the Elimination of All Forms of Racial Discrimination. The Committee has the competence to consider reports of state parties on legislative and other measures they have adopted and which give effect to the provisions of the Convention. Under Article 14 of the Convention, the Committee has the competence to receive and consider communications from individuals or groups of

On 2 April 2003, the HLC and the ERRC submitted a joint communication to the Committee on the Elimination of Racial Discrimination. The Committee is expected to find Serbia and Montenegro in breach of the International Convention on the Elimination of All Forms of Racial Discrimination. The communication requests the Serbian state authorities to investigate the incident and to compensate the victims. The authorities are also expected to take effective measures to prevent discrimination in access to public places.

On behalf of the victims, the HLC also filed a civil action for compensation for non-pecuniary damage against the proprietors of the Mondo, Trezor, Lagum, and Bombo night-clubs in Belgrade and the Krsmanovača Sports Centre in Šabac on charges of violating the plaintiffs' personal rights. The HLC wants the court to prohibit all such discrimination in the future and the respondents to apologize publicly and to publish the integral text of the judgement in the daily newspaper *Danas*.

Proceedings for compensation were instituted only in the case of the proprietor of the Krsmanovača Sports Centre. On 20

individuals claiming to be victims of any of the rights set forth in the Convention. However, the Committee will consider such communications only if the state party in question has declared that it recognizes this competence of the Committee and if all domestic remedies have been exhausted. Under Article 14 of the Convention, the FRY Government at the middle of 2001 made such a declaration and designated the Federal Constitutional Court as the last-instance domestic authority competent to consider petitions from citizens alleging a violation of the Convention.

February 2002, the Municipal Court in Šabac ordered the company Jugenttt (transport-trade-tourism) - Sports and Recreational Centre Krsmanovača of Šabac to publish at its expense a public apology in the daily *Politika* to the Roma plaintiffs Merihana Rustemov, Jordan Vasić and Zoran Vasić, who were denied access by Centre employees to the swimming-pool solely on account of their ethnicity. By the same judgement, the court ordered the Centre to desist from violating personal rights through discrimination in granting access to the swimming-pool. The judgement, which fully met the HLC claims, was the first in domestic legal practice to sanction racial discrimination as a clear violation of a right belonging to a person. The court also accepted the testing technique as a valid method of detection of discrimination. The judgement affirmed that, from the standpoint of interests of general concern to society, discrimination in granting access to facilities in state, public or private ownership was equally unacceptable. The defendant has appealed the judgement and appellate proceedings are pending.

3.6. Discriminatory practices by landlords

Nearly all landlords refuse to let flats both to Roma families and to non-governmental organizations and other institutions concerned with Roma rights.

3.6.1. The case of the Roma Child Centre

At the end of 2000, Milica Simić, director of the Roma Child Centre, tried in vain to rent business premises. This non-gov-

ernmental organization educates Roma children aged seven to fifteen by providing supplementary instruction in all the subjects covered by the primary school curriculum. Of the eighty-four children who enrolled last year, none lost a year or had to sit for a makeup examination. The Centre also provides programmes to prevent alcoholism and drug abuse and has volunteers to help children begging in the streets. The children eat and wash themselves on the premises.

Over forty landlords refused to let their flats as soon as they found out what the organization did and that its director was a Roma woman. Following are some of Simić's experiences of landlords:

I engaged several agencies to help us find the flat we wanted. None refused me on account of my nationality. As a rule, the agencies want to get the job done so they can charge you their commission, but then the landlords refuse to let to Roma.

While I inspected a flat on Kneza Miloša street, I told the landlord what my organization did and he didn't seem to mind. In the evening, however, before we were due to sign the contract, the agency owner rang me up to tell me that the landlord had bowed out because he was afraid that the Roma children would steal everything from the flat.

During our first meeting, the owner of the flat at 3 Majke Jevrosime street had no objection to letting the flat to a Roma organization. A few days later, however, someone from the agency rang me up to tell me that the landlord had raised the rent from 800 to 1,000 German marks a month and wasn't

sure whether he'd want anything to do with Gypsies for even that much money.

After such experiences, I instructed the agencies to explain to the landlords what kind of organization we were in order not to waste any more of my time on those who won't let to Roma. The agencies presumably followed my instructions, but the landlords behaved the same. The owner of a just-refurbished flat on Milutina Bojića street nearly threw me out: 'You'd better get out. We've nothing to talk about. I didn't have the flat refurbished just in order that Gypsies should move in,' he said. The agent said nothing in my defence. He stayed behind probably to make an apology to the landlord.¹⁴²

3.7. Domestic standards

The Charter on Human and Minority Rights and Fundamental Freedoms lays down that all persons are equal before the law and have the right to equal legal protection, without any discrimination whatever. The equality of the citizens is guaranteed without distinction as to their national origin, race, colour, sex, language, religion, property status or other personal attribute.¹⁴³ The Serbian Constitution is less inclusive because it does not guarantee the equality of all before the law and makes no reference to the obligation of all persons, not just state and

¹⁴² HLC files, statement by Milica Simić, 25 January 2001.

¹⁴³ Article 3 of the Charter on Human and Minority Rights and Fundamental Freedoms.

other organs, to respect the rights and freedoms of others.¹⁴⁴ In both documents, the principle of non-discrimination applies only to the citizens of Serbia and Montenegro. The Charter on Human and Minority Rights and Fundamental Freedoms provides for the temporary imposition of special measures required for the exercise of the equality of citizens ('affirmative action' measures).¹⁴⁵

b) Criminal law provisions

Criminal law protection of the equality of the citizens without distinction as to nationality, race, religion, political or other beliefs, sex, language, education or social status is provided by the Serbian Penal Code by sanctioning violations of the equality of the citizens, an offence grouped together with criminal offences against the rights and liberties of man and the citizen.¹⁴⁶ This criminal offence is committed either by denying or limiting the rights of others which rightfully belong to them, or

¹⁴⁴ Article 13 of the Serbian Constitution: 'Citizens are equal in their rights and duties and have equal protection between the State and other authorities, irrespective of their race, sex, birth, language, nationality, religion, political or other belief, level of education, social origin, property status, or any other personal attribute.'

¹⁴⁵ Article 3 of the Charter on Human and Minority Rights and Fundamental Freedoms: '4. Temporary imposition is permitted of special measures required for the exercise of equality, special protection and prosperity for persons or groups of persons in unequal position, in order to enable them to fully enjoy human and minority rights under equal conditions. 5. Special measures referred to in paragraph of this Article may only be applied until the achievement of the aims for which they are undertaken.'

¹⁴⁶ Article 60 of the Serbian Penal Code, see footnote 138.

by giving them benefits or privileges to which they are not entitled. The offence can only be committed against the citizens, that is, against the nationals of Serbia and Montenegro. The offence is punishable by imprisonment from three months to five years.

In the FRY Penal Code, the criminal offence of racial and other forms of discrimination is grouped together with criminal offences against humanity and international law. In this way, the FRY Penal Code protects against unlawful discrimination the human rights and liberties recognized by the international community.¹⁴⁷ The FRY Penal Code prohibits any discriminatory act in relation to those 'rights recognized by the international community' which are not violated by other criminal offences. The term 'right recognized by the international community' should be interpreted as referring to every internationally-guaranteed right, not only to those covered by the international treaties ratified by the former FRY. There are three grades of this criminal offence: a) violation of fundamental internationally-recognized human rights and freedoms on grounds of race, colour, nationality or ethnic origin; b) persecution of organizations or individuals for their commitment to the equality of peo-

¹⁴⁷ Article 154 of the FRY Penal Code: '1. A person who violates on grounds of race, colour, national or ethnic origin the fundamental human rights recognized by the international community shall be punished by imprisonment from six months to five years. 2. A penalty referred to in paragraph 1 of this Article shall be imposed on a person who persecutes organizations or individuals for their commitment to the equality of people. 3. A person who disseminates ideas about the superiority of one race over another, or propagates racial hatred, or instigates racial discrimination, shall be punished by imprisonment from three months to three years.'

ple; c) dissemination of the idea of one race being superior to another, propagation of racial hatred, or instigation of racial discrimination. The victim may be any person, not just a citizen of Serbia and Montenegro. Grades a) and b) carry a prison sentence from six months to five years and grade c) from three months to three years.

c) Compensation

State authorities or natural persons who discriminate against people on grounds of their inherent or acquired attributes thereby violate their human dignity. Therefore, a person whose human dignity has been injured is entitled to compensation.¹⁴⁸ In adjudicating a claim for non-pecuniary damages by a person alleging to have been humiliated, the Serbian Supreme Court recently cited discrimination as a way of injuring a person's human dignity. In its judgement No. 1321/97 of 2 April 1997, the Serbian Supreme Court took the position that 'human dignity and a person's private life are inviolable under the Constitution... [and that any offence against them] constitutes an act of discrimination and the grounds for compensation for an injury to honour and reputation.'

If in a civil action the respondent is found guilty of violating the plaintiff's personal right or rights, the court may order him to publish at his expense the judgement or a correction of the damaging statement at issue, withdraw such a statement, or do anything else necessary to fulfil the purpose of the compensa-

¹⁴⁸ Article 200 of the Law on Obligations, see footnote 6.

tion. If the injury resulted in physical pain or mental suffering or fear, the plaintiff may also claim indemnity in money for non-pecuniary damage.¹⁴⁹

Under the Law on Obligations, any violation of a right belonging to a person - discrimination being a special case of such violations - is always viewed in the context of compensation. This means that in practice a victim of discrimination must prove not only an injury to his honour, reputation, dignity or other right guaranteed by the Constitution and international conventions, but also that the injury caused him fear, physical pain or mental suffering. This is essential in claiming any indemnity in money for non-pecuniary damage.¹⁵⁰ With regard to the power of a court of law or another competent authority to order the cessation of an action constituting a violation of a personal right,¹⁵¹ or to order the publication of a judgement or a cor-

¹⁴⁹ Slobodan Perović, 'Komentar Zakona o obligacionim odnosima' (Commentary on the Law of Obligations), Savremena administracija, 1995, p. 466.

¹⁵⁰ Article 200 (1) of the Law on Obligations: 'The court shall award just indemnity in money to a person who has suffered physical pain, mental suffering due to impairment of faculties, disfigurement, injury to reputation or honour, infringement of liberty or personal rights, death of a close person, and fear, if it finds that the circumstances of the case, and especially the intensity of pain and fear and their duration, so warrant, irrespective of any material compensation or absence thereof.'

¹⁵¹ Article 157 of the Law on Obligations: '1. Any person has the right to request a court of law or another competent authority to order the cessation of an action violating his integrity as a person, his personal and family life, and his other personal rights. 2. The court of law or other competent authority may order the cessation of the action on pain of payment to the injured party of a lump sum or sums per unit of time.'

rection,¹⁵² some theorists hold that the provisions of the Law on Obligations may be applied where a violation of a right belonging to a person has been proved, without having to prove the infliction of fear, physical pain or mental suffering. However, judicial practitioners are of a quite opposite view.

With regard to responsibility for damage, the Law on Obligations places the burden of proof of damage on the person who allegedly caused it, his responsibility being based on his assumed guilt.¹⁵³ This provision is not applied in cases of indirect discrimination because it may occur without premeditation or negligence. What matters in the event of an indirect discrimination is not the mental attitude of the perpetrator but the effect itself, that is, regardless of whether the perpetrator is to blame or not. The rules of evidence in domestic litigation concerning charges of discrimination do not favour the plaintiff because very often he has to prove that he was the victim of such treatment. On the other hand, under relevant international standards the plaintiff has merely to raise the possibility of discrimination and it is up to the respondent to prove that he committed no such act.

¹⁵² Article 199 of the Law on Obligations: 'If a right belonging to a person has been violated, the court may order the publication of the judgement or a correction at the expense of the person who caused the damage, or order that person to withdraw the damaging statement, or order him to do anything else necessary to fulfil the purpose of the compensation.'

¹⁵³ Article 154 of the Law on Obligations.

3.8. International standards

International conventions define discrimination as ‘any distinction, exclusion, restriction or preference’ based on any inadmissible ground which has the ‘purpose or effect of nullifying or impairing...human rights and fundamental freedoms.’¹⁵⁴ Distinctions may be made between people according to their inherent attributes such as colour, sex, birth, citizenship, nationality, social status, or their acquired attributes such as political beliefs, property status, religion. Although international law prohibits distinction on both accounts, some of these attributes are nevertheless openly omitted and/or allowed.¹⁵⁵ The International Convention on the Elimination of All Forms of Racial Discrimination states explicitly that any distinction between citizens and non-citizens is not regarded as racial discrimination; other international conventions use the words ‘any person’, ‘everyone’, ‘every person’, ‘any citizen’, etc., to denote the rights which may or may not be guaranteed to foreign nationals and stateless persons.¹⁵⁶

¹⁵⁴ Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. Adopted and opened for signature and ratification by General Assembly resolution 2106 A (XX) of 21 December 1965. Entered into force on 4 January 1969 in accordance with Article 19. *SFRY Official Gazette*, (International treaties), No. 6/1967. See also Article 1 of the Convention on the Elimination of All Forms of Discrimination Against Women.

¹⁵⁵ Vojin Dimitrijević, Milan Paunović, *Ljudska prava* (Human rights), Belgrade Human Rights Centre, 1997, p. 187.

¹⁵⁶ Article 1, paragraph 2, of the International Convention on the Elimination of All Forms of Racial Discrimination.

Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination contains the obligation of states parties to eliminate all forms of racial discrimination regarding the enjoyment of civil, political, economic, social and cultural rights. Article 5 reads:

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all organs administering justice;*
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;*
- (c) Political rights, in particular the rights to participate in elections to vote and to stand for election on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;*
- (d) Other civil rights, in particular:*
 - (i) The right to freedom of movement and residence within the border of the State;*
 - (ii) The right to leave any country, including one's own, and to return to one's country;*
 - (iii) The right to nationality;*

- (iv) The right to marriage and choice of spouse;*
- (v) The right to own property alone as well as in association with others;*
- (vi) The right to inherit;*
- (vii) The right to freedom of thought, conscience and religion;*
- (viii) The right to freedom of opinion and expression;*
- (ix) The right to freedom of peaceful assembly and association;*
- (e) Economic, social and cultural rights, in particular:*
 - (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;*
 - (ii) The right to form and joint trade unions;*
 - (iii) The right to housing;*
 - (iv) The right to public health, medical care, social security and social services;*
 - (v) The right to education and training;*
 - (vi) The right to equal participation in cultural activities;*
 - (f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.*

Article 2 of Convention 111 of the International Labour Organization obligates states parties to pursue a policy to promote, by methods compatible with national conditions and practice, equality in education and in the choice of occupation with a view to eliminating discrimination in these spheres.¹⁵⁷

Under Article 3 of the UNESCO Convention against Discrimination in Education, states parties undertake to prohibit this form of discrimination by law where necessary.

The International Covenant on Civil and Political Rights prohibits, under Article 26, any discrimination, thus extending protection to rights not guaranteed by the Covenant. The International Covenant on Economic, Social and Cultural Rights lays down that the rights guaranteed by it are to be exercised by all without discrimination.¹⁵⁸

At its 37th Session the UN Human Rights Committee gave a broader definition of discrimination that any of its predecessors, namely that the term 'discrimination' should be understood to imply any distinction, exclusion, restriction or preference which

¹⁵⁷ The international Convention Concerning Discrimination in Respect of Employment and Occupation adopted by the ILO conference in 1958. See also ILO recommendations regarding discrimination and the choice of occupation of 1958.

¹⁵⁸ Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966. Entered into force on 3 January 1976, in accordance with article 27. *SFRY Official Gazette* (International treaties), No. 7/1971.

is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose of effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.¹⁵⁹

¹⁵⁹ UN Human Rights Committee, 37th Session (1989), General Commentary No. 18 Non-discrimination.

4. Findings

The conditions for the protection and promotion of Roma rights in Serbia improved during 2001 and 2002 thanks to the adoption of relevant legislation and acceptance of international conventions and covenants.

The Federal Law on the Protection of Rights and Liberties of National Minorities¹⁶⁰ adopted by the FRY Assembly guarantees the Roma the status of a national minority and provides for the adoption of measures and legal acts to improve the situation of persons belonging to the Roma national minority.¹⁶¹ Accession to the Council of Europe Framework Convention on the Protection of National Minorities in May 2001 marked the beginning of a process of harmonization of minority rights with and their protection in accordance with relevant international standards. In 2001 the FRY recognized the competence of two major UN bodies to receive and consider communications by individuals claiming violations of their rights under UN conventions: the competence of the Human Rights Committee was recognized by a Law on the Ratification of the Optional Protocol to the International Covenant on Civil and Political Rights;¹⁶²

¹⁶⁰ The law was published in the *FRY Official Gazette* No. 11/02 of 27 February 2002.

¹⁶¹ Article 4 (2) of the Law on the Protection of National Rights and Liberties of National Minorities.

¹⁶² *FRY Official Gazette* (International treaties), No. 4/01.

that of the Committee on the Elimination of Racial Discrimination was recognized by a Declaration of the FRY Government of June 7 pursuant to Article 14 of the Convention on the Elimination of All Forms of Racial Discrimination. The Declaration introduced into the domestic legal system an important remedy making it possible for victims of discrimination to appeal to the Committee. Although the former FRY Government designated the Federal Constitutional Court as the court of the highest instance competent to deal with citizens' petitions before they are referred to the Committee, it turned out that it had no such competence under the Law on the Federal Constitutional Court. The Declaration of the FRY Government alone was therefore not enough to establish the competence of the Federal Constitutional Court in this matter. The Constitutional Charter of the State Union of Serbia and Montenegro provides for a Court of Serbia and Montenegro to consider petitions from citizens alleging violations of their rights and liberties by an institution of the state union. However, the Court of Serbia and Montenegro is not specifically designated as the domestic court of the highest instance regarding this matter.¹⁶³

A law against discrimination would have been a valuable addition to the legislation because the existing provisions do not provide adequate protection to the victims.

¹⁶³ Article 46 of the Constitutional Charter of the State Union of Serbia and Montenegro.

The Roma are subjected to discrimination in all the spheres of social life: they live on the margins of society in extremely unfavourable conditions and perform the lowest-paid jobs; furthermore, owing to language problems, inadequate curricula and racism at school, their children do not acquire even the most elementary formal education. Because of their lack of education and bad living conditions, the coming Roma generations are unlikely to achieve better social promotion and integration.

The increase of open violence against Roma was the most noticeable problem. Frequent harassment and even torture by public officials, including law enforcement officials, gave rise to particular concern. Owing to their marked racial prejudices and the belief that they would not be called to account, members of the police force harassed Roma, extorted information from them, and unlawfully deprived them of their liberty and held them in detention. The numerous incidents investigated by the HLC offered no grounds for suspicion that the Roma victims were guilty of any criminal offence (the case of Saša Mustafić). The police drastically overstepped their authority in these cases solely on account of the racial origin of the victims. In many cases the victims refused to press charges because they feared retribution (the cases of Đorđe Toči, Ratko Mitrović and Irvan Useinović). When criminal complaints were filed by the HLC on behalf of the victims, the prosecuting authorities either failed to inform the submitter whether the perpetrators had been identified, or eventually dismissed the complaints. In this way the submitter was prevented from assuming the prosecution of the case in his capacity of a private prosecutor.

In cases where the HLC succeeded in continuing with the prosecution in its capacity of a private prosecutor on behalf of the victims, the proceedings dragged on for years because the courts of first instance took too long to establish the guilt of the perpetrators. Scores of hearings before these courts were unnecessarily delayed mostly because the accused ignored the court summons (the cases of Branko Kostić and Ljubomir Jovanović).

There was an increase in the number of racially-motivated attacks on Roma in Belgrade and in many other towns across Serbia by organized groups such as skinheads and soccer fans. The skinhead movement, whose ideology propagates hatred of the Roma, spread in all large towns in Serbia. Police officers called to break up violent attacks with racist motives often treated the Roma as perpetrators rather than victims (the case of Nebojša Ajdarević).

Roma residents of some urban districts were harassed time and again by the same private individuals. The incidents investigated by the HLC showed that in every single case the motive was the ethnic origin of the victims. The law enforcement organs remained passive and blamed the attacks on the victims (the cases of Roma residents of Vilovskog and Požeška streets).

School violence against Roma pupils assumed disturbing proportions. According to HLC data, physical violence and verbal abuse were among the main reasons why Roma left school at an early stage (the case of Safet and Zaim Beriša).



The educational authorities continued to ignore the problem of adequately integrating Roma children into the educational system. The authorities were under no obligation to organize preparatory classes for Roma children in primary schools to help them adapt socially and psychologically to the school environment and learn the language in which instruction is given. The Roma children from Kosovo, who do not speak or write Serbian, were neither provided with instruction in Albanian nor helped to learn Serbian. Only a very few schools in Serbia and Vojvodina had optional classes in the Romany language and national culture twice a week. The Serbian Ministry of Education and school governors engaged in systematic segregation and discrimination against Roma children by first assessing their abilities by inadequate tests and then dispatching them to 'special schools' reserved for handicapped children. The establishment in regular schools of separate classes for Roma children was an act of racial segregation (the case of Subotica schools). The Committee on the Elimination of Racial Discrimination in 2000 adopted a general recommendation¹⁶⁴ which calls on the states parties to the Convention on the Elimination of All Forms of Racial Discrimination to prevent and avoid segregation of Roma school children and to promote inter-cultural education.

Roma seeking employment, visiting public places or looking for accommodation were discriminated against as a matter of

¹⁶⁴ The Committee on the Elimination of Racial Discrimination, 58th Session, General Recommendation XXVII on anti-Roma discrimination (measures in the domain of education, chapter 3), 2000.

course. Although the domestic legal system prohibits discrimination in principle, the courts do not schedule hearings on well-documented charges of direct and indirect discrimination (the discriminatory practice by the Belgrade night-clubs Trezor, Mondo, Bombo, and Lagum).

The state dealt with the Roma problems in a haphazard manner on a case-to-case basis. It appeared that the state authorities were still ignorant of the need for a comprehensive effort towards permanently eliminating racial discrimination in all major spheres of public life, such as employment, education, use of language, access to public places.

Serbia and Montenegro have no integral law against racial discrimination to provide, among other things, adequate compensation to the victims. In addition, the process laws (e.g. the Civil Procedure Code) do not even envisage a separate procedure to protect the rights of victims of discrimination. The HLC is of the opinion that the present rules of procedure before civil courts dealing with discrimination complaints have proved inadequate, especially when it comes to proving the deed. A plaintiff suing for non-pecuniary damages under the present Civil Procedure Code is at a disadvantage because most courts interpret the rules of evidence narrowly, expecting the plaintiff to furnish the entire evidence of discrimination. This is not always simple and is sometimes even impossible, especially in cases involving indirect discrimination. Unfortunately, neither the Civil Code Procedure nor the domestic judicial practice take account of the modern approach adopted by the European Court of Justice whereby the burden of proof in discrimination

proceedings rests with the respondent once the plaintiff has raised an arguable claim.

In their 2002 reports,¹⁶⁵ leading international human rights organizations expressed concern about Roma human rights violations in Serbia and called on the state authorities to adopt effective safeguards and measures to promote Roma rights. In connection with the former FRY's accession application, the ERRC wrote to, among others, Peter Schieder, president of the Parliamentary Assembly of the Council of Europe, pointing to the practice of anti-Roma discrimination in Serbia including police abuse, forced evictions, discrimination in employment, access to public places, health care, etc.¹⁶⁶

¹⁶⁵ Human Rights Watch analysis of controversial issues of human rights in the FRY, 11 July 2002; Amnesty International, 'Amnesty International's concerns in the Federal Republic of Yugoslavia and the proposed accession of the FRY to the Council of Europe', 20 September 2002.

¹⁶⁶ European Roma Rights Center, Press Release to European Council, 23 September 2002.

5. Recommendations

In order to bring domestic laws into line with the international minority rights standards, the competent authorities should take the following action:

a) ratify Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms because its provisions enlarge the scope of protection of the principle of equality and non-discrimination laid down in the Convention. All Council of Europe members and applicants for membership are expected to sign and ratify Protocol No. 12;

b) adopt an inclusive Law Against Racial Discrimination to prohibit direct and indirect racial discrimination, harassment on racial grounds as well as inducement and incitement to discrimination and violence. The law should be fully compatible with the EU Race Equality Directive¹⁶⁷ the fundamental principles of which are to be incorporated into the law of all member states by 2003. The Directive is among the European Commission standards ('acquis') which must be adopted by states applying for associate membership. It prohibits any discrimination by natural and legal persons acting in their official or private capacity and applies to the following domains: employment, conditions of work and promotion, trade union

¹⁶⁷ Race Equality Directive, 2000/43/EC, June 2000.

organization, education, social welfare, health care, access to goods and services. The Directive provides that member countries may adopt special measures to prevent or compensate for discrimination associated with racial or ethnic origin;

c) amend the Civil Procedure Code to provide the victims of discrimination with adequate legal remedies, in conformity with the jurisprudence of the European Court of Justice and the EU Race Equality Directive. This would be effected by the addition to the present law of an emergency procedure employing special rules of evidence to help a victim of discrimination promptly and effectively to prove the existence of a violation and to obtain a just recompense. Once the victim of discrimination has raised an arguable claim, the respondent himself would have to provide evidence that no rule of equal treatment was broken;

d) complement the material criminal legislation by introducing the criminal offence of 'torture' in full compliance with Article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In its periodical report on the implementation of obligations under the Convention, the Committee against Torture voiced its concern at the omission of the criminal offence of torture from the Penal Code of the FRY with reference to Article 1 of the Convention.¹⁶⁸ Incorporation of the definition of torture as given in Article 1 of the Convention calls for a well-conceived legislative procedure in the domain of material criminal legislation. Article 4 of the

¹⁶⁸ See footnote 70.

Convention requires that each state party shall ensure that all acts of torture are offences under its criminal law. Incorporating the definition of torture verbatim into the Penal Code would make it possible to view the criminal offence of extorting a statement (confession) in a new light as well as render the application of this provision much more precise, transparent and effective;

e) in harmonizing domestic legislation with relevant international standards, they should pay particular attention to the UN Convention on the Elimination of All Forms of Racial Discrimination (already ratified by Serbia and Montenegro) as well as to the UN Model National Legislation for the Guidance of Governments in the Enactment of Further Legislation against Racial Discrimination;

f) honour the international instruments ratified by Serbia and Montenegro all the more so as, under Article 10 of the Constitutional Charter of Serbia and Montenegro, they have precedence over the domestic legislation.

The Assembly of the Republic of Serbia, the Government of the Republic of Serbia, the ministries in charge of local self-government, education, and national minorities, and local assemblies should take the following action:

a) organize joint projects in collaboration with local self-government agencies, schools and non-governmental organizations aimed at suppressing racial, national and religious intolerance. Such projects should focus on work with and education of

teaching staff and children through school human rights workshops, appropriate publications and collaboration with the media with a view to suppressing racial, ethnic and religious intolerance and xenophobia;

b) organize compulsory preparatory teaching of the Serbian language to Roma children. This would eliminate their initial disadvantage and enable them to follow instruction from their first year at school on an equal footing. At the same time, the Romany language should be introduced as a subject in school curricula in conformity with the recommendations of the Council of Europe and the OSCE Hague recommendations.¹⁶⁹ Supplementary primary-school instruction for Roma children is essential to accelerate their adaptation in the process of education;

c) introduce special opportunities for Roma seeking university education or applying for work. University admission requirements should be relaxed for Roma applicants and state scholarships awarded to all full-time Roma students. Likewise, employers financed from the federal, republican or municipal budgets (i.e. educational institutions, health institutions, administrative agencies, the police, the judiciary, and local bodies) should lower their employment criteria for Roma applicants. Such

¹⁶⁹ The Council of Europe recommendation on education of Roma children, adopted by the Council of Europe Committee of Ministers on 3 February 2000. See the Hague recommendations on national minority education rights adopted at the proposal of the OSCE High Commissioner on National Minorities by the international expert non-governmental organization Foundation for Inter-ethnic Relations in 1995.

opportunities would no doubt help create a highly educated and skilled Roma workforce;

d) introduce courses and special training for members of the police force and the judiciary (courts and prosecuting organs) in international standards and domestic regulations on minority rights protection and discrimination prohibition. Effective mechanisms of internal control are necessary in order that members of the police force and government officials applying discriminatory measures and procedures could be punished for disciplinary offences;

e) adopt regulations and take measures, in conformity with the obligations under the International Covenant on Economic, Social and Cultural Rights, to enforce application of Article 11 of the Covenant (right to adequate housing), as well as desist from evicting the residents of Roma settlements. The general situation of the Roma can be improved if priority is given to improving their housing conditions.¹⁷⁰

The Law on University Education should be amended to make possible the establishment of an Institute for the Romany Language which would monitor the quality of instruction in the Roma language, carry on scientific-research work in that language, train experts to lecture in both languages, and keep records on the number of teachers qualified enough to lecture in the Romany language;

¹⁷⁰ See: Memorandum prepared by the Secretariat of the Council of Europe on problems facing Roma\Gypsies in the field of housing, 2002.

f) prepare a national code of ethics for police officers as soon as possible, bearing in mind that the UN General Assembly adopted its Code of Conduct for Law Enforcement Officials as far back as 1979. The fundamental ethic standards established by the Code should also form the basis of a national code. Under the Code, the duties of law enforcement officials include acting in conformity with the law, respecting human dignity, upholding the human rights and freedoms of all persons, reporting breaches of the Code to superior officers, etc. They may not inflict, instigate or tolerate any act of torture and may use force only when strictly necessary and to the extent required for the performance of their duty.

II HLC Report: Kosovo Roma: Targets of Abuse and Violence

24 March – 1 September 1999

The Roma population in Kosovo has been manipulated and abused by the ruling Socialist Party of Serbia (SPS) since the abolition of the province's autonomy in 1989 and the ethnic Albanian community's boycott of all elections held in Serbia and Federal Republic of Yugoslavia since then. The SPS managed to win over the poorest Roma by distributing humanitarian aid to them during election campaigns. Others, under pressures and fearing reprisals, regularly voted for the Serbian ruling party. Because the Roma turned out at elections and supported the SPS, many Kosovo Albanians saw them as collaborators in the repression by the Serbian authorities against members of the ethnic Albanian community.

Drastic abuses of Kosovo Roma took place during the North Atlantic Treaty Organization (NATO) military intervention. The Serbian police and local authorities forced Roma civilians, including minors, to bury the bodies of Albanian civilians and Kosovo Liberation Army (KLA) members, to dig trenches for the military, and to pillage and destroy ethnic Albanian property. Aid in food was distributed to ethnic Serbs, and to Roma only occasionally and then selectively. Furthermore, Orthodox Roma were more likely to receive aid than Muslim Roma.

Following the signing of the peace settlement, those Serb and Roma civilians who were involved in atrocities against Albanians left Kosovo together with members of the Serbian police force, the Yugoslav Army and their families, Serb reservists and paramilitary groups. Roma, along with Serbs and other non-Albanians who believed they had no reason to fear retaliation by returning ethnic Albanian displaced and refugees as they had not taken part in any crimes, stayed in Kosovo. However, both these Roma and Serbs became the targets of revenge and violence by the KLA, armed Albanian civilians and criminal gangs from the neighboring Republic of Albania. Attacks on Roma were organized on the pretext that they had all worked hand in glove with the Serbian police and local authorities in the repressive actions against and expulsion of ethnic Albanians, and could therefore no longer live in Kosovo. Roma became the object of the same kind of violence used by the Serbian authorities and police against Albanians: physical abuse, imprisonment, abduction, murder, rape, looting and destruction of property, forced labor, and expulsion.

Like the Serbian police and civilian authorities, the KLA in its turn made Roma work for them, from burying killed Serb civilians to looting and destroying Serb property.

The multinational Kosovo Force (KFOR) has not created conditions which would enable Roma to stay in Kosovo. The majority fled to Serbia and the few thousand who remain are to be found mostly in small enclaves protected by KFOR troops. In August, several thousand Roma displaced to Montenegro attempted to cross the Adriatic Sea in small boats to seek refuge in Italy. Dozens, including children, were drowned. No European coun-

try has shown any willingness to accept Roma forced to leave Kosovo.

More frequently than ethnic Serbs, Roma fleeing their homes were subjected to harassment by Serbian government agencies: they were denied humanitarian relief and/or forced to return to Kosovo. In contrast, there was no discrimination against Roma in Montenegro.

This report is based on the testimonies of 78 Roma who fled to Serbia or Montenegro following the deployment of KFOR in Kosovo. They were interviewed in nine cities in Serbia and three in Montenegro by Humanitarian Law Center (HLC) field researchers and activists of the Belgrade Democratic Alliance of Roma in the period from 4 to 31 August 1999. HLC researchers were assisted by the Committee for the Protection of Roma Rights in FR Yugoslavia, an organization based in Kragujevac, central Serbia.

1. Kosovo Roma during the NATO military intervention

From 24 March to 12 June, local Serb authorities, the police, and military and paramilitary formations compelled Roma, including minors, to bury killed Albanian civilians and KLA members or to dig trenches for the military. Roma were also forced to commit the criminal offenses of looting and destroying the property of displaced Kosovo Albanians. The recompense they received was small and most frequently in the form of food or clothing.

A significant number of Roma performed these tasks against their will, either fearing punishment or induced by the promise of rewards which would enable them and their families to survive. Finally, a number of Roma voluntarily joined Serbian police or military units.

Besides the systematic pillaging and destruction of Albanian property, cases have also been registered of looting by multi-ethnic criminal gangs.

1.1. Compulsory work

Roma were pressed into service in different ways: they were collected at their workplaces, most often in local sanitation departments and with the consent of their superiors, or picked up at their homes. A number were mobilized into the Civil Defense where they performed the same kind of tasks. The compulsory work involved both legal and illegal activities.

1.1.1. Forced to loot and destroy property

This form of abuse of the Roma took place in all major towns in Kosovo: Priština, Gnjilane, Prizren, Peć, Djakovica, Obilić, Lipljan, Kosovo Polje, Podujevo, Kosovska Mitrovica, and Klina. Roma were mainly made to load and transport stolen goods. Cases have also been registered of Roma, either alone or accompanied by police or military, breaking into Albanian-owned houses and stores and looting them, and rounding up livestock for transport to Serbia.

According to the Roma, the looting of Albanian property began immediately after the ethnic Albanians left Kosovo en masse, either because they had been expelled or had fled out of fear. A Priština Rom, whose young relatives were taken from their homes to assist the police, recounts: "The police rounded up Roma to load goods for them. They had to load furniture, home appliances and other things into trucks. They were given stolen food and clothes in return."

B.Z., a Peć Rom, states he was forced to steal for local police officials: "The Police Chief, Bata Bulatović, and an inspector they

called Medo ordered me and my brother to take all the valuable things from abandoned Shiptar [Albanian] houses, and take them to their houses in trucks.”

Roma do not conceal that they occasionally took a few small items from Albanian homes for themselves. S.I. of Obilić, father of two youths exempted from military service because of poor health, recounts:

The first time, a policeman came and said they were to go with him. My sons refused, and the policeman said we were protecting the Shiptars. I told him to leave my sons alone, that we weren't protecting the Shiptars, and only wanted to be left in peace to live our miserable lives. I said we would be here when the Shiptars came back and that they would kill us all, but they, the police, would go to Serbia where they would be safe. But my sons had to go or be arrested. They went around at night, collecting things and livestock from Albanian houses. They took some things for us - food and clothes. The police took the rest.

Roma working for public companies were ordered to steal by their superiors. R.R., a former employee of the Klanica enterprise in Kosovo Polje, says the Roma employees were forced to loot warehouses owned by ethnic Albanians:

They made us go into Albanian warehouses. We didn't want to because we were afraid of what would happen to us afterwards. We carried out home appliances, furniture, doors, windows, building materials, paint, bathtubs and sinks. We even loaded one truck with medicines from an Albanian warehouse in the Velanija neighborhood. Everything was taken to the Gornje Dobrevo pig farm in Kosovo Polje. The boss, Gemaljević, and the

chief stock keeper, Doberović, took pictures of us as we were taking stuff from Shiptar warehouses.

1.1.2. Forced to bury Albanians

Displaced Roma say that most of the work they were compelled to do all around Kosovo involved burying the bodies of Albanians, in most cases victims of mass executions. The Roma were at times brought to the scene immediately after the executions had been carried out, and sometimes several days later, when the bodies were in an advanced state of decomposition. They worked without masks or adequate equipment.

A Roma woman who worked for a Serbian government agency in Kosovo testifies that Roma buried the bodies of KLA members who were shot immediately after being taken prisoner:

“My relatives A. H., D. H., and M. L. buried KLA members who had been killed. They buried them in villages. The police and soldiers killed them [*KLA members*] whenever they caught them. This happened around Priština. Once when they were burying bodies, my relatives noticed that one man was still alive. He told them to keep quiet and they were very frightened. The one in charge told them to hurry up with the burying and, out of fear, they told him what they had seen. Then someone was told to kill the man.”

I. A., a Gnjilane retiree, says that when the authorities introduced compulsory work orders, Roma were assigned to bury the dead: “During the bombing, Roma were under compulsory work orders and many were in the Civil Defense. My father-in-law was among them. He worked in a detail which buried killed

Albanians in Zegra and Lastice villages near Gnjilane. Some of the bodies they buried were already falling apart.”

M.L., a twenty-three-old employee of the Priština Sanitation Department, recounts that he and nine co-workers were ordered by their manager and Serbian police officers to bury bodies of Kosovo Albanians.

They told us to collect and bury the bodies, which were lying by a river. To reach the place, we had to go down a steep slope for about 50 or 60 meters. We carried the bodies one by one in blankets up the slope and put them in a trailer attached to a tractor. There were about 40 altogether. All were men in civies, from 25 to 50 years old. They were wearing pants or jeans, leather and ordinary jackets, sweat suits, sneakers or shoes. They had two, three or more gunshot wounds in the head, chest or belly. The bodies were still warm. Some had stiffened, others hadn't. We buried them in the village's Muslim graveyard, one by one.

1.1.3. Minors forced to work

Children were also forced to carry stolen goods, confiscated weapons and ammunition, and to steal. According to Roma witnesses, minors were made to work mainly in Priština but also in Gnjilane. They were at times taken to perform such tasks outside their home towns.

E. A., a thirteen-year-old boy from Priština, says he was made to work in different locations:

One day in April, a policeman came to our neighborhood and took me away. They took five other boys too, from 13 to 15 years

old. Together with some older men, we loaded trucks and semi-trailers. We carried mortars, pistols, grenades, rifles, police uniforms. We were in Obilić, Gračanica, Ajvalija and Kosovo Polje. Once, in Ajvalija, there was shooting but we had to go on working. We loaded seven to eight big trucks a day and, by the end of May, up to 10 trucks. We were given a little food, in cans. We worked from morning till seven in the evening.

Almost all Roma displaced from Priština confirm that in the course of April and May police came to Roma neighborhoods every day, rounded up children and forced them to work in the neighborhood, or took them to other parts of Priština and farther afield. "At the end of May, the police collected children from the age of 10 and up to load tractors with things from Albanian houses. The children also loaded weapons. My nephews were among them. All the Roma children in Djurdjevdanska Street were made to work."

G.B., a minor from Moravska Street in Priština, recounts that children living in his street were also made to steal:

Between April and June 1999, I went with the police and carried things out of Albanian stores and warehouses. There were about a hundred of us, all from Moravska Street. Most of us were between 16 and 18 though some were older. In my group there was I.S. who is 17, M., S. and A., who are 16 or 17, and another two or three boys younger than me. The police took us to Matičane, Vranjevac, Dragodan, Kosovo Polje and Obilić. We carried things out of Albanian warehouses and loaded them into big trucks. In Obilić, we loaded building materials into two trucks. In Vranjevac, it was cooking oil, washing powder, sugar, chocolate, sneakers and other stuff. I can't remember all the places I was taken to.

1.2. Larceny

The information collected indicates that criminal gangs looted abandoned Albanian homes in Kosovo in this period covered by this report. P.R. of Skivjan village near Djakovica speaks about one such gang made up of Serbs, Roma and Albanians: “At the end of May, my brother B.R., together with Z.G., a Serb, and his father M.G., and K.A., their Albanian neighbor, all from Skivjan, went into Shiptar houses to steal.”

1.3. Discrimination in distribution of food aid

Local Serbian authorities at times distributed humanitarian relief. The aid was earmarked primarily for Serbs. No food was given to Albanians while what Roma received depended on the inclination of individuals engaged in the distribution.

M. G., formerly employed at the Belaćevac strip mine, alleges that only Serbs in Obilić received food aid, and that reservists who handed it out taunted and ridiculed Roma: “When the aid arrived, he gave nothing to Roma. He said that the delivery was for Serbs and that another one for Roma would come tomorrow. There was never a tomorrow.”

Several Obilić Roma claim that the Serbian authorities distributed aid to Orthodox Roma while treating Muslim Roma as Albanians. C.A., a Muslim Rom, recounts how his co-religionists were deprived of food aid that was distributed at the local Orthodox church: “Serbs and Orthodox Roma were given food. I went up and said my name was Krstić [common Serb family

name] and was given aid. Other Muslim Roma managed to get something the same way.”

1.4. Kosovo Roma’s collaboration with Serbian police

A large number of Roma were employed, either temporarily or permanently, in the police force. Others collaborated as informers, mainly reporting on their Albanian neighbors. A Priština Rom recounts:

We noticed someone giving signals with a red light from the house of our Albanian neighbor. My son said we must report it to the police at once and we did the next morning. The police came and drove everybody from the house. Only one of them managed to hide.

1.5. Roma harassed for maintaining contacts with Albanians

Cases have been registered of Roma being beaten for maintaining contacts with Albanians. Conflicts between Roma and the police occurred when police suspected them of supporting Kosovo Albanians in any way. A. D., a thirty-year-old Rom from Uroševac, testifies about an incident that took place in mid-May:

I was on the bus, talking with some Albanian neighbors I hadn’t seen for some time. Since my father had died shortly before, they asked how me and my family were doing. It was an ordi-

nary conversation. All the time, a policeman kept turning around to look at me. When we reached Klokot, he ordered me and my neighbors off the bus. As soon as I stepped down, he starting slapping me. He hit me five or six times and asked why I was talking about politics.

1.6. Fear of paramilitary groups

Like Albanians, Kosovo Roma were in great fear of paramilitary groups. Many Roma state that intoxicated paramilitaries forced their way into their homes and demanded money, saying they knew the Roma had stolen property from Albanians.

2. Kosovo Roma after the withdrawal of Serbian security forces and the return of Kosovo Albanians

Most Roma were aware that their involvement in the looting and destruction of Albanian property and burying of Albanian bodies would have an adverse effect on their relations with Albanians. Regardless of whether their involvement was voluntary or not, Roma in general encountered a great deal of hostility on the part of returning Kosovo Albanians.

Roma perceive themselves as the biggest victims of Kosovo Albanians. Both the KLA and Albanian civilians are taking vengeance against Roma for what they suffered at the hands of Serbs. Roma homes are torched, their property is taken on the pretext that it was stolen from Albanians, and they are physically abused to extract confessions of crimes against Albanians. Roma also allege that the KLA has killed a large number Roma but that official bodies, including KFOR and the UN Mission in Kosovo (UNMIK), disregard the problem.

2.1. Murders of Roma

According to witness statements, the killing of Roma in this period can be attributed to both KLA members and Albanian civilians. The murders, the majority of which took place in Priština, Obilić, Lipjan, Prizren and Podujevo, were very frequently carried out in a brutal

fashion and were preceded by torture and mutilation of the victims. Cases have been registered of Roma being burned alive in their homes. The exact number of murdered Roma cannot be established at the present time. Furthermore, the fate of a large number of missing Roma remains unknown – there are indications that some of them were executed after being imprisoned, and of the existence of mass graves.

Many Roma say they were eyewitnesses of murders by KLA members. N.T. of Brestvenik village near Peć recounts how his relative Halil Muzija was killed on 16 June. Several KLA members came to the victim's home and demanded that he turn over his rifle on pain of death. Though Halil did not possess a firearm, he was nonetheless taken away by the KLA men. "The next day, at sunrise, about 5 a.m., Halil's wife went to look for him. She found his body some 300 meters from the house. There were chains around his neck and it looked to her that he had been tied to a car and dragged behind it. There were bloodstains on the road. He also had three stab wounds."

Roma allege that Albanian civilians either aided the KLA in the violence against Roma or committed it on their own initiative. T.T. of Obilić and his wife, who were physically abused by two local Albanians on 23 June, testify that after leaving their house, these two Albanians brutally killed four members of the Krasnići family. "I saw them set fire to the houses of Miljazim Krasnići and Alija Krasnići. Their family members - Djulja, Fadilj, Čerim and one-year old Nedjmendin - were burned alive inside."

HLC researchers heard of the murder of Isljam Dibran in Lipljan on 23 June from his neighbors, also Roma. The neighbors said Dibran was killed by another neighbor, an Albanian civilian, who with two

KLA members went around and threatened to torch Roma homes, ransacked their houses in searching for weapons, and often physically abused them. Citing his wife, one witness said E. and the two KLA men had previously come to Dibran's house on several occasions, beaten him because his son, a reservist, had been called up by the Yugoslav Army during the NATO intervention, and demanded that he tell them where his son was stationed.

On 23 June, E. came to Isljam's again. He went into the house alone while the soldiers stood guard outside. My wife heard E. beating Isljam with a metal bar. This went on until five in the morning when we all heard a shot. E. had killed him and put a pistol in his hand to make it look like Isljam had taken his own life. He warned us that all the Roma would be killed if anyone reported him.

M.B. (28), describes how his father Ibrahim Bećej was killed: "We heard a loud noise outside. My sister went out to see what was going on and the first thing she saw was the body of our father. He had been stabbed with a knife under his left and right armpits. He also had two knife wounds on the left side of his back. My sister dragged his body into the house by herself."

2.2. Battery and torture

When abusing Roma, KLA members and Albanian civilians most often resort to beatings and other forms of physical ill-treatment that leave the victims with serious or slight injuries. They force their way into Roma homes and abuse all the family members, including children. After searching the houses for concealed weapons, they beat people to extract confessions, the names of Roma who collab-

orated with the Serbian security forces, or were involved in looting Albanian homes and interments of Albanians, and to force them to disclose weapons caches.

A Roma man displaced from Peć describes how KLA members came into his house and ill-treated him:

I came home from work one day at the end of June and found three KLA members in the house. They grabbed me and tied my hands with the cassette-player cord and started kicking and punching me. I know all three of them because they are from Peć. One asked me how come I had all these valuables in my home and I told him my sister in Germany had sent them to me. They asked why I worked with Serbs, to which I said I had to so I could feed my family. They demanded that I admit how many Albanian houses I had torched, how many Albanians I had killed, and where I buried them. I said I had done none of those things because I really hadn't. Then he hit me on the head with the butt of his pistol and said I was to stay at home and they would come back in 15 minutes with the top man at the KLA headquarters in Peć. They locked me up in the house and left. Worn out and with blood all over me, I got a chair, broke a window and climbed out. There was a bike in the yard and I got on it and reached the first Italian patrol. I fell at their feet and blacked out. I woke up in the hospital.

M.M. of Peć went through a similar experience when KLA members forced their way into her home and abused her family. "Five KLA members barged into our house. They started punching my husband and son. When my husband couldn't stay on his feet any longer and fell down on the floor, they went on kicking him and beating him with wooden poles."

2.3. Rape

Roma witnesses state that women were frequently subjected to violence by KLA members. Victims of sexual violence often suffered serious physical injury, and were raped in front of the members of their families. The following cases were registered in Peć and Vitina.

F.A. and her daughter Z.A. (20) from Zitinje near Vitina recount how a large group of armed KLA members stormed into their home in mid-June and sexually abused them. Some of the family managed to escape so that only the witness, her daughters Z.A. and G.A., and a baby were left in the house. Three of the KLA men left to search for the other family members. Two remained and raped F.A. and Z.A. The mother recounts:

One pointed his pistol at me and tore off my blouse. I started hitting him about the head with my fists and swore at him but he banged me on the head with his pistol. I fell down and he lifted my skirt. My head was bleeding and I begged him to leave me alone. But he only cursed and raped me. While I was being raped, the other Shiptar raped my daughter. They were very cruel. When they finished with us, they joined the others who were looking for our menfolk. I helped my daughter up from the floor. We were both weeping. I took the baby, which was on the bed in the same room as my ten-year-old daughter G. She was there when they raped us. She was shaking all over and sobbing.

The witness's daughter Z.A. describes the same event:

My mother hit and cursed one of the Shiptars until he hit her on the head with his pistol and she fell down, bleeding. I was standing in the corner of the room and crying. When he started raping my mother, the other one grabbed me. He took out a knife

and put it to my throat. Sobbing, I told him I was a virgin and that this is very important to us Roma. But he put his hand over my mouth and ordered me to stop moaning and snivelling. I didn't dare cry aloud, just sobbed silently. They raped us for half an hour. When they left, they said we were to go and not to come back ever. My mother helped me to get up. The pain was terrible and I was bleeding.

M. G. (40) of Kosovo Polje witnessed an attack by seven KLA members on her neighbor and his wife in late June, as they were passing down the street with their two children. The KLA men approached the family, knocked the husband unconscious and raped his wife. "They hit him and he fell to the ground. The children started to cry. They grabbed his wife, knocked her down, lifted her skirt and raped her. It took an hour for the seven of them to rape her. When it was over, they left. I don't know what happened to the woman afterwards or where the family went."

[.B. of Blagaj village near Peć states that she was sexually abused in mid-July by a group of KLA men after the same men had raped her neighbor S.D. She recounts that six KLA members ordered S.D.'s husband to tell his wife to bring 150 Deutsche marks from the house and hand the money to them. When S.D. came out of the house, the KLA men seized her and dragged her into a nearby woods. Her husband was unable to help. S.D. subsequently told the witness that the men had beaten her until she ceased resisting and then took turns to rape her. Several hours later, the same group of KLA men came to the house of [.B. and demanded that she find another two women and then go with them. "I told them I couldn't find more women and pleaded with them to leave me alone because I was a wife and mother. One of them threatened to kill my husband and my children if I didn't go. Weeping, I went with them into the

same woods they had taken S.D. In the woods, they dragged me around by my hair, hit and kicked me and, in the end, raped me. They left me there, crying and dishonored."

2.4. Abductions and disappearances

Roma allege that the KLA runs secret prisons in which Roma, Serbs and some Albanians are held. They say that these prisons are located in abandoned houses and factories and at local KLA headquarters. With regard to the abduction of Afrim Bens of Prizren, HLC researchers were told by two of his friends in separate interviews that Albanian neighbors had informed them that Bens was alive and was being held in a secret prison in Budakovo village. Several Roma told the HLC that some kidnapped Roma were released after their families paid ransom. No independent confirmation of these reports could be obtained.

The information gathered by the HLC indicates that the greatest number of Roma were abducted in the period from 15 June to 1 August. Six men were taken in Orahovac: Adrian Isaku (20), Malum Mesula (49), Ali Tasin Halimi (45), Jusuf Harna (36), Hamza Halit Skelzen (34), and a young man who was visiting friends in the town and whose name no one can recall. The whereabouts of all six remain unknown.

Elmi Cigani of Erić village near Djakovica was abducted in July. His father states that five armed Albanian civilians forced their way into the Cigani home and immediately started beating his son, accusing him of being a member of the police force, which, the father says, was not true. Two days later, the same group returned and took Elmi Cigani to Dečani. "They took my son, pushed him into a car and

drove him away to Dečani, saying they would bring him back. They ordered us to leave Kosovo, they took everything we had. My son never came back.”

B.A. (33) of Priština and his friend were detained by two armed Albanians in late June:

I was in town with my friend R.M., who is from Podujevo. Two Albanians came up to us and took us to Dragodan [district of Priština]. I recognized one of them because he worked at the open-air market. Another civilian was waiting for us in a house in Dragodan and he questioned us. He asked if we were Gypsies or Albanians. We said we were Albanians because they would have killed us otherwise. They tried to make us admit we were Gypsies. They beat us with baseball bats and kicked us. We didn't admit anything. They took our ID cards and said that, since we were Albanians, we would go with them tomorrow to kill Gypsies and Serbs. They threatened to burn down our houses and kill our families if we said anything to KFOR. Then they drove us home.

2.5. Looting and destruction of property

Entering Roma homes on the pretext of searching for property stolen from Albanians, KLA members and armed civilians seized valuables and smashed furniture and other belongings. Individual houses as well as entire Roma settlements were torched. Looting followed by destruction was widespread in Peć, Gnjilane, Lipljan, Obilić, Djakovica, Klina, Srbica and Priština. The information gathered indicates that Roma homes in Djakovica, Obilić and Kosovo Polje were burned together with all they contained, while theft appears to have been the primary motive in Klina and Srbica.

F.T. of Obilić states that Albanians first put pressure to bear on Roma to leave Kosovo and then stole and destroyed their property. “We couldn’t take it any longer and fled to Montenegro. My son went back to check up on the house and saw that the Albanians had stolen all our things: an electric heater, stove, two TV sets, nine carpets, gold jewelry, money.”

R.R. of Kosovo Polje confirms that he and his family had to leave Kosovo because of threats by armed Albanians, and that his house was torched: “When we left the house, R.T. and his sons went in. I saw when thick smoke started billowing from it. It was then that he also burned the house of my father-in-law.”

N. A. of Gnjilane recounts that a group of armed Albanians physically abused him and his family members in their home. After being beaten, the family was led out into the yard and the Albanians looted the house and torched it. “We had been so badly beaten that we couldn’t stay on our feet, so they dragged us out of the yard. We watched them loot our house and take away our things on tractors and trucks, which had licence plates with KLA written on them. Before our eyes, they poured gasoline over the house and set it on fire.”

2.6. Forced displacement

Roma were made to leave by threats, intimidation, physical abuse and destruction of their property. According to witness statements, the pattern was identical throughout Kosovo: KLA members and/or armed civilians stormed into Roma homes and, with threats and physical abuse, forced them to leave. Roma either made their way to Serbia or Montenegro, or to KFOR-protected Serb and Roma enclaves within Kosovo.

Several Roma allege that KLA members with whom they were acquainted and had had good relations before, participated in their expulsion. Z.V. of Lešane village near Peć states that she recognized the KLA men who in early July took her husband to the local KLA headquarters where he was beaten and ordered to leave Kosovo before being released. "A bit later, the same two, Brahim Uka and Mustafa Hajrudin, came again and told my husband our house was now theirs. That's how we were driven out."

Gnjilane Roma left Kosovo en masse when local Albanians employed a scare tactic on the night of 16-17 June. F. M., now a displaced person in Serbia, states that the incident was staged by a group of Albanians in Proleterska Street. "The Albanians let loose big dogs and opened the gates of all our yards so that no one dared set a foot outside. The next morning, an Albanian neighbor came and said we had five minutes to leave our homes. So we got ourselves off and came to Vranje."

2.7. Using Roma as forced labor

Kosovo Albanians applied the same pattern of repression against Roma as had been used against them by Serbs from 24 March until the deployment of KFOR. They forced Roma to perform various tasks, to participate in looting abandoned Serb houses, and to bury Serbs who had been killed. Such cases were registered in Peć, Obilić, Istok and Klina. Judging by the statements given by Roma to the HLC, the only difference was that, in contrast to Serbs, Albanians gave no recompense for the work performed. A Roma man from Peć alleges that he and his brother were made to loot Serb houses in late June:

A KLA man came to our house at the end of June and ordered me and my older brother to go with him to load and unload goods the Albanians were stealing in houses from which Serbs had moved out. We didn't want to, but went when he threatened to bring his men and put us and our families down like dogs. We had to go to save the lives of our families and our own lives.

F.T. of Obilić recounts how Roma were forced to bury bodies of Serbs. Albanian neighbors came to his house on 27 June and said he was to do "sanitation work" for them. "That meant that I had to go clean up and bury dead bodies. Otherwise they would have killed us all."

2.8. Roma displaced forced to return

Roma joined the columns of Serbs fleeing Kosovo. They were halted at the boundary by Serbian police who insisted that they return to Kosovo, claiming that they would be protected there. Those who refused were denied humanitarian aid. According to the information collected by the HLC, Serbian police forced several groups of Roma to return to Kosovo; the majority, however, subsequently managed to reach Montenegro.

The HLC has on record a case of a group of Roma being forced to return to Kosovo after having reached a refugee center in Serbia. Among them was S.I. of Obilić and his 12-member family who had arrived at the refugee camp in Rudnik in mid-June. On 18 June, S.I. recounts:

A tall, dark man came to the camp and said he was a representative of the Serbian government and had been in Rambouillet.

A short man with grey hair, his assistant, was with him. They came in a black car with Belgrade plates. He said we had to go back, that everything had been taken care of and that we would be safe. We objected, saying refugee columns were only starting to come in, that there were no English or French there [Kosovo], only Shiptars. And we told him plainly that the English were no better than the Shiptars... I argued with the police. They tried to make us climb onto a truck. I refused and said we would be attacked because our sons had worked for the police. Then a policeman told me to leave the police out of it. I asked how come they were giving us a hard time now but found us okay when they needed us. 'Don't make us use force. The column is going and you're going with it,' the policeman replied.

Roma allege that many of them bribed members of the Serbian police force to allow them to stay in Serbia. D.A., now a displaced person in Prokuplje, states that he was at the refugee camp at Rudare, near the Kosovo boundary, on 19 August when he saw police officers taking money from Roma who wished to remain in Serbia.

There were police at every step, all around the camp. They wanted to make people go back. So they closed the food store in Rudare, to starve them into going back. Some paid the police 200 or 300 marks to stay. They asked to go to Kruševac, Subotica and other towns where they had family. They paid for their transportation.

2.9. Inhuman and degrading treatment

HLC documentation on police harassment and degrading treatment of Roma in refugee centers in Serbia includes the following two incidents, which took place in the refugee facility in Bujanovac and at a police checkpoint in the nearby village of Konculj.

R. A. of Gnjilane recounts how her eight-year-old grandson and another three children were injured in the Bujanovac camp on 18 August:

I was sitting in front of the tent. Two policemen came along at about 11 pm. One came up to me and hit me on the back with his nightstick, just like that, for no reason at all. He hit me once. Then he started chasing children around the camp and cursing them. He hit four boys – one of them was my grandson. He hit him two or three times on the left side of his back and once on his left leg. He also hit ten-year-old D. A., a boy whose name I don't know and who was about nine, and A.H., who is eight. He hit them two or three times on the neck. One of the boys had his left eye hurt. The other policeman did nothing, just watched what was going on.

G.M. (30), from Prizren, describes how he and his father K.M. were beaten and humiliated when they passed through the checkpoint at Konculj on 11 August. There were over 15 police officers at the scene. Stopping G.M.'s car, police asked to see the two men's papers and then asked if he and his father were KLA members, if they had killed Serbs and collaborated with Albanians.

They got us out of the car and one of the policemen started hitting me. He punched me in the chest two or three times. I felt a blow with something hard on the right side of my back and fell

to the ground. The policeman who punched me started yelling, 'Get up! Aren't you ashamed of yourself, falling around like that?' My head cleared a bit and I tried to get on my feet. Then a policeman hit my right arm with his nightstick. They swore at my father, saying, 'Shame on you - an old man letting his children misbehave like this.' The other policemen stood around, with bottles of beer in their hands.

After more harassment, G.M. and his father were allowed to go and warned to keep silent about the treatment meted out to them.

2.10. KFOR ineffective in protecting Roma

All the Roma interviewed by HLC researchers complained of their experiences with KFOR. When they reported cases of violence, KFOR officers allegedly replied that they were unable to deal with the problems. Some Roma state that KFOR members failed to take any action even when confronted with blazing houses.

Uroševac Roma say German members of KFOR openly told them they were unable to protect Serbs and Roma. G. Z., who fled his home after being held and physically abused in a KLA prison, said his impression was that KFOR members were also afraid.

I spent four days at the railway station together with Serbs and Roma who had gathered there to escape the violence. German soldiers guarded us. They couldn't help at all. We could see that they were scared. They stayed with us for four days. They had food and water. We had nothing to eat. They didn't give us anything.

B.G. (27), who lived in Uljcinjska Street in Prizren, also alleges that KFOR took no action to establish law and order and allowed the KLA to continue unlawfully detaining people. This witnesses says he was imprisoned in the building of the former special school for deaf-mute children where he was beaten and tortured by KLA members. His house was torched and his mother died while he was being held. Neighbors requested the assistance of KFOR but to no avail. "My neighbors let KFOR know and asked them to use their influence with the KLA to let me bury my mother. I wasn't let go and my neighbor had to bury my mother.

S.I. (62) from Obilić states that a KFOR patrol went past his house at the moment he was being harassed by KLA members.

KFOR went on their way and they [KLA] carried on with their cursing. Then the one in charge – I know him by name – gave the order and four KLA men set my house on fire. I went to the Town Hall to see the mayor. He asked KFOR why they were allowing houses to be burned and where they would put us now. They said they didn't know what to do.

N.S. of Priština, a former store clerk, says he requested KFOR's protection for himself and other Roma in Priština in late June but that there was no response:

'No problem,' they said. But they did nothing to protect us. The next day, we went to the bus terminal, caught a bus and left for Serbia at four in the afternoon.

2.11. Recommendations

Kosovo Roma are the most deprived group among the displaced persons in Serbia. The overwhelming majority have found refuge in existing Roma settlements, which lack even such basics as water and electricity. Those Roma who have been placed in refugee camps sleep on the ground in dilapidated tents. A number of Roma families are still without any shelter whatsoever.

In view of the coming winter, priority must be given to securing accommodation for Roma families to protect them from the cold, rain and snow, and from the disease and infection that run rampant in unhygienic Roma settlements. Trailer houses large enough for multi-member families have proved to be one of the most effective solutions.

When distributing aid relief, international humanitarian organizations must bear in mind that Roma are the most threatened category of displaced persons in Serbia and Montenegro.

Roma children, who attended Roma-language schools in Kosovo, cannot continue their education as schools providing classroom instruction in the Romani language are few and far between in Serbia. Hence, the setting up of temporary schools in places where large numbers of Roma displaced have concentrated is an imperative need of this ethnic community. Unless international organizations lend their assistance, primarily by providing the material requisites, Roma teachers will not be able to gather together Roma schoolchildren to continue their education.

Publisher:
Humanitarian Law Center

For the Publisher:
Nataša Kandić

English Translation:
Dragan Novaković

Graphic Desing:
Dejana and Todor Cvetković

Printed by:
Publikum

Press Run:
500

Beograd, 2003

Copyright © 2003. Humanitarian Law Center

ISBN 86-82599-45-7

CIP - Каталогizacija u publikaciji
Narodna biblioteka Srbije, Beograd

342.7(=214.58) (497.11)
341.231.14(=214.58) (497.11)
323.12(=214.58) (497.11)
316.662(=214.58) (497.11)

ROMI u Srbiji. - Beograd : Fond za humanitarno
pravo, 2003 (Beograd : Publikum). - 205, 206, ; 24 cm. -
(Edicija Pod lupom)

Prištampano: Roma in Serbia / [english translation
Dragan Novaković]. - Radovi štampani u međusobno
obrnutim smerovima. -
Tiraž 500. - Napomene i bibliografske
reference uz tekst.

ISBN 86-82599-45-7

a) Роми - Правни положај - Србија b)
Права човека - Кршење - Србија
COBISS.SR-ID 110159372

Roma in Serbia



Humanitarian Law Center