
INFORMATION SUBMITTED TO THE COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

on the occasion of Initial Periodic Report of Serbia, 78th
Session



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2. Submitting organizations

Praxis is a national non-governmental organization, which aims to protect, improve and promote human rights of refugees, internally displaced persons (IDPs), returnees upon readmission agreements from Western Europe and members of minorities (Roma, Ashkali and Egyptian). By providing free legal aid and lobbying for the rights of its target groups, Praxis works on removing systemic obstacles, improving their quality of life, reducing poverty and level of social vulnerability. Praxis raise awareness of individuals and institutions regarding the target groups and helps them exercise their basic human rights and integrate into society.¹

Regional Centre for Minorities is a non-governmental organization which strives to advance and protect minority rights through combating all forms of discrimination, exclusion and marginalization, and through promoting full participation of minorities in all spheres of society. These goals will be implemented through: building organizational and personal capacity of minority organizations; strengthening capacities of civil society, public authorities, and representatives that work with minority groups; engaging in dissemination of information; initiating, encouraging, and supporting cooperation and networking between minority NGOs; and monitoring and reporting of human and minority rights.

CEKOR - Center for Ecology and Sustainable Development is independent, not for profit, non-governmental organization registered in December 1999 in Belgrade, Serbia. CEKOR's vision is socially and economically just society with equal opportunities for all citizens, while maintaining the environment and natural resources for future generations. As CEE Bankwatch Network representative in Serbia since 2004 we work on specific project campaigns, especially targeting big infrastructure projects (energy, transport, waste) with detrimental environmental and/or social impacts, as well as on issue of governance and the role and performance of financial institutions in the democratic system.

CHRIS - Network of the Committees for Human Rights in Serbia provides a direct free legal aid to citizens, makes analyses of existing data, and monitors specific cases of non-respect of human rights, with an objective to alter and amend the existing legal and sub legal regulations in cooperation with national and international organizations and institutions on the territory of Serbia. Programmes are carried out across Serbia by its five members: Committee for Human Rights Negotin, Civic Forum Novi Pazar, Committee for Human Rights Nis, Committee for Human Rights Valjevo and Vojvodina Centre for Human Rights Novi Sad.

¹ Praxis has been stated as the only NGO who, with its comments, participated in the preparation of the Initial Periodic Report of Serbia submitted to the Committee on the Elimination of Racial Discrimination. However, out of the three pages with comments delivered to the Ministry of Human and Minority Rights, the Ministry only adopted one paragraph, in a changed form, which referred to a joint work on the promotion and drafting of the Model Law on the Procedure for Recognition of Persons before the Law. Thus, on this occasion, Praxis would like to emphasize that in no way does it stand behind the Initial Periodic Report delivered to the Committee (See Annex referring to the delivered Comments on the Initial Periodic Report of Serbia)

3. General remarks

In the Initial Periodic Report of the Republic of Serbia submitted to the Committee on the Elimination of Racial Discrimination, the Committee is informed about the adopted laws, by-laws and strategies, as well as about budget funds set aside for the improvement of the position of national minorities in Serbia. However, what is often lacking are indicators, time frame in which the strategies and the programmes are implemented and stating relevant actors responsible for their implementation.

The organizations submitting this report have opted for a different approach, other than that of mere listing of adopted laws and funds set aside for certain national minorities. We believe that it is of particular importance to inform the Committee about the problems and human rights violations occurring in practice, outside the ideal world of regulations. For this reason, we have opted for the so-called “violations approach” which identifies burning issues in exercise of basic human rights, such as, for example, problems related to right to housing, right to freedom of movement and residence within the border of the State, right to own property and other basic human rights. The data presented in this report are a result of years of field work, information and cooperation with grass-root organizations, analysis of our previous experience in the topics relevant for the report and following on and analysing the work of the State bodies.

Due to the selected approach, this report will not deal with the positive sides of the State policy in certain topics, which has been noticed recently in some aspects with regard to health protection and education. It will exclusively deal with serious violations of human rights of which no information was given in the Initial Periodic Report of the Republic of Serbia submitted to the Committee on the Elimination of Racial Discrimination.

4. Article 3: Prevention and prohibition of racial segregation

Racial segregation of persons of Roma² origin is still prevalent in Serbia in education and housing. While certain efforts have been made to reduce racial segregation in education, nothing has been done to promote desegregation in housing.

Unfortunately, the State Party report did not pay any attention to this serious and widespread problem, and yet concluded in one paragraph that “segregation and apartheid practices and policies are most severely prohibited³”. We find this inattention worrisome and contrary to the General Comment 19 which, “invites State parties to monitor all trends

² According to the Census 2002, there were 108,193 citizens living in Serbia who declared themselves members of the Roma national minority. However, a number of researches indicate that the number is substantially higher, estimated between 250,000 and 500,000 Roma. This huge discrepancy reveals the severity of the Roma’s situation – many of them decided not to disclose their ethnic identity fearing that this sensitive data may be abused and they will be further stigmatized, others have been distrustful toward the institutions because of differential treatment, and there are those who lack documentation to confirm their identity and therefore be registered. There are no systematic aggregated data based on ethnicity. Aggregated data, accompanied with strict privacy policy, could be an efficient tool in fighting discrimination.

³ “The Republic of Serbia condemns racial segregation and apartheid. Segregation and apartheid practices and policies are most severely prohibited. The provision of article 13, paragraph 1, item 4 of the Anti-Discrimination Law defines apartheid as a severe form of discrimination. Detailed information on positive norms, as well as measures undertaken by competent bodies to prevent and prosecute discrimination and segregation activities are laid out in the appropriate sections of the report hereof.” – Initial Periodic Report of the Republic of Serbia, paragraph 88

which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports⁴.”

Education

Segregation of Roma children in education still exists in spite of efforts that have been made in last few years to reduce it. It contributes to further disparities in educational achievements between Roma and non-Roma students significantly reducing Roma children’s opportunities for further education and employment. Parents of Roma students are often consenting to place their children in these schools as they hope that their children would be less discriminated against if surrounded by their Roma peers and because they are told that their children will not be able to complete their education in mainstream schools.

School segregation is prevalent in two forms – “special schools” for children with mental disabilities and Roma-only schools (so-called “Gypsy⁵ schools”).

“Special schools”⁶

It is roughly estimated that 50-80%⁷ of Roma children attend “special schools”, i.e., schools for children with mental disabilities. Their disproportionate presence in these schools is not related to their mental abilities in any way. It is rather a result of the State inadequacy in including children of different ethnicities, culture and language in its educational system, and a failure to adjust to the requirements of cultural diversity and to provide an inclusive education system.

Some of the reasons why Roma children are placed into “special schools” are:

The language barriers

All psychological and pedagogic testing is conducted in Serbian, and while the Law on Elementary School guarantees that children will be educated in their mother tongue⁸, it remains unclear if this also applies to the testing procedure⁹. Roma children are often bilingual (Romani, Serbian), but even in these cases their knowledge of Serbian is limited to the language of daily conversation. Especially troublesome is the situation of Roma children returnees upon readmission agreements¹⁰ from Western European countries. Often, these children have been born, raised and educated in these countries, speaking,

⁴ CERD General Comment No. 19: Racial segregation and apartheid (Art. 3). August 18, 1995, paragraph 4

⁵ While term Gypsy is derogatory in our cultural and political context we use it here in its colloquial form to emphasize the very stigmatization that is associated with it.

⁶[The Committee] express concern “at de facto segregation of Roma children in special schools, including special remedial classes for mentally disabled children” CERD Concluding observations of the Committee on the Elimination of Racial Discrimination: Slovakia, paragraph 8, CERD/C/65/CO/7

⁷ Abuses of Roma rights in Serbia, Decade of Roma, Information Booklet of Minority Rights Center, Belgrade, 2007, p. 32

⁸ If there are at least 15 children of minority ethnicity in one grade, they can be educated in their mother tongue. Art. 5 Law on Elementary School, Official Gazette of RS 50/92, 53/93, 67/93, 48/94, 66/94, 22/02, 62/04.

⁹ The same law states that a school can organize preparatory classes for acquiring basic knowledge of the Serbian language for pre-school children belonging to the ethnic minorities. Art. 25, Law on Elementary School, Official Gazette of RS 50/92, 53/93, 67/93, 48/94, 66/94, 22/02, 62/04

¹⁰ Readmission Agreements were signed between Serbia and individual European countries and collectively between Serbia and EU in 2007. These agreements facilitate return of citizens/nationals of Serbia, third countries and stateless persons who have lost their right of residence in the territory of the EU state.

beside Romany, only the language of their host country (for example, German or Swedish). Due to their language deficit, they often end up in “special schools” or quit attending school entirely.

Biased psychological testing

These tests often assume certain level of acculturation which is insensitive to ethnic differences and the social environment in which many Roma children grow up. Many experts claim that parts of these tests are not culturally neutral¹¹ and contribute to misplacement of Roma children in special schools. Therefore many Roma children fail to pass the entry tests.

Primary school "Petar Tasić" in Leskovac currently has eight classes from first to fourth grade that are comprised only by children of Romani ethnicity. Out of 458 students attending this school, 308 are Roma children. There are 181 Roma students attending first to fourth grade classes, and only 39 non Roma children.

This year only nine students of Serbian ethnicity have enrolled to this school, while all other students are Roma. Considering that parents of Serbian ethnicity are avoiding enrolling their children in this school since they do not want their children to share the same classroom, it is estimated that this school could soon become Roma-only school.

It is also important to mention many cases where children have been placed not on the basis of test results, but the arbitrary decisions of teachers.

Roma-only schools (“Gypsy schools”)

Roma-only schools are usually located next to the segregated Roma communities and a significant number of Roma children attend these schools. Many of these schools, especially in multi-ethnic surroundings did not start as Roma-only schools, but as the number of Roma students increased, non-Roma students withdrew. Over time, the quality of education degrades– the curriculum becomes substandard, teachers lack proper qualification, school funding is reduced leading to overcrowded classes where children do not get enough attention from their teachers. Children attending these schools rarely manage to continue their education.

In Serbia, those parents who wish to act in the best interest of their children should be able to decide which school their children attend. In practice this only applies to non-Roma parents who withdraw their children from Roma-only schools, because they are able to obtain transport. By way of contrast, Roma parents who would like their children to attend schools of good quality outside the vicinity of their settlements are unable to secure transport and state support.

¹¹ Test for examining first graders (TIP1) contains among other things level of information and verbal skills which are challenged as culturally biased. Also, test measuring visual-motoric coordination is inadequate for Roma children who are not skilled in toy manipulation, etc. - Roma Children in Special Education in Serbia, OSI, Budapest/New York, 2010

Though there is not enough data to assess the prevalence of the segregated classes (inter-school segregation) of Roma children, the phenomenon must not continue to be ignored. These cases were registered in Horgos, Apatin, Senta, Bujanovac and Nis where separate classes have been formed for students in first four grades.¹²

Residential segregation

Significant number of Roma dwell in segregated settlements, both informal and legalised, the majority of which being located on the outskirts of big cities. Considering the isolation and marginalisation of these settlements, their residents are unable to attain many other rights such as the right to education, employment, health care, and achieve access to various services and facilities such as kindergartens, cultural places, youth centres, etc.

The fact that this is not only a given state of affairs, but that the segregation in housing remains unchallenged by local Serbian authorities, is illustrated by the disposition of the recent resettlement of informal settlement Gazela in 2009. Due to the large infrastructural project financed by the European Investment Bank and the European Bank for Development and Reconstruction, residents of this settlement have been resettled in several newly established settlements at Makis, Rakovica, Mladenovac and Barajevo, located on the outskirts of Belgrade. They are absolutely isolated and separated from the rest of the population, but in Barajevo their sense of oppression has been heightened by the presence of a barbed wire fence around its perimeter, echoing the environs of a prison camp.

Residential segregation is sometimes additionally backed by physical barriers such as fences. This was the case with informal Roma settlement of Belvil in Belgrade located next to a luxury residential complex which was hosting sportspersons attending Universiade Games in 2009. Being unable to remove the impoverished neighbouring settlement the city authorities attempted to hide it with high metal fences covered with opaque clothes rendering its residents invisible.

The construction of a wire fence began on June 16, 2009 enclosing a Roma settlement Belvil (Blok 67) in the name of safety and portraying a positive “image” of the city during the Universiade. Erecting a fence around this settlement, which is located in the immediate vicinity to areas used by the Universiade, threatens the right of its residents to move freely and to use the only water source which is located outside of the settlement.

Workers with the presence of police, began construction of a barrier in the form of a wire fence which was meant to entirely enclose this Roma settlement for the duration of Universiade. According to witnesses, police officers were verbally offending the residents in a racist manner, demanding to show IDs without any probable cause, and ordering them to stay within the fenced-off area.

¹² Abuses of Roma rights in Serbia, Decade of Roma, Information Booklet of Minority Rights Center, Belgrade, 2007, p. 32

The fence proved to be highly dangerous to its inhabitants. Since the construction of the fence was done without enforcing all safety standards it resulted in serious neck injuries to 16 year old pregnant Roma woman taking place on June 30, 2009 in Belvil settlement. A moderate wind and rain caused the fence to fall on a woman in the ninth month of pregnancy who was on her way to bring water. A case is still in court and the city claims no responsibility for this tragic event.

5. Article 4: Criminal offences related to the racial discrimination and prohibition of organisations inciting racial discrimination and promoting discrimination

Criminal Offences related to the racial discrimination

The three most important articles of the Criminal Code of Serbia addressing racial discrimination are Article 128 (Violation of Equality), Article 317 (Incitement of national, racial and religious hatred and intolerance) and Article 387 (Racial and other discrimination). A detailed description of these regulations can be found in the State party report¹³. However, a close look at the overall number of indictments and convictions regarding these criminal offences demands a more detailed explanation by the State on why they failed to provide required data on convictions and to further clarify disturbingly small number of convictions for these offences.

Violation of equality

	2004	2005	2006	2007	2008
Petitions	14	7	12	5	6
Indictments	-	3	-	1	12
Convictions	-	-	-	1	-

Incitement of national, racial and religious hatred and intolerance

	2004	2005	2006	2007	2008
Petitions	23	73	84	80	82
Indictments	1	2	6	8	26
Convictions	1	1	6	6	16

¹³ Serbia Initial Periodic Report, par. 89-95.

Racial and other discrimination

	2004	2005	2006	2007	2008
Petitions	-	-	-	15	4
Indictments	-	-	-	-	-
Convictions	-	-	-	-	-

The State party report notes that “in the period from 1992 through 2008, the Ministry of Internal Affairs of the Republic of Serbia filed indictments against 572 individuals for having committed 366 criminal offences of discrimination”¹⁴. Also, no further data was provided to indicate how many convictions stood. Considering Serbian society’s historical high tolerance for such acts, the state is obliged to provide complete data including the number of convictions, the persons convicted and the length of sentences resulting from such offences.

Though the number of indictment for these offences is increasing, it is still disproportionate with the prevalence of this behaviour in Serbia. Prosecution is often reluctant to act upon these offences as they are widespread, sometimes politically orchestrated and often enjoy popular support. When convicted, the punishment is mild, often resulting in probation and usually in minimal sentencing. This does not deter discriminatory behaviour - on the contrary, it is interpreted as if the State is tolerant of discrimination and therefore encourages it.

Worryingly, hate crime is still not codified within the Criminal Code of Serbia. Biased treatment in selecting a victim on the grounds of his/her membership of a protected group does not contribute to a secure environment and acts against social cohesion. Human rights organisations have long called for hate crime codification due to the virtual impunity enjoyed by offenders that commit hate crimes against minorities and marginalised groups. Amending the Criminal Code to specifically incorporate hate crimes will help society to cope with this extreme problem¹⁵.

Prohibition of organisations inciting racial discrimination and promoting discrimination

Racist, white supremacist and fascist organisations operate in Serbia both as legally registered entities and unregistered organisations, due to their informal structure or choosing to operate underground.

The Constitutional Court¹⁶ is to decide on banning the organisations which among other advocate for the violation of human and minority rights and incite racial, national and religious hatred.

¹⁴Serbia Initial Periodic Report par. 92.

¹⁵ ODIHR, Hate Crimes in the OSCE region - Incidents and Responses, Annual Report for 2009, November 2010, Warsaw; Crimes and incidents against Roma and Sinti, p. 54; Anti-Semitic Crimes and Incidents p. 62; Crimes and Incidents against Members of Other Groups p. 72.

¹⁶ Constitution of the Republic of Serbia, art. 55, par. 4, Official Gazette of the Republic of Serbia, No. 109/2007.

In 2009, following the outburst of hatred in relation to the cancelled Gay Pride, the Public Prosecutor filed a motion with the Constitutional Court to ban the organisations inciting hatred towards minorities.

The State Party reports that “no political organisation, citizen association or social organisation was banned from their activities by the decision of the Constitutional Court in the reporting period”¹⁷. This is not because such entities were not identified, but because the Government of Serbia, Public Prosecutor or other body in charge, failed to file a motion with the Constitutional Court. This is rather surprising considering that the Committee on Security of Provincial Parliament identified and later acknowledged that Nacionalni stroj (National squad), skinheads, Blood and Honour and Rasonalisti are Neo-Nazi and Obraz clero-fascist operational extremist organisations.

Below is a brief overview of a few main organizations promoting hate and intolerance that operate unsanctioned:

- Obraz (the Face, registered): in founding document available at their website as of 2001, the organization threatens with violence, expulsion and extermination of social groups labelled as “enemies of the Serbian people”, in which they include Zionists (Jews), Ustasha (Croats), Muslim extremists (Bosnjaks), Albanian terrorists (Albanians), false peacemakers (NGO activists), party members (politicians), sectarians (members of small religious communities), perverts (paedophiles and LGBT persons), drug addicts and criminals¹⁸.
- Nacionalni stroj (National squad, unregistered): state that the membership is allowed only to members of “white Aryan race” and in their programme they advocate for the state in which only members of the “white Aryan race” will have full citizenship rights, while other races will have limited rights (Art. 7). They also advocate for geographic segregation (Art. 9) and prohibition of “inter-racial mixing” (Art. 10)¹⁹.
- Rasonalisti (Racial nationalists, unregistered): In their Program, under a chapter entitled *Race* they advocate for derogating civic rights to individuals who are not members of the “white Aryan race”, as well as those of “mixed race”. From the “white race” they additionally excluded Jews, Roma, Albanians and Bosnjaks, and they call for an immigration ban for non-white persons, deportations and an apartheid regime as temporary solution to the “coloured” problem²⁰.

Also, it is necessary to mention the New Serbian Program, a neo-Nazi organization with aspiration of establishing itself as a political party, Serbian chapter of the Blood and Honour, Serbian Action (“preserving racial identity”) and Serbian National Movement Zbor (“positive racism”).

¹⁷ Serbia Initial Periodic Report, par. 100.

¹⁸ Obraz, Proclamation to Serbian enemies, 2001, online: <http://www.obraz.rs/index1.htm>

¹⁹ Nacionalni stroj, Statute and program, online:

http://nacionalnistroj.com/index.php?option=com_content&task=view&id=11&Itemid=20

²⁰ Srpski Rasonalisti, One proposal for one program, online: <http://www.srpskifront.com/program.php>

6. Article 5 (d) (i): The right to freedom of movement and residence within the border of the State

The right to freedom of movement and residence, as one of basic citizens' rights, is guaranteed by the Article 13 of the Universal Declaration of Human Rights, international covenants on human rights, as well as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Even though this right has been guaranteed by the Constitution of the Republic of Serbia and the Law on Permanent and Temporary Residence of Citizens, implementation of current regulations often leads to violation of human rights of the members of Roma national minority, Roma displaced from Kosovo, as well as domicile Roma.

Even though the Initial report submitted to the Committee on Elimination of Racial Discrimination²¹ states the Law on Permanent and Temporary Residence²² as a regulation defining this field, and also states that prescribed legal solutions are not of discriminatory character, the implementation of this Law and by-laws closely regulating the field of registration and de-registration of permanent and temporary residence of citizens are to a great extent at fault for the unequal position of the Roma and other population. Since the registration of permanent and temporary residence is closely connected to exercise of right to identification documents, primarily ID card which is a precondition for exercise of basic civil and political rights, but also economic and social rights, the State should regulate this field in a way so as to improve already disadvantageous position of the Roma. With respect to that, the International Convention on the Elimination of All Forms of Racial Discrimination states in the Article 2, Paragraph 1 (c) the obligation of the State "*Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists*". Since a number of Roma who have been deprived of the possibility to register permanent and temporary residence have status of internally displaced persons (IDPs) from Kosovo, it is also important to mention obligation of the State according to UN Guiding Principles on Internal Displacement, where the Principle 20 prescribes obligation of the State to "issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates."²³

In citizens' exercise of right to registration of permanent and temporary residence, the differences are not considered that exist between citizens who have legal basis of residence and the citizens who live in informal settlements, without infrastructure and access to basic public services. Residents of informal settlements do not have the possibility to register permanent or temporary residence at addresses at which they have actually been living for

²¹ Reports submitted by States parties under article 9 of the Convention, Initial periodic report due in 2008, Serbia, CERD/C/SRB/1, p. 55, paragraph 148-150

²² Official Gazette of the Socialist Republic of Serbia, No. 42/1977 and 25/1989.

²³ Guiding Principles on Internal Displacement, Principle no. 20, paragraph 2.

years, which prevents them from obtaining documents and, on the grounds of that, exercise rights before state bodies.²⁴

The problem is not reduced by the fact that, in some municipalities, the police departments tolerate registration of residence at the addresses of informal settlements, which is opposite to current legal regulations, such as the case with the settlement in the Vuka Vrcevic Street in Belgrade, the settlement Vasariste in Ruma or the settlement Mali Rit in Pancevo²⁵. Such proceeding shows that the problem of registration of residence for the residents of informal settlements can be easily solved with “good will” of the state bodies, but that possibility, except for residents of the three above-mentioned settlements, does not exist for the majority of others who live in similar settlements.

It is particularly important to mention that, according to the law in effect which was brought in 1970's, all citizens must have legal basis of residence as a condition for registering permanent or temporary residence. The law did not foresee a solution for residents of informal settlements and homeless people. Furthermore, it does not foresee a possibility for residents of informal settlements, mainly the Roma, to register permanent residence at the address of the Social Welfare Centre, Town Hall or other public service. For the time being, it is uncertain whether this possibility will be prescribed in the new law on permanent and temporary residence of citizens, which is being prepared. Attempts to obtain from the Ministry of Interior the text of the draft law and information whether there would be a public debate on the law, through exercising the right to free access to information of public importance, resulted in the Ministry's claim that the draft law was not defined at the time and that the expert public would be informed about possible public debate in due time.

Due to impossibility to register permanent residence in an informal settlement in Novi Beograd where she lives, S. was forced to register permanent residence at her cousin's address in Kosovska Mitrovica and obtain her first ID card there. As a consequence, for more than a year now, she has not been able to obtain a health booklet or access any form of social welfare benefits, even though she lives in extremely bad conditions, without electricity or water, and she supports her five children and ill husband by collecting secondary raw materials from Novi Beograd refuse bins.

In addition to laws which do not take into consideration problems of residents of informal settlements, particularly disputable is the Regulation on Fulfilment of Set Conditions for Issuance of Passports to the Persons from the Autonomous Province of Kosovo and

²⁴ See: Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Follow-up visit to the mission to Serbia and Montenegro (including Kosovo) in 2005, 11 December 2009, A/HRC/13/21/Add 1, paragraph 55: “Many Roma IDPs live in informal settlements or other accommodation without out a recognized address and can therefore not register their residence. This means they can not apply for certain social welfare benefits or participate in programmes of the National Employment Agency. [...] The Representative was informed that the Minister of Interior is considering amendments to the Law on Permanent and Temporary Residence that may help resolve problems of residence. One good option would be to allow Roma and other persons without a recognized address to register under the address of the social welfare agency in their municipality.”

²⁵ Information obtained during field visits to informal Roma settlements and from the Coordinator for the Region of Srem of the Office for Roma Inclusion of the Executive Council of the Autonomous Province of Vojvodina.

Metohija²⁶, whose provisions are also applied to the procedure of registration or de-registration of permanent residence and registering address of the apartment/house. This procedure prescribes that police officers perform “security and other relevant checks” in order to establish whether a person submitting a request for registration or de-registration of residence has true intention to live at the stated address. While performing security checks, police officers enter apartments of persons originally from Kosovo who wish to register permanent residence on the territory of Serbia proper. Since registration of permanent residence largely depends on the aforementioned checks, a person who wishes to register residence on the territory of Serbia proper is forced to agree with search of the apartment without a single legal act on the grounds of which this search could be performed, all with the aim of successfully solving his/her request. Also, it often happens that police officers do not find a person who submitted the request in the apartment, or, based on their own rough estimate, establish that the person does not have enough means for living, that he/she is unemployed or even that he/she does not know Serbian language very well, all of which, contrary to the provisions of the Law on Permanent and Temporary Residence of Citizens, has effect on the Ministry bringing negative decisions in the procedures. Furthermore, during 2010, a tendency has been noticed of rejecting requests for registration of permanent residence of citizens who fulfil requests set by the Law on Permanent and Temporary Residence of Citizens. Besides, the decisions rejecting citizens’ requests are patterned and do not contain adequate explanation which should state established factual state of affairs, evidence and decisive facts for bringing a first instance decision. In some cases, written decisions are not even brought, but the citizens are verbally informed that their requests for registration of permanent residence have been rejected, without being given an instruction regarding legal remedy against negative decision.

Finally, at the end of August 2010, with reference to the case of corruption related to issuance of passports to Kosovo Albanians, the police departments received a *verbal instruction* not to proceed upon requests for registration and de-registration of permanent residence for persons originally from Kosovo. Thus, access to basic rights for displaced persons from Kosovo has been significantly aggravated, and it particularly affects displaced Roma.

7. Article 5 (d) (iii): The right to nationality

Even though it is guaranteed by numerous international documents – International Covenant on Civil and Political Rights, Convention on the Rights of the Child, as well as the Article 5 (d) (iii) of the International Convention on Elimination of All Forms of Racial Discrimination, the right to nationality is still unavailable for one part of the Roma in the Republic of Serbia. Without the right to nationality, they remain deprived of exercise of numerous other basic human rights. In the Law on Citizenship of the Republic of Serbia, only one provision has been dedicated to prevention of statelessness from birth²⁷. It prescribes that a child born or found in the territory of the Republic of Serbia (foundling) acquires citizenship of the Republic of Serbia by birth if both his parents are unknown or of unknown citizenship or without citizenship. However, the practice shows that for children born in Serbia, in such cases, the Serbian citizenship is not registered in

²⁶ Official Gazette of the Republic of Serbia, No. 76/2009.

²⁷ Article 13, Paragraph 1 of the Law on Citizenship

accordance with the Law, which, at the same time, represents violation of the Convention on the Rights of the Child²⁸ and puts those children at risk of statelessness.

Those primarily facing problems in exercise of right to nationality are “legally invisible” persons and persons who had once been registered in registry books, but these were later destroyed, lost and became unavailable²⁹.

“Legally invisible” persons³⁰ – persons who are not registered in birth registry books, and, as a consequence, do not have citizenship

“Legally invisible” persons are one of the most vulnerable and most marginalized groups of population in the Republic of Serbia³¹. As a consequence of the fact that they are not registered in birth registry books, these persons are also left without citizenship, which they would have had if the fact of their birth had been registered upon birth, or at least its registration subsequently enabled. Those facing the problem of registration of the fact of birth are, almost exclusively, representatives of Roma national minority.

As a consequence of life in poverty and social exclusion, many representatives of Roma national minority have not registered birth of their children in due time or they have failed to do it due to the lack of information about deadlines, procedures, ways of obtaining necessary documents or the impossibility to cover the costs of procedures. Besides, living in informal settlements, many of them have not managed to register permanent residence and obtain ID card which is necessary when registering children’s birth. Because of frequent moving, some persons have not had financial means to obtain necessary documentation from their place of birth or place of previous residence. Roma children have often been born at home, thus evidence of their birth does not even exist in the records of health institutions. If they missed the 30-day deadline to register birth, they could only initiate the *subsequent registration procedure*, which is not closely regulated and whose outcome and length cannot be predicted. Even after years of conducting those procedures, many of them remain without identity since the legislator has not prescribed solutions for their life situations.

In case the data on birth is registered after 30 days from child’s birth, the Law on Registry Books³² only prescribes that the data should be entered in birth registry book on the grounds of a decision of a competent body. The Law does not contain a single provision determining the manner of registration, the procedure, necessary evidence and other rules. The most difficult problems in practice arise from the fact that the Law does not offer an answer to a series of questions related to subsequent registration in birth registry book. It

²⁸ The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality - article 7 of the Convention On the Rights of the Child

²⁹ As a consequence of the 1999 conflict in Kosovo, all registry books on birth, citizenship, marriage and death of the citizens of the Republic of Serbia have been lost or completely destroyed for the Kosovo municipalities of Klina, Kacanik, Banjica and Novo Brdo. Mainly destroyed are the registry books for the municipalities of Prizren, Djakovica, Decane Kosovska Kamenica and many places in the Municipality of Pec. Certain pages are missing from the registry books for the municipalities of Kosovo Polje and Pristina. All registry books for the municipalities of Dragas, Suva Reka and Gora were left in Kosovo. The books that were left in Kosovo are considered unavailable. Birth and citizenship certificates from the “unavailable” registry books which can still be obtained in Kosovo do not have any force of evidence in the procedures before the bodies in Serbia.

³⁰ See Praxis publications: “Legally Invisible Persons in Serbia – the State Must Take over the Responsibility” (2009) and “Legally Invisible Persons in Seven Stories – Why Should the Law on Recognition of Persons before the Law be adopted” (2008).

³¹ In the last four years, more than two thousand “legally invisible” persons have been identified, while the estimates suggest that there are several thousands more, while their number is constantly increasing.

³² Official Gazette of the Republic of Serbia, No. 20/09

does not prescribe how to register a person who does not know anything about his/her birth or parents, or who possesses no evidence. The Law neither regulates how and through which procedure to register a person whose parents have deceased or abandoned him/her. It does not state who is authorised to initiate a procedure of subsequent registration for a child born out of wedlock, who has been left by his/her mother. These are only some of the situations where “legally invisible” persons cannot be registered in birth registry books due to lack of a legal solution.

As time goes by, the problems and the number of “legally invisible” persons are increasing. Persons whose fact of birth has never been registered can neither register birth of their children. As a consequence, they have been living for generations in the Republic of Serbia without evidence on their identity, birth, origin and, thus, without possibility to exercise basic human rights. Particularly worrying is the lack of interest from the state to systemically solve the problem of “legally invisible” persons – the Ministry for Public Administration and Local Self-Government, which is competent for the issue of subsequent registration in birth registry books has been refusing to accept the suggested Model Law on the Procedure for Recognition of Persons before the Law³³ or to open a public debate related to solving the problems of these persons.

B. had been living as a “legally invisible” person for 27 years before she addressed us for assistance in the procedure of subsequent registration in birth registry book. Her parents had died several years before. The administrative body, to which the request for subsequent registration of B’s birth had been submitted, believed that determination of maternity and paternity and determination of personal name were the preliminary issue that should be resolved first. For the guardianship body, which B. addressed with a request for determination of personal name, the preliminary issue was determination of her fact of birth and obtaining personal documents on the grounds of which she would be identified. In the court procedure, to which B. had been referred by the administrative body, the preliminary issue for determining maternity and paternity was registration of personal name and issuance of personal documents. Each body B. addressed refused to act upon her request and referred her to first solve a preliminary issue. Finally, after almost two years during which the request had been rejected on several occasions, and after fruitless addressing the guardianship body and court – the municipal administrative body brought a decision allowing subsequent registration in birth registry book, only when there was no other body or procedure to which B. could be referred.

³³ Revised version of the Model Law - The Bill on the Procedure for Recognition of Persons before the Law, available online at http://www.praxis.org.rs/index.php?option=com_docman&task=doc_view&gid=180, Reports submitted by States parties under article 9 of the Convention, Initial periodic report due in 2008, Serbia, CERD/C/SRB/1, p. 58, paragraph 160.

E's request for subsequent registration in birth registry book was rejected with an explanation stating that "rash, not serious and not cautious proceeding" upon request would cause "a great numbers of similar requests by persons of Roma ethnicity". Instead of referring to facts and evidence, the competent administrative body based its decision on "the current situation, with greater influx of persons of Roma ethnicity". On the grounds of a circumstance that E's mother once had permanent residence registered in FYR Macedonia, the administrative body referred E. to address competent bodies in FYR Macedonia for issuance of documents, even though she had delivered a certificate confirming that she had not been registered in birth registry books in FYR Macedonia. The competent body even referred E. to submit a request for admission to citizenship of the Republic of Serbia, even though it is quite clear that a "legally invisible" person cannot submit such a request.³⁴

Persons who had been registered in registry books which were later destroyed, lost or became unavailable

Following the 1999 Kosovo armed conflict, many persons have faced insurmountable obstacles since the registry books containing their data were lost, destroyed or became unavailable.

While the "legally invisible" persons are almost exclusively representatives of Roma ethnic minority, the problem caused by the destruction of registry books also affects other minorities, as well as the majority population. These are mainly internally displaced persons from Kosovo. Even though, at the beginning, all those registered in the registry books from Kosovo suffered the same fate as the Roma, the Roma represent the majority of those who still cannot be re-registered in the reconstructed registry books.

All those who used to be registered in registry books from Kosovo and who do not possess evidence on their earlier registration in birth registry books are now in almost the same position as "legally invisible" persons. Even though it was not their fault to get into such a difficult situation, but the fault of the state which could not preserve registry books, they cannot access rights the exercise of which is conditioned by possession of Serbian citizenship. The state did not preserve registry books or enable efficient way of re-registration in reconstructed registry books³⁵. It has been more than 10 years and the competent state bodies have not fulfilled their legal obligation to, without delay and ex officio, perform reconstruction of registry books, obtain evidence and, for that purpose, check all records kept ex officio. Re-registration in reconstructed registry books is performed only upon requests from citizens and, almost exclusively, on the grounds of evidence the citizens enclose themselves. Evidence are reviewed arbitrarily, and thus, in exactly the same situations, administrative bodies bring different decisions. Procedures of re-registration can last for several years, while for many it is not even certain when and whether they will be solved at all.

³⁴ For more information about E. case, see:

http://www.praxis.org.rs/index.php?option=com_content&task=view&id=184&Itemid=80

³⁵ For more information, see: Praxis publication "Access to Documents for Internally Displaced Persons in Serbia" (2007)

The right to adequate legal remedy for persons whose registry books have been destroyed, lost or have become unavailable

Due to negative conflict of jurisdiction, at the moment, there is no second instance body deciding upon complaints in the procedures of re-registration in reconstructed citizenship registry books. Namely, the Ministry for Public Administration and Local Self-Government decides upon complaints in the procedures of re-registration in birth, marriage and death registry books. However, this body refuses to deal with complaints upon procedures or re-registration in citizenship registry books and refers the cases to the Ministry of Interior, as a body competent for citizenship affairs. The Ministry of Interior, on the other hand, brings conclusions declaring itself incompetent to decide upon such complaints. The Government, as a body competent to remove the aforementioned lack of coordination in the work of the ministries, has been refusing to act upon motions for resolving the negative conflict of jurisdiction for more than a year now. As a consequence, all persons whose requests for re-registration in reconstructed citizenship registry books are rejected, as well as those affected by all the procedures in which the first-instance bodies do not bring decisions at all or violate some rights for which citizens might decide to use their right to complain will be prevented from using an efficient legal remedy and their complaint will “wander” from one body to another. The aforementioned lack of coordination in the work of the bodies additionally delays already long procedures of re-registration.

The complete documentation that the S. family had, consisted of father's expired ID card, IDP cards and membership cards of a Roma association. When the requests for their re-registration in registry books were submitted, the first-instance body informed them that nothing could be done with such evidence, and that they were “only wasting time someone else with better chances of success could use”.

Upon accepting complaints in second-instance procedure, two out of five children and parents were finally re-registered in birth registry book. They were not re-registered in the citizenship registry book and could not lodge a complaint due to the aforementioned negative conflict of jurisdiction. The father, who possessed old ID card, was the only one to have obtained the citizenship certificate. On the grounds of father's citizenship, requests for determination of citizenship³⁶ were also submitted for the children who had been re-registered in the birth registry book, yet not without difficulties because of “incomplete” evidence about the mother.

³⁶ According to the provision of the Article 44 of the Law on Citizenship of the Republic of Serbia (Official Gazette of the Republic of Serbia No.135/2004 and 90/2007) For a person who acquired citizenship of the Republic of Serbia and is not recorded in the Register of births or records of citizens of the Republic of Serbia that are kept in line with the present regulations, the Ministry competent for internal affairs shall determine citizenship of that person. Procedures for determination of citizenship before this body last long, and a particular problem lies in the fact that a persons submitting a request for determination of citizenship must do it in person in place of his/her permanent residence. This particularly affects internally displaced persons who have permanent residence in Kosovo, since in order to submit a request they have to travel to the dislocated police stations in Southern Serbia.

8. Article 5 (e) (iii): The right to housing

Even though the problems in exercising the right to housing by the Roma have been recognized as one of the issues of great significance for general improvement of the position of the Roma in Serbia³⁷, little has been done with regard to solving these serious problems and preventing violations of the right to housing.

Prohibition of racial discrimination has been explicitly prescribed as an obligation of State Parties to the International Convention on the Elimination of All Forms of Racial Discrimination, where it is stated that “States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms”, especially with regard to, *inter alia*, the right to housing. However, even though obliged by the provisions of this Convention, the Republic of Serbia does not implement measures to eliminate and prohibit racial discrimination with regard to the right to housing.

General data

Exact data on the number of Roma settlements do not exist, just like there are not exact data on the number of Roma in Serbia. However, according to the latest research conducted in 2002, there were 593³⁸ Roma settlements with more than fifteen families, while the Initial Periodic Report of Serbia states that there are approximately 600 settlements in Serbia, out of which more than a sixth are located on the territory of Belgrade.³⁹

Living conditions in Roma settlements in Serbia are generally extremely poor and hinder exercise of other human rights. Statistical data on the communal infrastructure show that only 64.9% of settlements are totally covered by the electrical network, more than a quarter of all settlements do not have water supply, while every third settlement has roads paved with asphalt⁴⁰. Houses in the settlements are mainly built of secondary raw materials – sheet metal, cardboard and wooden panels, while only a small number of housing objects was built of solid material. Furthermore, the houses often do not have adequate windows or doors, but, for that purpose, the residents use nylon or other material which cannot adequately keep the warmth of the houses. Since the housing objects are mainly not connected to electrical network, the risk of fire is higher since the residents use inadequate stoves for heating and cooking and, having in mind the material housing objects are built of, the fire quickly spreads to a larger number of households.

Informal settlements are exclusively inhabited by the Roma, not only domicile but also Roma internally displaced from Kosovo, refugees from former Yugoslavia, returnees upon readmission agreements and the Roma from the poorest municipalities from Southern Serbia who frequently move to settlements in bigger cities, primarily Belgrade.

³⁷ Strategy for Improvement of the Position of the Roma, Official Gazette of the Republic of Serbia No. 27/2009

³⁸ Ethnicity Research Centre, Bozidar Jaksic, PhD, Goran Basic, LLD – “Roma settlements, living conditions and the possibility for integration of the Roma in Serbia”, results of the social research, Belgrade, 30 December 2002.

³⁹ CERD/C/SRB/1, Paragraph 73

⁴⁰ Roma Housing and Settlements in South-Eastern Europe: Profile and Achievements in Serbia, Vladimir Macura, Zlata Vuksanovic-Macura, Belgrade 2007, page 35.

With regard to exercise of the right to housing by the Roma in Serbia, racial discrimination is visible primarily in forced evictions performed contrary to international standards which regulate them and in segregation of Roma settlements.

Segregation

Prohibition of racial segregation is explicitly stated in the Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination, while the Committee on the Elimination of Racial Discrimination clearly states in the General Recommendation 27 the obligation of the State to “to develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing”⁴¹. However, regardless of clear international obligation, the authorities have not done anything to prevent the City of Belgrade from performing racial segregation with regard to the right to housing on the occasion of resettling informal settlements “Gazela” and “Belvil” (Blok 67). Namely, the majority of locations to which the residents of these settlements were resettled, who fulfilled conditions for temporary usage of mobile housing units, are on the outskirts of the city, more or less isolated from accessing public services, and exclusively planned for accommodation of the Roma^{42 43}. Besides, the locations in which they were resettled is such that it makes more difficult finding employment, accessing health care, schools and other public services, contrary to the standpoints of the Committee on Economic, Social and Cultural Rights expressed in the General Comment 4⁴⁴.

B. refused to be resettled on the outskirts of the city of Belgrade. On the eviction day he was left on the street, without any of his personal possessions, alternative housing or social support. In the meantime he temporarily settled in another informal settlement – Belvil (Blok 67). He was under pressure to accept the proposal and move to the container settlement. Left without any other possibilities and with the assistance of EIB⁴⁵ B. moved into one of temporary container settlements on the outskirts of Belgrade after a month of disputing with city authorities.

Residential integration and cohabitation with majority population is obstructed also through biased and discriminatory criteria for social housing. Only four Roma families in 2010 were successful in obtaining newly built social apartments due discriminatory criteria, later challenged by City of Belgrade Ombudsperson on whose recommendation the tender was nullified due to this reason⁴⁶.

⁴¹ General Recommendation No. 27: Discrimination against Roma: 08/16/2000. Gen. Rec. No. 27. (General Comments), paragraph 30.

⁴² Amendments of the Action Plan for Resettlement of Unhygienic Settlements on the Territory of the City of Belgrade, City of Belgrade, City Administration, Secretariat for Social Protection, page 7.

⁴³ Also: Amnesty International - Briefing to the UN Committee on the Elimination of Racial Discrimination, 78th Session: Serbia, page 10

⁴⁴ Paragraph 8 (f)

⁴⁵ European Investment Bank

⁴⁶ After a response by Belgrade City Ombudsperson, the Committee for Housing Affairs cancelled the open call for delivering social housing. In the explanation it is stated that social vulnerability should become the main criterion and mostly rewarded when priorities are established. Namely, the social and housing vulnerability can not be overshadowed by other criteria such as the length of working life of the applicant and the importance of his or her working place. It is also important to stress that the maximum amount of points can be given to a household with maximum five family members, which neglects the fact that the household of five members do not have the same needs as the one with nine or ten

Unavailability of public services

During numerous visits to Roma settlements in Serbia, information have been gathered which best show unequal proceeding of the state bodies related to availability of emergency services to the residents of Roma settlements and other population. Namely, in summer 2010, during a visit to a Roma settlement in Batajnica, on the outskirts of Belgrade, the organizations were acquainted with the problem of underground waters bursting from the ground in a part of the settlement which had been built on the lower terrain. During 2010, threatening to jeopardise their health and safety, the underground waters flooded houses of the residents of the settlement, which, even though informal, is in the process of legalization and regulation of basic infrastructural needs. Pleas of the residents to the local authorities for assistance in draining the water from flooded homes and evacuating them to a safe place have fallen on deaf ears. Even after addressing both verbally and in writing all public utility services on the territory of Belgrade who might be competent for solving this issue, after addressing the Commissariat for Refugees of the Republic of Serbia (since one part of the residents have the status of IDPs from Kosovo), as well as the Counsellor of the President of the Municipality of Zemun for affairs related to receiving and coordination with the citizens, the problem of residents of the informal Roma settlement which had been flooded remained unresolved. On the other hand, during a similar situation in a non-Roma settlement in Obrenovac, also a municipality of Belgrade, the Department for Emergency Situations of the Ministry of Interior reacted by immediately evacuating residents of this flooded settlement and providing adequate assistance to the vulnerable residents.

Poor infrastructural and living conditions in the settlements

More than 70% of households have no access to safe drinking water which causes lack of hygiene among tenants. As hygiene is not at a high level, frequent infections and contagious diseases break out among the population. Also, there is no proper sewage system. Lack of paved roads is also one of the problems that face Roma population in this settlement. Above all the mentioned, residents live in constant fear of threatened forced eviction.

Roma settlement Crvena Zvezda, Nis

One part of the residents got ill due to contaminated water with which they are being supplied from a well located more than 2 kilometres from the settlement⁴⁷. During poor weather conditions, it is very hard to get to the settlement, which particularly makes difficult children's attending schools.

Roma settlement Balacka, Valjevo

members. There is no doubt that Roma families have been discouraged considering that Roma families usually have more family members, significantly higher unemployment rate, work in informal economy and lower level of education.

⁴⁷ CHRIS interview with Radmila Vasic, Roma Democracy Center Valjevo

Forced evictions⁴⁸

In its General Comments 4 and 7 to the International Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights set minimum standards which must be respected with regard to forced evictions and the right to housing. Thus, the General Comment 4 states that “all persons should possess a degree of security of tenure which guarantees legal protection against forced evictions, harassment and other threats⁴⁹”, while the Paragraph 18 of the same comment states that “instances of forced evictions are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances.”

From the aspect of respect of the right to housing, particularly worrying are forced evictions which have been performed in the last several years on the territory of Belgrade. The evictions, which entail serious violations of human rights of the residents of settlements, are usually justified by infrastructural projects and further development of the city. The most notorious and the most difficult cases of human rights violations occurred during the forced evictions of the settlements “Belvil” (Blok 67) and “Gazela” in Novi Beograd⁵⁰.

Forced evictions of these two settlements were performed without respect for basic international standards regulating this field (consultations with the community, right to adequate legal remedy, right to inviolability of property)⁵¹, while the alternative housing to which the residents of these settlements were moved is inadequate, primarily with regard to the location⁵² and the possibility of living in it. The General Comment 4 of the Committee on Economic, Social and Cultural Rights states that “adequate housing must be habitable in terms of providing inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors⁵³.” Metal containers, in which former residents of the evicted settlements live are often too small, do not have isolation; ventilation is bad which causes dampness which jeopardizes health on the residents⁵⁴.

⁴⁸ As it has been stated in the Paragraph 3 of the General Comment 7 of the Committee on Economic, Social and Cultural Rights, the term “forced evictions” is defined as the “permanent or temporary removal against their will of individuals, families and/or communities from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”

⁴⁹ General Comment 4, Paragraph 8

⁵⁰ About the forced evictions of the settlements Blok 67 (Belvil) and Gazela see: Amnesty International report – Serbia: Stop forced evictions of Roma settlements, 2010, and Amnesty International Briefing to the UN Committee on the Elimination of Racial Discrimination 78th Session, February 2011

⁵¹ See: Basic Principles and Guidelines on Development-based Evictions and Displacements, A/HRC/4/18, Paragraphs 37, 50 and 59.

⁵² Inadequate locations to which the Roma have been resettled was dealt with in the part of this report referring to segregation with regard to the right to housing, p. 16-17

⁵³ General Comment 4, Paragraph 8 (d)

⁵⁴ Also see: Amnesty International – Serbia: Stop forced evictions of Roma settlements, page 8, June 2010

“It was one of the worst days in my life; I suffered nervous brake-down because of this eviction. My daughter has epilepsy and it was impossible for us to get a treatment for her symptoms. Also, we didn’t have a chance to collect any of our belongings; we didn’t know anything about location in outskirts of Belgrade where I and my family were supposed to live. ”

M. lived in Gazela settlement for more than ten years, not consulted at all about any of important points prescribed in IFIs⁵⁵ policies regarding involuntary resettlements.

In addition to the above-mentioned violations of human rights of the residents of the settlements “Belvil” (Blok 67) and “Gazela”, it is important to mention that, during forced evictions, the right to freedom of movement from the Article 5 (d) of the Convention on the Elimination of All Forms of Racial Discrimination of the inhabitants of the settlements who had permanent or temporary residence registered in poor municipalities in Southern Serbia was also violated. Namely, during the forced eviction of the settlement “Gazela”, the authorities refused to move to new locations these persons, who had been living in Belgrade for more than ten years, searching for sources of income which would be sufficient to feed their families. They were returned to the places of their permanent residence, and the plan of their resettlement to the places in Southern Serbia was under the jurisdiction of the Ministry of Labour and Social Policy. The plan envisaged that these families receive immediate cash assistance, assistance in obtaining documentation and accessing social welfare services and education for children. However, the Ministry did not provide information about implementation of this plan, while the majority of these families returned to Belgrade, to other informal settlements, primarily the settlement “Belvil” (Blok 67).

Particularly worrying is the fact that the authorities of the City of Belgrade have not given up on this negative practice even after several calls and appeals for stopping forced evictions. Thus, during 2010, several minor evictions took place^{56 57}, while there are information that in 2011, at least one bigger forced eviction will be performed.

⁵⁵ International financial institutions

⁵⁶ <http://www.minoritycentre.org/node/2066>, <http://www.amnesty.org/en/news-and-updates/roma-families-belgrade-forcibly-evicted-2010-10-08>, http://www.dur.org.rs/cms/index.php?option=com_content&view=article&catid=34:vesti&id=173:nasilno-raseljavanje-ivice-deviia-ukarica&Itemid=56eljavanja, http://www.minoritycentre.org/sites/default/files/errc_rcm_letter_Serbia_250810.doc

⁵⁷ <http://www.amnesty.org/en/news-and-updates/roma-families-belgrade-forcibly-evicted-2010-10-08>

9. Article 5 (e) (iv): The right to public health, medical care, social security and social services

Health

Right to health care is one of the most important rights whose exercise significantly affects other human rights, such as: right to life, right to work, right to education or dignity. Lifespan of the Roma in Serbia is more than ten years shorter than the lifespan of other population, while the sanitary, hygienic and epidemiological conditions in a great number of Roma settlements are catastrophic and permanently damage health of its residents. Particularly worrying is the data that the mortality rate among Roma children under five years of age is three times higher than the national average⁵⁸. Law on Health Insurance⁵⁹, as stated in the Initial State Report on pages 70 and 71, guarantees health insurance even to persons belonging to socially vulnerable groups who cannot fulfil set conditions according to the provisions of the Article 17 of the Law. Within this group, those who are particularly emphasised are the Roma who, due to their traditional way of life, do not have permanent or temporary residence registered in the Republic of Serbia.

However, disregarding the legal provisions which undoubtedly suggest that health insurance is also provided to the Roma who do not have permanent or temporary residence registered due to their traditional way of life, the Rules of Procedure for Exercising Right from Obligatory Health Insurance⁶⁰ derogated the above-mentioned legal provision until July 2010. For the Roma who wished to exercise the right to health insurance on the basis of the above-mentioned provision, the Rules of Procedure prescribed provision of *registration of temporary residence* as a precondition for applying for health insurance.

This manner of regulating who can apply for health insurance violates international norms which regulate the right to health. The Committee on Economic, Social and Cultural Rights finds in its General Comment 14⁶¹ that “health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, *in law and in fact...*” If we analyse the core obligations from the Paragraph 43 (a), which are non-derogable, and where it is stated that the State is obliged to provide at least “the right to access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups”, it is clear that we are dealing with violations of basic international standards referring to health protection.

As a reaction to the above-mentioned illegally establishing the conditions that the Roma without permanent or temporary residence cannot fulfil, an Initiative for Legislative Review of the disputable provisions was launched before the Constitutional Court of the Republic of Serbia. Even though the procedure upon this Initiative did not formally terminate, the Initiative contributed to the latest change of the disputable Rules of Procedure in a way that only as of the day of entry into force of the new Rules of Procedure on 17th July 2010, we can speak about providing health protection to the Roma who do not have registered permanent or temporary residence due to their traditional way of life. After the adoption of the new Rules of Procedure for Exercising Right from

⁵⁸ UNICEF Belgrade – Serbia, Multiple indicator cluster survey, 2005, Monitoring situation of children and women, p. 13, online: http://www.unicef.org/serbia/Serbia_MICS_2005.pdf

⁵⁹ Official Gazette of the Republic of Serbia, No. 107/2005 and 109/2005 – correction

⁶⁰ Official Gazette of the Republic of Serbia, No. 108/2008, 112/2008, 11/2009, 24/2009, 56/2009 and 80/2009

⁶¹ E/C.12/2004, paragraph 12

Obligatory Health Insurance, in the proceeding of the branches of Republic Fund for Health Insurance it has been noticed that the officers of the competent branches are often not informed about the changes of the Rules of Procedure and in some cases refuse the right of the Roma to health care on the above-mentioned grounds. Furthermore, particular problem is the fact that the “legally invisible” Roma are not able to exercise minimum rights from the health insurance, thus, the medical aid and health care services are unavailable to them.

Despite the new Rules of Procedure for Exercising Right from Obligatory Health Insurance, the Roma who do not have permanent/temporary residence registered or the citizens’ unique personal number (CUPN) cannot be insured. Since they do not have permanent residence registered, there is no body who has territorial jurisdiction to determine their CUPN. This problem is also present among those persons who have permanent residence registered in the place in which they have not been living for a long time and who are not able to bear the costs of travel to that place of previous residence so that the competent police department could determine their CUPN. A simple solution to this problem could be found if there were willingness of the Republic Institute for Health Insurance to forward a request for determination of CUPN to the competent police department *ex officio*. Instead, in such cases, the Republic Institute refuses to accept the request for registration of health insurance.

Due to all the above-mentioned, there still cannot be any mention of full exercise of right to health protection by the Roma, even though one might get opposite impression from the statements in the Initial Report of the State.

When leaving the hospital after childbirth delivery, M, who resides in the informal Roma settlement “Belvil”, was informed that a visiting nurse would pay her a visit shortly afterwards for the purpose of examining the newborn child and providing M. with instructions regarding child care. On December 13, 2010, the visiting nurse arrived at the site to pay a visit to the mother and the newborn child, but refused to enter the settlement because of the mud. She requested from M. to bring the baby to their vehicle that was parked far away. The weather was very cold on that day and the temperature was below zero. After an examination that was conducted in the vehicle, the mother complained that it was not thorough and detailed and that no instruction had been provided to her. Health workers often refuse to enter the settlements in order to provide the service, justifying themselves by poor living conditions and lack of infrastructure in the settlement⁶².

Social security

The Roma, as the most vulnerable social group in Serbia, are at constant risk of poverty, while the statistical data on the position of the Roma are devastating – almost half of the Roma live in poverty⁶³, while two thirds of children from Roma settlements live below the

⁶² Regional Centre for Minorities interview with M, Roma women from informal settlement Belvil

⁶³ Statistical analysis of living standards, Statistical Office of the Republic of Serbia (2007), quoted from Realizing Roma Rights, United Nations in Serbia, 2008. The same data were given in the Strategy for Improvement of the Status of Roma in the Republic of Serbia, Official Gazette of the Republic of Serbia, No. 27 as of 21st April 2009.

poverty line⁶⁴. Deep poverty and living conditions of the Roma are, on one hand, the result of years of marginalization and inequality in the areas of education, employments, housing and health care, while, on the other hand, they represent the denial of human dignity and lack of concern by the State for the most vulnerable categories of population. The main problem related to exercise of right to social security lies in inadequate legal regulations which neglect the specific position of the Roma and, thus, indirectly exclude them from the exercise of right to social security. Thus, the State acts contrary to the provisions of the Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination and the provisions of the Article 5 (e) (iv) which guarantees the right of “everyone to equality before the law [...] in the enjoyment of [...] the right to social security and social services.” By analyzing the existing Law on Social Protection and Providing Social Security of Citizens⁶⁵, it can be clearly concluded that the basic problems related to access to right to social protection primarily refer to problems in establishing territorial jurisdiction in the procedures initiated by residents of informal settlements, or internally displaced persons who have permanent residence registered at addresses in Kosovo. In addition, persons of Roma ethnicity are facing complicated administrative procedure in the implementation of the regulations referring to social protection, which significantly aggravates the access to these rights.

Basic problem that appears in the procedures before the social welfare centres, as the institutions which primarily provide services in the area of social and family protection, refers to establishment of territorial jurisdiction. Since the social welfare centres establish jurisdiction according to the place of permanent residence, exercise of right to social protection is hindered for the most vulnerable representatives of Roma community – those living in informal settlements or belonging to the category of “legally invisible” persons. Since the Law on Social Protection and Providing Social Security of Citizens does not contain any provisions regulating the issue of territorial jurisdiction for persons without permanent and temporary residence, there is legal basis for applying provisions of the Law on General Administrative Procedure⁶⁶, as a general act regulating administrative procedure before the social welfare centres and other institutions of social protection. Article 21 of this Law regulates the issue of establishing territorial jurisdiction in administrative procedures when a person addressing a body has neither permanent nor temporary residence – in such cases, territorial jurisdiction is established according to the place in which the reason for conducting the procedure arose. By such application of general regulations, territorial jurisdiction could also be established for the most vulnerable citizens living in deep poverty in informal settlements, without basic living conditions fulfilled. However, such interpretation of regulations is usually lacking, and, thus, the existing legal solutions and their implementation are criticized for not taking into account the specific position of the Roma and their particularly difficult financial situation. The standpoints of the Committee on Economic, Social and Cultural Rights expressed in the General Comment No. 19 contribute to the claim that the above-mentioned legal solutions lead to violation of obligations of the State with regard to right to social security. Thus, the General Comment No. 19 states that “States parties should ensure that legislation, policies, programmes and the allocation of resources facilitate access to

⁶⁴ The State of Children in Serbia 2006, UNICEF (2007)

⁶⁵ Official Gazette of the Republic of Serbia, No. 36/1991, 79/1991, 33/1993, 53/1993, 67/1993, 46/1994, 48/1994, 52/1996, 29/2001, 84/2004, 101/2005 and 115/2005

⁶⁶ Official Gazette of the Federal Republic of Yugoslavia No. 33/97 and 31/2001, Official Gazette of the Republic of Serbia No. 30/2010

social security for *all members of society*⁶⁷, as well as that “States parties should give special attention to those individuals and groups who traditionally face difficulties in exercising this right”, *inter alia* minority groups, refugees, internally displaced persons⁶⁸.

Another problem faced by the persons of Roma ethnicity in exercise of right to social security is complicated administrative procedure. Exercise of right to one of the forms of financial aid depends on enclosure of a large number of evidence, the collection and submission of which can, in some cases, call into question the functionality and proportionality of set conditions.

An illustration of lack of proportionality of set conditions for exercise of right to social welfare could be the case of an eleven-member Roma family S, displaced from Kosovo, who enclosed a total of 23 different documents in order to exercise right to social welfare benefits. Besides, since this family lives in a place located far away from the place where dislocated registry books from Kosovo are being administered, in addition to obtaining the requested documents, one should also include travel costs in the total costs of collecting evidence for exercise of right to social welfare benefits, which altogether exceeds the monthly amount paid to the socially vulnerable families who exercise right to family financial support. The S. family is only one of many.

Other families are also facing similar problems and limitations in exercise of right to social security, which shows that the system of social security neither takes into consideration specific needs of the Roma population nor prescribes any privileges in the process of exercise of right to social security, contrary to the provisions of the Article 2 (c) of the Convention which obliges the contracting States to “take effective measures to [...] amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”

In addition, one of the problems in the procedures before the social welfare centres is absence of written evidence on submitted request. Namely, the employees of the social welfare centres often reject the requests verbally or “advise” the clients to submit requests later. There were even cases in which they entered the merit the thing before formally receiving the requests and, by verbally rejecting the requests they denied the applicants right to a legal remedy in a procedure before State bodies.

Beside the above-mentioned proceedings in which the access to right to social security by the Roma is made more difficult, not collecting the evidence *ex officio*, which is contrary to the Law on General Administrative Procedure, represents another way to discourage the applicants from exercising these rights. Since the great number of Roma is not educated, it often happens that the competent bodies take advantage of such situation and deliver to applicants the list of evidence needed for exercising the right to social security. It even happened that a short notice was printed on the paper containing the list of evidence by which the applicant “renounced” the right to obtaining evidence *ex officio* because he/she

⁶⁷ E/C.12/GC/19, Paragraph 30.

⁶⁸ Loc. cit, Paragraph 31

would obtain them faster and better on his/her own than it would be the case with the proceeding body.

10. Article 5 (f): Access to Public Places

Persons of Roma ethnicity have been denied access to public places and services, especially those owned or administered by private companies. This is most common in shopping malls, at swimming pools and other sports facilities, cafes and restaurants, nightclubs and entertainment places. This can be an extremely humiliating experience which leaves many Roma traumatized and with a bitter reminder that they are second class citizens.

Although the Supreme Court in landmark case *Krsmanovaca*⁶⁹ ruled that prohibiting Roma entrance to swimming pool of sports centre *Krsmanovaca* in Sabac is not acceptable, the practice of denied access to Roma is still existent. However, collecting evidence of these cases is hard and they are difficult to prove in court⁷⁰. The adoption of the Law on the Prohibition of Discrimination in 2009 will make it simpler for victims to use in-court mechanism of protection since it shifts the burden of proof in cases of discrimination.

Unfortunately, sometimes the State institutions are involved in the perpetuating the discrimination against Roma.

A case was documented where an employee of the National Employment Service in Nis refused to register young Roma women who had to register every three months to the National Employment Service stating “You could have first washed yourself, you reek. Come on, go back and come tomorrow”. After a women tried to explain, she was answered that it was not her duty to admit “filthy Gypsy women”⁷¹.

⁶⁹ In July 2000, group of Roma was denied entrance to the swimming pool facilities of Sporting-Recreational Facilities *Krsmanovaca* in Sabac. Fond for Humanitarian Law together with members of Roma NGOs (Oaza and DUR), using the situation testing, collected evidence that it was the matter of racial discrimination and indictment was brought against the guard at the swimming pool. The Supreme Court established, reconfirming the municipal court decision, referring also to the international human rights standards (art 26, ICCPR) proclaiming that the management of the swimming pool must issue a public apology, which set a precedent for future similar cases.

⁷⁰ Manual for Lawyers Representing Roma Victims of Discrimination, ERRRC, FHP, MRC, Belgrade, 2005, p. 24.

⁷¹ Roma Women's Network, Together We Can, South of Serbia, Vera Kurtic, et, Nis, 2006, p. 11

Most typical examples of this prevailing practice include swimming pools and cafes.

R. was trying to enter swimming pool in Belgrade with her son aged seven. She asked an employee if the pool was opened, but was told that the swimming pool was not working, while she could clearly see that people were going in and out from the pool. The employee added: “It will take Gypsies to start coming here, to make other people go away”⁷².

11. List of recommendations

Article 3: Racial segregation

Education

- Psychological and pedagogic testing of Roma children has to be conducted in a language they entirely comprehensively understand, and school has to provide translation services as required;
- Tests used to assess children's mental abilities need to be culturally neutral and take into consideration the different social environment in which Roma children grow up;
- Transfer of misplaced Roma children from “special” to mainstream schools has to be accelerated and the environment has to be adequately adjusted to ensure they feel comfortable;

Residential segregation

- Creation of prospective Roma-only-settlements that might result from forced evictions should be prevented;
- The Roma who have been resettled as a result of forced evictions should be provided with housing units in residential areas inhabited by the majority population;
- Social housing programmes should ensure ethnic diversity guaranteeing that all criteria for residents are anti-discriminatory, thereby ensuring that minorities are able to fully integrate into the community at large.

Article 4: Criminal offences related to racial discrimination and prohibition of organisations inciting racial hatred and promoting discrimination

Criminal offences related to racial discrimination

- The Public Prosecution has to be pro-active in combating racial discrimination and violation of equality. To this end, more indictments should be filed where laws have been breached, regardless of their number or how unpopular these actions

⁷² Povreda prava Roma, 59.

are. This stance must not be compromised for political expediency as it sets the standards for this and future actions;

- While the existing legislation is adequate, it yields no benefit if it is not implemented. Minimal punishments must not be the default position of the law because this undermines its force as a deterrent;
- Hate crimes need to be explicitly incorporated into the Serbian Criminal Code and those who express hatred towards persons or groups who support and defend the victims of hate crimes should also experience the full force of the law.

Prohibition of organisations inciting racial hatred and promoting discrimination

- Registered organisations that incite or support those who incite racial discrimination should be deregistered from the citizen's association according to the law;
- Activities of organisation inciting racial hatred whether registered or operating underground need to be monitored and fined and/or indicted according to the level of breach;
- A detailed investigation into the funding and the mapping of political support that these organisations locally, nationally and internationally enjoy needs to be undertaken and sustained.

Article 5 (d) (i): The right to freedom of movement and residence within the border of the State

- To enable registration of permanent and temporary residence to the residents of informal settlements through adoption new legal solutions;
- To prevent arbitrary proceeding of the police departments upon requests for registration of permanent and temporary residence of persons originally from Kosovo.

Article 5 (d) (iii): The right to nationality

- To regulate the procedure of subsequent registration which would take into consideration the needs and specific characteristics of the group which is mostly exposed to risk of “invisibility” before the law, and which will be fast and simple;
- To perform reconstruction of unavailable, lost or destroyed registry books, without delay and *ex officio* (those who were once registered in those registry books should only be obliged to cooperate and provide data available to them);
- To simplify and make more efficient the procedures of subsequent registration and re-registration in registry books until the adoption of new legal regulations;

- To provide the right to efficient legal remedy to persons whose citizenship registry books were lost/became unavailable, by solving the negative conflict of jurisdiction of the proceeding bodies.

Article 5 (e) (iii): The right to housing

- To stop all forced evictions and arrange that the resettlements occur only when no other options are available;
- To provide the right to efficient legal remedy and compensation for damage for the victims of forced evictions;
- To provide all persons who were forcibly evicted with the right to adequate alternative accommodation;
- To take measures for stopping further segregation with regard to the right to housing;
- To increase availability of social housing apartments through prescribing criteria for granting the apartments which would take into consideration the needs of most vulnerable categories of population;
- To stop the practice of unwanted resettlements of residents of informal settlements in Belgrade to the municipalities in which they have permanent/temporary residence registered.

Article 5 (e) (iv): The right to public health, medical care, social security and social services

- Fully enable the access to health care and social protection of the residents of informal settlements and persons without permanent/temporary residence;
- To enable “legally invisible” to access right to health care;
- To simplify the administrative procedure and reduce the number of necessary evidence needed for exercising right to social protection;
- To enable full enjoyment of right to adequate legal remedy in the procedures before the competent bodies.

Article 5 (f): Access to public places

- Anti-discrimination laws, including the introduction of situation testing and shifting the burden of proof in proving discrimination, should be fully implemented.

12. Annex

NGO Praxis Comments on the Draft Initial Periodic Report of Serbia on the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination⁷³

1. Refugees and Displaced Persons (page 45)

On page 5 of the Report, data is mentioned referring to the assumption that approximately 20,000 internally displaced Roma from Kosovo have not been registered. What type of registration is it – the status of an internally displaced person (IDP) or registration in birth registry books?

According to UNHCR statistical data as of February 2009, there are 205,835 IDPs from Kosovo in Serbia, 22,914 Roma, Ashkali and Egyptians with IDP status and 96,490 refugees.

According to unofficial data, there are dozens of thousands of persons living in Serbia who are not recognized before the law, mainly belonging to the Roma national minority. Within projects Praxis implemented as main legal implementing partner of UNHCR and UNICEF in 20 municipalities in Serbia, a total of 700 persons of Roma nationality, children and adults (both domicile and IDP population), who had not been registered in birth registry books, were identified.

The right to be recognized as person before the law (the right to legal subjectivity) is a basic human right and a precondition for enjoyment of all other rights guaranteed by the Constitution of the Republic of Serbia (Article 37) and international legislation. The Republic of Serbia has ratified numerous international documents, such as the 1948 Universal Declaration of Human Rights, two UN covenants from 1966 – International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which contain numerous regulations referring to each person, starting from general guarantee for respect of dignity of each person, through prohibition of discrimination with regard to enjoyment and protection of rights, to specific legal guarantees related to recognition of every person as a legal subject and those related to certain civil, political, economic, social and cultural rights. However, the Government of Serbia, the Ministry for Public Administration and Local Self-Government, the Ministry of Interior, the Ministry of Labour and Social Policy, as well as the judiciary sometimes do not manage to enable full realization of rights to a certain number of citizens, and do not remove obstacles which would enable them to become recognized before the law.

Among the displaced population, the most vulnerable are the persons belonging to Roma national minority who have not been registered in birth registry books, sometimes for generations⁷⁴. They usually live in illegal settlements, in utterly poor living conditions, without a possibility to prove their identity. Since they are not recognized as persons

⁷³ The Comments were submitted in May 2009, therefore, some of the information is outdated at the time of writing this report.

⁷⁴ See the publication of NGO Praxis *Legally Invisible Persons in Seven Stories – Why should the Law on the Procedure for Recognition of Persons before the Law be adopted* (October 2008) and publication of the Centre for Advanced Legal Studies *Model Law on the Procedure for Recognition of Persons before the Law* (2008) at web address: <http://www.praxis.org.rs>

before the law, they are “legally invisible” to the authorities and, thus, prevented from enjoying basic human rights. They are unable to prove their identity for lack of evidence necessary to perform the procedure of subsequent registration in birth registry books according to general legal regulations. In practice, we encounter numerous cases of “legally invisible” persons wandering through labyrinths of passive and strict bureaucracy, both due to non-existence of adequate legal solutions and lack of sensitivity from competent officers for their needs and problems. The procedures of subsequent registration would neither be long-lasting and complicated nor would they require high costs and engaging a team of lawyers, if there were an adequate legal solution and good will of the authorities to solve problems of these persons. Initiative of UNHCR, Praxis, the OSCE Mission to Serbia and the Centre for Advanced Legal Studies for the adoption of the Law on the Procedure for Recognition of Persons before the Law was supported by the Ministry of Human and Minority Rights. However, due to lack of support from the Ministry for Public Administration and Local Self-Government, which did not recognize their role in protection of the rights of children and adults who are not recognized before the law, the efforts of the Ministry of Human and Minority Rights to table the law before the Parliament of the Republic of Serbia were made much more difficult. It is an obligation of the State to, within the shortest period of time, provide a legal framework which would enable enjoyment of right to recognition of every person before the law which has been guaranteed by the Constitution of the Republic of Serbia.

2. Right to Freedom of Movement and Residence (page 42)

Article 5 of the Law on Permanent and Temporary Residence of Citizens prescribes that when registering permanent or temporary residence one should prove “other facts of relevance for registration”, which can be done through a contract on usage of the apartment, ownership certificate or contract on lease.

Registration of permanent residence represents a precondition for obtaining ID card and accessing basic human rights, such as the right to health care, right to social welfare and the right to employment. Since the registration of permanent or temporary residence is conditioned by either ownership of a real estate or possession of financial means for paying rent (on conditions that the owner of property allows the leaseholder to register residence at the address of the property under lease, which often is not the case), one comes to the conclusion that obtaining personal documents and accessing basic human rights in the end still depend on citizens’ financial situation.

3. The Right to Health Care and Social Protection (page 56)

Article 22 of the Law on Health Insurance explicitly states that persons of Roma nationality who, due to their traditional way of life, do not have permanent or temporary residence, can be beneficiaries of health care. The legislator undoubtedly had the intention to enable this category of population to access health care. This provision of the Law can also be applied to internally displaced persons of Roma nationality who do not have permanent or temporary residence.

However, Article 6 of the Rules of Procedure for Exercising Right from Obligatory Health Insurance derogates the application of this legal rule by stating that the insured must provide a personal statement that he/she is a person of Roma nationality, as well as his/her registration of temporary residence. In this way, persons who do not have their residence

registered, for instance due to the fact that they live in an illegal Roma settlement - which is often the case with Roma IDPs - are actually deprived of the rights from health insurance, and exercise of the legal right to using health care services.

4. The Right to Security of Person, Protection against Violence or Bodily Harm (page 37)

Looking at the provisions referring to the protection from domestic violence, as a whole, in the Family Law, one can easily observe that the legal regime suffers from lack of equal quality of some of its parts. One group of legal solutions is very modern and well developed, while other solutions are backward and contradict the purpose of legal regulations. It, however, seems, that the worst is the case with provisions which have been partially explained, which remained undeveloped and, thus, create harmful legal gaps. The same is with the provisions that are missing.

This characteristic of the legal regime has a decisive role in contributing to its inefficiency in practice. Even if our courts and prosecutors' offices were well trained for proceeding in such cases, and it seems that they are not, i.e. even if they were simply committed to providing legal protection to the victims of violence, and it seems they are not – they would not be able to efficiently apply the existing legal framework because it simply is not adequate.

Analysing the legal framework⁷⁵ for the prevention of domestic violence, it seems that it can be unmistakably concluded that a modern and comprehensive legal text referring to the prevention of domestic violence should be introduced in the domestic legal framework. Namely, based on the analysis of the existing legislation, as well as the practice of courts in implementation of those legal solutions, a large number of gaps that are preventing an efficient battle against this widespread phenomenon have been identified. Even if the amendments to the criminal and family legislation were introduced, the domestic legal system would not be adequate to cope with the domestic violence in a systemic manner. This is why it is necessary to develop an integrated law on the prevention of domestic violence, in line with the most advanced common law experiences, and particularly those of the Western European countries.

One should also mention the Closing Comments of the Committee for the Elimination of Discrimination against Women, which include recommendations for the Republic of Serbia to consider the adoption of a law on domestic violence that would integrate all important elements that are currently found in the Criminal Code and the Family Law. This law should contain efficient family law and criminal law provisions, as well as the provisions on the misdemeanour responsibilities for domestic violence which are currently lacking from the positive legal environment in the country. It should also include the procedures that should be followed by the police when dealing with domestic violence, as well as the provisions on the measures for the improvement of the public authorities involved in various spheres that are directly or indirectly linked with the domestic violence phenomenon.

In Belgrade, February 2011

⁷⁵ See Praxis report *Domestic Violence Prevention and Protection*, October 2008, at web address www.praxis.org.rs