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Summary of Pressing Concerns: West Balkans and Turkey

This document aims to provide a briefing for the Commission on Roma rights matters in countries/regions of the West Balkans and Turkey. The document was prepared in response to Commission communication of 9 June 2006. Recommendations are presented in forms the European Roma Rights Centre (ERRC) would seek incorporated by the Commission, by country.

As a general matter of very pressing urgency, with the single and sole exception of Kosovo, none of the countries/entities at issue (Albania, Bosnia and Herzegovina, Croatia, Kosovo, Macedonia, Montenegro, Serbia and Turkey) have incorporated the European Union anti-discrimination directives¹ into the domestic legal order to a level of sufficiency. This is of particular concern at the moment with respect to Croatia, given (i) the relative advancement of Croatia's candidacy for European Union membership, and (ii) the near-total silence in Croatia on the matter of adopting comprehensive anti-discrimination law in conformity with the Union *acquis*.² The attention of the law- and policy-makers of all of the countries at issue here should be focused on the need to bring the legal order into compliance with EU law requirements, through the adoption of comprehensive anti-discrimination laws.³

Above and beyond anti-discrimination law matters, country-specific issues are raised below. Matters concerning Serbia and Montenegro are presented under one heading.

Albania

Human Trafficking: In recent years, Romani children and women have frequently been victims of trafficking. Often, children are either abducted or sent by their own families with strangers to foreign countries where they are put to work without regard for their safety or any

¹ In particular, see Council Directives 43/2000 and 78/2000.

² As noted below, to date only provisions of Council Directive 78/2000 -- the so-called "Employment Directive" -- have been transposed into domestic law. The ERRC is unaware of any plans by the Croatian government to transpose into domestic law Council Directive 43/2000 -- so-called the "Race Equality Directive".

³ Council Decision 2006/56/EC of 30 January 2006 "on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2004/520/EC" (Hereafter "January 2006 Serbia/Montenegro/Kosovo Council Decision") includes, as a short-term priority for Serbia and Montenegro "Adopt comprehensive anti-discrimination legislation" and, for Kosovo, "Ensure effective implementation of the anti-discrimination law".

regulations to that effect. They often suffer abuse at the hands of their “employers,” including extreme physical and sexual abuse. In addition, these children are denied education, further reducing their chances for rehabilitation should they recover from the treatment to which they have been subjected. Romani women, who reportedly comprise as much as 59% of all victims of trafficking, are also at great risk from this threat, particularly with regard to sexual exploitation and prostitution.⁴ Romani women are frequently trafficked via abduction, force or threat of force, or some form of fraud and/or deceit. Victims of trafficking often report that they were coerced to go along with their abductors out of fear for the safety of their families. Alternately, sometimes the perpetrators lure women by promising their victims marriage and economic stability for themselves and their families. Once abducted, the women are virtually held captive and forced to prostitute themselves. They are often threatened, beaten and/or otherwise physically abused.⁵ The Albanian government should take adequate steps to protect Romani women and children from threats of trafficking by strengthening state anti-trafficking law enforcement, cooperating with Roma rights organizations inside and outside of Albania, and increasing Roma access to education and information.

Child Labour: According to reports, 16% percent of children ages 6 to 14 in rural Albania are engaged in some form of child labour. The most significant cause of the high rates of child labour in Albania is extreme poverty. Albanian Roma are disproportionately impacted by these issues. Child labourers often suffer extreme physical and mental harm as a result of the conditions under which they are forced to work: extreme temperatures, lack of fair or fixed compensation for their work, and frequent physical abuse.⁶ The Albanian government should be urged to create government programmes for the protection of these children as well as to enact legislation prohibiting the economic exploitation of children such that it meets the standards of the United Nations Convention on the Rights of the Child and the International Labour Organization’s Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Extreme Poverty in Romani Communities: As a result of decades of marginalization resulting from systematic discrimination and exclusion, Albanian Roma are plagued with a disproportionate amount and degree of poverty, including the deprivation of basic necessities such as food and shelter. Sources of this extreme poverty include high rates of unemployment, lack of access to community development programmes and the failure of the Albanian government to enact comprehensive antidiscrimination legislation to combat in particular racial discrimination. In some Albanian Romani communities, unemployment rates have reached 100 percent. Further aggravating the situation, the Albanian government often ceases state assistance to families where one family member has been forced to emigrate in order to find work. Additionally, because they have been almost entirely excluded from policy- and decision-making bodies in Albania, Roma have been denied opportunities to develop internal community systems for creating jobs and improving living standards. Although the Albanian constitution speaks broadly of equality and non-discrimination, the government has failed to adopt comprehensive legislation to redress and ultimately end discrimination against Roma, and the Albanian National Strategy for the Improvement of Living Conditions of the Roma Minority, lacks a strong monitoring body necessary for its effectiveness. The Albanian government should, without delay, adopt comprehensive anti-discrimination law in conformity with EU law and international standards. In addition, the government should strengthen the authority of the monitoring body of the Albanian National Strategy for the Improvement of Living Conditions of the Roma Minority in order to insure the effectiveness of the Strategy. The government should also adopt comprehensive poverty alleviation

⁴ Children’s Human Rights Center of Albania; Child Labour and Street Children in Albania; Alam Maksutaj and Altin Hazizaj; November 2005; p. 12.

⁵ Ibid.

⁶ Ibid.

programmes capable of tackling the underlying causes of Romani poverty, such as race-based discrimination and exclusion.

Exclusion from Personal and Other Documents: Many Romani children fail to enrol in the education system because of lack of personal documents. Birth registration through court procedures is a lengthy and costly process that many Romani families cannot afford. The Albanian government should reform relevant legislation such that Roma have access to any and all personal documents needed for accessing fundamental rights, such as education. The government should take a proactive approach to ensuring that individuals are not obstructed from accessing fundamental rights as a result of a lack of one or more documents.

Bosnia and Herzegovina

As noted above, Bosnia and Herzegovina lacks sufficient legal protections against discrimination, including racial discrimination.⁷ Other issues follow here:

Exclusion of Roma (and others) from the Highest Levels of Political Participation: The Constitution of Bosnia and Herzegovina bars Roma and other persons from the offices of the Presidency and the House of Peoples. Only members of the three constituent peoples – Bosniaks, Croats and Serbs – are eligible to participate in the Presidency and the House of Peoples. Therefore, solely on the basis of their ethnicity, Roma, Jews, persons of mixed descent, and others are prohibited from even participating as candidates in elections for such offices. Such persons are further barred from voting in the election of the representatives to the House of Peoples of the Federation of Bosnia and Herzegovina (an entity-level institution with a very similar name to the national-level House of Peoples), as only Bosniak and Croat delegates of the House of Peoples of the Federation are empowered to vote for representatives to the House of Peoples. Exclusion from political offices at the highest levels serves to reinforce the vulnerability of the Romani community in Bosnia and Herzegovina. The Bosnian Constitutional order must be amended so as to make possible fundamental rights of democratic participation.

Obstacles to Accessing Personal Documents and Citizenship: Many Roma in Bosnia and Herzegovina lack personal documents and, in extreme cases, citizenship. Instances of statelessness have been reported among Roma in Bosnia and Herzegovina. Roma have encountered difficulties in accessing documents including but not limited to birth certificates, personal identification cards, documents related to the provision of health insurance and social aid, and passports. Barriers arising from a lack of documents can be daunting, and the lack of one document can lead to the inability of a person to access further documents. The lack of access to personal documents and citizenship threatens the ability of Roma in Bosnia and Herzegovina to gain access to services crucial for the realisation of a number of fundamental rights and freedoms, such as the right to vote, the right to adequate housing, the right to social assistance, the right to education and the right to the highest attainable standards of health. The government should adopt a programme to provide Roma in Bosnia

⁷ In its February 2006 review of Bosnia and Herzegovina's Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The Committee on the Elimination of Racial Discrimination expressed dissatisfaction with the absence of comprehensive anti-discrimination legislation in Bosnia, noting especially the lack of anti-discrimination law "in the civil and administrative fields". In this vein, the CERD "recommends that the State party enact comprehensive administrative, civil and/or criminal anti-discrimination legislation, which prohibits acts of racial discrimination in employment, housing, healthcare, social security (including pensions), education and public accommodations."

and Herzegovina with all relevant documents necessary for the realisation of fundamental social, economic, civil and political rights.

Violence against Roma: In the context of persistent ethnic tensions and mistrust in post-war Bosnia and Herzegovina, Roma have found themselves at the mercy of law enforcement agencies in which they have almost no representation. Police officers in Bosnia and Herzegovina have been the perpetrators of violent attacks on Roma; they have specifically targeted Roma through ethnic profiling practices; they have conducted abusive raids on Romani settlements; they have accused Roma of crimes on the basis of little or no evidence; and police officers have failed to adequately investigate crimes committed against Roma. Racially motivated attacks against Roma in Bosnia and Herzegovina have also been documented during and since the end of the 1992-1995 war. Roma have in a number of incidents fallen victim to violent attack by non-Roma, resulting in very serious injuries in some cases. Verbal abuse and threats of violence against Roma are common in Bosnia and Herzegovina. The government should extend in practice to Roma basic legal protections against violence and other degrading treatment.

Violations of Housing and Property Rights: Many Roma have experienced difficulties in exercising their property rights and accessing the right to adequate housing in post-war Bosnia and Herzegovina. Indeed, many Roma are still internally displaced within the country for a myriad of reasons. In some cases, Roma have been unable to return to their pre-war homes due to fear and/or impediments to return. The repossession of personal property by Roma has been left to the discretion of local (generally non-Romani) authorities slow to remove temporary occupants from their property. In many of the cases of repossession of personal property by Roma of which the ERRC is aware, temporary occupants have vandalised or looted property before leaving. Many of the informal settlements in which Roma lived prior to the war have been destroyed and no adequate alternative accommodation has been made available to former inhabitants. Roma who have been able to return to informal settlements often find themselves at the mercy of local authorities eager to allocate their land for industrial or other economic development projects, while at the same time making no plans for the provision of alternative accommodation for Roma displaced through forced evictions. Roma living in informal settlements or who lived in social housing before the war are frequently excluded from the benefits of new property laws and are in many cases ineligible for the aid money that has poured into the country under reconstruction schemes. In such settlements, an adequate standard of living is not available. In extreme cases, very substandard conditions in such settlements have led to the death of vulnerable inhabitants. Further, Roma are frequently unable to rent private accommodation due to racial discrimination or poverty or both. The government should act without delay to ensure that all Roma in Bosnia in Bosnia and Herzegovina enjoy the right to adequate housing in practice.

Obstacles to Accessing Other Fundamental Rights: Roma in Bosnia and Herzegovina encounter obstacles to the exercise of their fundamental rights to employment, social aid, the highest attainable standard of health, and education. Roma are frequently blocked on arbitrary grounds from having access to the public services crucial for the realisation of a range of social and economic rights. In a number of cases documented by the ERRC and partner organisations, Romani individuals died at least in part of the failure of Bosnian authorities to provide basic services such as rudimentary health care. A very large number of Roma today face serious existential threats because of the extremely poor conditions in which they are forced to live. Efforts to adopt effective policies for Roma inclusion, combating discrimination against Roma, and eliminating poverty among Roma, should be initiated and/or, where relevant, redoubled.

Croatia

Fundamental Exclusion from the Polity: Croatian legal provisions adopted in the context of the break-up of the Yugoslavia have been designed to exclude a range of persons, including Roma, from having access to Croatian citizenship. Major segments of the Romani community which should otherwise have access to Croatian citizenship are either foreigners in their own country, or stateless. The Croatian government has been aware of this issue since the mid-1990s and has done little to nothing to remedy the situation. The Croatian government is currently in the process of amending its citizenship law. The government should ensure that the amended law is in line with the European Convention on Nationality and, without delay, persons who can demonstrate eligibility for Croatian citizenship as set out in the European Convention on Nationality chapter on citizenship in the context of state succession should be provided with Croatian citizenship.⁸

High Levels of Discrimination and Violence against Roma: The Government has failed to ensure Roma equal protection of the law. Attacks include violence by vigilante skinheads as well as by police officers and other public officials. Legal protection against discrimination and racially-motivated violence is inadequate. The problem of insufficient criminal, civil, and administrative provisions aimed at combating racism and discrimination is further compounded by the failure to ensure their effective implementation. Anti-Romani speech by public officials in Croatia has frequently been reported and no legal action against persons disseminating such speech has ever been undertaken. The government should extend in practice to Roma basic legal protections against violence and other degrading treatment.

Racial Segregation in Education: The efforts of Romani parents, civil society and other interested parties – including sympathetic parts of the Croatian government -- to challenge racial segregation in the field of education, have to date not yielded any significant improvement in Romani children's equal access to education. Educational officials in Medjmurje County who have created separate, substandard classes for Romani children have been allowed to do so with complete impunity. Resistance by Romani parents and civil society to this programme has provoked vocal opposition by non-Romani parents to integrated education, and public officials have capitulated to these racist actions by maintaining the segregated school system and refusing requests for integrated education. The government should, without delay, desegregate the Croatian school system.

Substandard Housing: Efforts to provide housing to Roma, in the capital Zagreb and elsewhere, have in recent years provoked determined opposition by non-Roma, often causing these efforts to fail. The government has been ineffective at combating outbreaks of intense anti-Romani sentiment in the context of efforts to provide adequate housing. As a result of this, as well as of complete inactivity on the part of some officials, significant segments of the Romani community in Croatia live in substandard or extremely substandard housing. In addition, numerous residents of a Zagreb Romani neighbourhood have in the past months

⁸ Article 18 of Chapter VI of the European Convention on Nationality, on "State succession and nationality", states:

- "1. In matters of nationality in cases of State succession, each State Party concerned shall respect the principles of the rule of law, the rules concerning human rights and the principles contained in Articles 4 and 5 of this Convention and in paragraph 2 of this article, in particular in order to avoid statelessness.
- "2. In deciding on the granting or the retention of nationality in cases of State succession, each State Party concerned shall take account in particular of:
 - a) the genuine and effective link of the person concerned with the State;
 - b) the habitual residence of the person concerned at the time of State succession;
 - c) the will of the person concerned;
 - d) the territorial origin of the person concerned."

been served eviction orders while city authorities have not made any plans for alternative accommodation. Residents face eviction and, as a result, homelessness, at any moment. A comprehensive policy on improving housing infrastructure in Romani communities, as well as on improving related municipal infrastructure and services, is needed. Further, the Croatian government should refrain from conducting any evictions of Romani individuals that will result in homelessness and should undertake comprehensive measures to address the dire housing situation of Roma in Croatia.

Racial Discrimination in Access to Goods and Services: Roma in Croatia often suffer racial discrimination in the exercise of a broad range of rights. The most egregious and systematic deprivations occur in housing, healthcare, education, employment, and access to public goods and services. In matters such as discrimination in access to public places, a number of known restaurants, bars and discotheques operating with explicitly discriminatory anti-Romani policies are allowed to operate with complete impunity by Croatian authorities. In the field of health care, access to state-provided health insurance is linked to registration with unemployment offices. As a disproportionate number of unemployed Romani individuals are not registered with these offices, they are denied access to this social benefit. The government should end its silence on the problem of high levels of anti-Romani racism in Croatia, and undertake proactive measures to combat discrimination against Roma. Above and beyond incorporating the EU anti-discrimination acquis into domestic law,⁹ the government should act without delay to use existing legal provisions to sanction perpetrators. The government should also make widely known acts undertaken to punish perpetrators of discrimination, as well as to provide due remedy to victims.

Macedonia

Fundamental, Systemic Exclusion from the Polity: Approximately 2000 Roma excluded from Macedonian citizenship after the country became independent are still without Macedonian citizenship, recent legal amendments to the Citizenship Law notwithstanding. Without delay, persons who can demonstrate eligibility for citizenship as set out in the European Convention on Nationality chapter on citizenship in the context of state succession should be provided with Macedonian citizenship.¹⁰ A further approximately 2000 Roma from Kosovo have yet to be provided with any form of durable residence permit, close to seven years after arriving in the country. There are indications that the Macedonian government intends to forcibly expel these persons at the earliest possible opportunity, the opposition of agencies such as the UNHCR notwithstanding. The Macedonian government should move swiftly to integrate Romani refugees from Kosovo, beginning with the provision of durable residence permits to any and all persons who request them, and who meet the Council of Europe's standard of five years of de facto presence in the country.

Failure to Act to Challenge Racial Discrimination: In addition to failing to adopt comprehensive anti-discrimination law, the Macedonian government, to a degree extreme

⁹ Thus far only provisions of Council Directive 78/2000 -- the so-called "Employment Directive" -- have been transposed into domestic law. The ERRC is unaware of any plans by the Croatian government to transpose into domestic law Council Directive 43/2000 -- so-called the "Race Equality Directive".

¹⁰ See Article 18 of Chapter VI of the European Convention on Nationality, on "State succession and nationality" as cited above. Despite pressure, the government failed to incorporate all elements of Article 18 when amending the Citizenship Law, with the effect that individuals arbitrarily excluded from Macedonian citizenship following Macedonian independence are still today in practice unable to claim Macedonian citizenship.

even by regional standards, has strenuously resisted acknowledging racial discrimination against Roma as a factor in Macedonian society. The ERRC knows of no occasions in which any court or other public institution has acknowledged racial bias or any other illegitimate race-based influence in any area, notwithstanding compelling indications that, as elsewhere, Roma are subjected to racial discrimination in all or nearly all sectors of public and social life.¹¹ The government should be urged to take a proactive approach to identifying racial discrimination against Roma and redressing these harms. The first and most pressing need is the adoption of comprehensive anti-discrimination law in conformity with EU norms as well as international standards. Other policy measures are also needed to ensure that Roma are sufficiently protected against racial discrimination.

Compound/Multiple Discrimination Against Romani Women: Throughout 2005, the ERRC and local partners have been involved in documentation of the situation of Romani women in Macedonia. The results of this research were made available to the public in a document submitted to the UN Committee on the Elimination of Discrimination Against Women (CEDAW), appended herewith. As a result of these efforts, the Committee urged the Macedonian government to undertake a number of measures, including the following:

- “[...] implement effective measures to eliminate discrimination against rural women, as well as ethnic minority women, in particular Roma and Albanian women, and to enhance their enjoyment of human rights through all available means, including temporary special measures [...]”;
- “[...] implement measures to decrease dropout rates among Roma girls and girls living in rural areas and to reintegrate them into the educational system”;
- provide, in its next report, “[...] a comprehensive picture of the de facto situation of rural women, as well as of ethnic minority women, in particular Roma women, in the areas of education, health, employment and participation in political and public life, and of the efforts of the government to eliminate discrimination against these women” as well as “concrete projects directed at Roma women under the Decade of Roma Inclusion 2005-2015.”

After welcoming legislative changes taken to combat violence against women, the Committee also expressed concern about the “high prevalence of violence against women, including domestic violence.” The Committee then urged the Government:

“[...] to give priority to putting in place comprehensive measures to address all forms of violence against women, including domestic violence, recognizing that such violence is a form of discrimination and constitutes a violation of women’s human rights under the Convention. [...] to further elaborate and effectively implement legislation on violence against women, so as to ensure that perpetrators are effectively prosecuted and punished, and that victims receive adequate protection and assistance. [...] to provide shelters for women victims of violence. [...] [to] also implement educational and awareness-raising measures that highlight the unacceptability of all forms of violence against women and that it aim such efforts at law enforcement officials, the judiciary, health providers, social workers, community leaders and the general public.”

The Macedonian government should be urged to act upon the CEDAW Committee’s recommendations in full.

¹¹ To name only one example, Ms L.S., a Romani woman who is a qualified teacher, reported to the ERRC that she had applied for a job to teach in a school in her neighbourhood – not a predominantly Romani neighbourhood – and had been told that she should rather teach in a school in a Romani neighbourhood, “among your own people”. Since Ms. L.S. did not want to permanently ruin her chances of employment in her chosen field, she chose not to report the matter to the Ministry or to any other authority in Macedonia.

Unaddressed Public Health Risks: For reasons made significantly more complex as a result of the issues above, there are indications that major public health risks are going unaddressed in Romani communities. For example, in April 2005, the ERRC interviewed Ms R.P., a 25-year-old Romani woman, in the Suto Orizari municipality of Skopje who had been diagnosed the previous December with tuberculosis. Two of the 5 children in her care had also been diagnosed with tuberculosis in December 2004. She had not yet taken the other children in her care for medical examination because “they are not coughing too much yet.” Ms R.P. was not receiving any treatment as of the date of the interview (2 April 2005), and it was unclear whether she could be admitted for treatment in Skopje’s tuberculosis treatment facility in the Vodno neighbourhood, because her medical insurance booklet had not been updated since Autumn 2004. A nurse at a walk-in clinic in Suto Orizari told the ERRC that there was no major risk of a tuberculosis epidemic in Suto Orizari. However, she wore a mask throughout the interview (which took place in the presence of Ms R.P.), and at several points during the interview left the building, apparently for fresh air and in evident fear of contracting some form of contagious disease. The government must take proactive measures to identify and to end extreme public health risks, such as tuberculosis and hepatitis B.

Kosovo¹²

Un-redressed Ethnic Cleansing: Kosovo continues to be dominated by the fact of unredressed and indeed as yet unacknowledged ethnic cleansing of Roma, Ashkalis, Egyptians, and others regarded as Gypsies (“RAE Minorities”), actions which began in June 1999. The vast majority of the pre-conflict RAE Minorities are not now in Kosovo, and many of those who remain are displaced within the province. The fact of mass violence and the threat of further violence is now evident in Kosovo and to an extent colours all other issues. Opinions sometimes heard (including from policy-makers) that Ashkalis and Egyptians are not as exposed to attack as Roma in Kosovo are not supported by any evidence.¹³ The government should, as a matter of the highest urgency:

- Without delay, provide real, effective and durable protection to all RAE individuals and communities.
- Investigate and bring to justice those responsible for violence against RAE individuals and communities.
- Establish procedures to provide comprehensive justice in the matter of the ethnic cleansing of minorities, which has included persons regarded as “Gypsies”, implemented in the period since June 1999 and as yet unchecked by any competent authority, such that all culpable parties are brought to justice, and victims and/or surviving members of their families have access to due remedy.
- Ensure that, in compliance with UN Security Council Resolution 1244, refugees and displaced RAE enjoy unimpeded, safe and secure return to their homes in Kosovo.

Anti-Discrimination Law: As noted above, Kosovo is the only entity at issue here to have adopted comprehensive anti-discrimination law. However, to date, Kosovo’s anti-discrimination law is entirely or almost entirely un-enforced. The government should:

- Adopt measures to ensure that Kosovo’s comprehensive anti-discrimination law is implemented in practice, such that discriminators are swiftly and adequately punished, and victims have access to due remedy;

¹² Appended herewith is an ERRC submission of February 2006 to the UN Human Rights Committee, providing further detail as to the issues raised below.

¹³ Indeed, of RAE communities exposed to mob violence during the March 2004 unrest, it was primarily Ashkali communities that were targeted.

- Without delay, adopt and implement measures to address the extreme exclusion of members of RAE communities from access to gainful employment, taking particular account of the need for such policies to reach all relevant individuals, and to be adequately gender-sensitive.

Extremely Substandard Housing, including Placement in Toxic Areas: A very significant segment of the RAE communities in Kosovo live in substandard or extremely substandard housing. Despite a number of years of discussion, little has been achieved to date to remedy this problem. A series of internally displaced persons in the Mitrovica area live in extremely toxic environs. The government should:

- Without delay, remove the inhabitants of Žitkovac/Zhikoc, Cesmin Lug/Cesminlukë and Kablare from the heavy metal-contaminated grounds of the current IDP camps and provide them with immediate medical care and treatment; camp inhabitants should be moved, without any further delay, to areas which are actually safe.
- Take measures to ensure that the extremely substandard slum conditions prevailing in many RAE settlements in Kosovo are swiftly improved through comprehensive policy measures by Kosovo authorities aimed at eliminating massive inequalities in the area of housing currently prevailing in Kosovo.¹⁴

Systemic Exclusion from Personal and Other Documents Necessary for the Realisation of Fundamental Rights: In many cases RAE lack registration documents for their now-destroyed housing. They may also lack documents of title for land on which they may have factually lived for years or decades, or for housing they may continue to inhabit. Many RAE have never obtained birth certificates, a fact which may trigger failure to secure any form of personal documentation and lead to a phenomenon whereby persons may have literally no administrative existence. The government should:

- Adopt and implement procedures to rectify the current systemic deprivation of RAE in Kosovo of personal and other documents crucial for the realisation of fundamental human rights; ensure that policies adopted in this field result in practice in all RAE individuals in Kosovo being provided in practice to all relevant documentation.

Forced Returns: A number of governments, most notably Germany and Sweden, currently forcibly expel RAE individuals to Kosovo, despite opposition by agencies such as the UNHCR.¹⁵ A number of persons forcibly expelled to Kosovo now live in extreme states of exclusion, and at least one forced returnee has recently attempted suicide. The government and the Commission should strenuously oppose forced returns of RAE to Kosovo, until such a time as realistic opportunities exist for a life with dignity for RAE in Kosovo.

¹⁴ The January 2006 Serbia/Montenegro/Kosovo Council Decision identifies, as a short-term priority for Kosovo, “Regularise informal settlements. Find sustainable repatriation solutions for the integration of Roma minority communities that are living in hazardous living conditions in camps and for internally displaced persons groups living in informal centres”.

¹⁵ UNMIK and the German government concluded an agreement on the “forced return” of Ashkalis and Egyptians in April 2005.

Serbia and Montenegro

ERRC monitoring in Serbia and Montenegro indicates that Roma remain target of racially-motivated violence at hands of both state and non-state actors, and are discriminated against in a number of fields of public life. Serbia and Montenegro lacks adequate law to protect individuals from discrimination, including racial discrimination.¹⁶ A brief description of other issues arising out of ERRC research follows:

Violence Against Roma: Numerous instances of physical abuse of Roma by police officers and other members of the public authority have been reported in Serbia and Montenegro. Reports of physical abuse of Roma in police detention are alarmingly frequent. During incidents of ill-treatment, many police officers have reportedly insulted the ethnic origins of Roma. The ERRC and partner organisations have also documented cases of police violence against chronically ill Romani persons, as well as against Romani children and minors, sometimes resulting in severe bodily injuries such as broken arms. In some instances in which Romani individuals have sought legal remedy against such abuse by filing criminal complaints against police officers, the officers in question later allegedly used threats of force to pressure such persons into withdrawing complaints. Additionally, Roma in Serbia and Montenegro have on numerous occasions been victims of violence by racist vigilantes (so-called "skinheads") and other non-state actors. Some such attacks have resulted in severe bodily harm. At least one such attack resulted in the death of the victim. When Roma are attacked by skinheads, perpetrators are rarely adequately punished, and Romani victims rarely receive adequate compensation. The government(s) must secure basic rule-of-law issues where Roma are concerned, including punishing police officers and other public officials involved in human rights abuse of Roma.

Racial Segregation in Education: In Serbia and Montenegro, Roma suffer discrimination and racial segregation in the field of education. Romani children face a wide range of obstacles in their access to education. In some cases, schools have refused to enrol Romani children on grounds that they lack competence in the Serbian language, and have instead placed them in separate classes, and sometimes in schools for mentally disabled children. Romani children are reportedly particularly over-represented in classes for mildly mentally disabled children in Serbia. Additionally, Romani children have in a number of cases suffered harassment by non-Romani peers, including violence and racial slurs. Teachers and other schooling authorities do not usually react adequately against racist abuse. In addition, a number of Romani children of families who have fled ethnic cleansing and other violence in Kosovo are not in school at all, because access to personal documents, which is required by schooling authorities, is blocked. The government(s) should document and make public the extent of racial segregation in schooling, and it should adopt and implement without delay comprehensive school desegregation policies.

Housing Rights Abuses: Roma in Serbia and Montenegro frequently experience forced eviction and/or the threat of forced eviction. Some Romani families have been victims of several forced evictions in succession. Forced evictions have been reported with particular frequency in Belgrade, and a number of Romani settlements in Belgrade are currently under threat of demolition, with no plans offered to the public as to how or if persons expelled are to be provided with alternate accommodation. The number of informal Romani settlements in Serbia and Montenegro is alarming, and the consequent lack of security of legal tenure makes

¹⁶ Council Decision 2006/56/EC of 30 January 2006 “on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2004/520/EC” (Hereafter “January 2006 Serbia/Montenegro/Kosovo Council Decision”) includes, as a short-term priority for Serbia and Montenegro “Adopt comprehensive anti-discrimination legislation”.

these settlements especially vulnerable to forced eviction. In addition, conditions in a number of Romani settlements around Serbia and Montenegro are extremely inadequate, lacking even rudimentary infrastructure. Frequently housing conditions are so substandard as to cause a public health risk, highlighting the intersection between the right to adequate housing and the right to the highest attainable standard of health. The government(s) should adopt policy and law to ensure that the right to adequate housing is fully respected. Policies should be adopted without delay and implemented in full to upgrade widespread slum settlements to the level of adequacy or otherwise provide adequate housing to persons currently living in inadequate and/or extremely inadequate housing.

Discrimination in Access to Health Care: There are widespread reports that Roma suffer discrimination in access to health care services, and that some doctors refuse to provide services to Romani patients. Additionally, many Roma cannot exercise their right to state-provided health care because they lack personal documents demanded by medical authorities. This problem is particularly widespread among displaced Roma from Kosovo. The government(s) should ensure that no persons are arbitrarily excluded from access to health care as a result of racial discrimination and/or as a result of a lack of personal or other documents. Positive policies should be adopted to ensure that all persons have access to primary and emergency health care, as well as to preventative health measures on an equal basis.

Exclusion from Employment: To date, any measures undertaken by the authorities of Serbia and Montenegro to promote the employment of Roma have been localised and for the most part ineffective. Moreover, anti-discrimination measures in the field of employment are completely unheard of. Unemployment among Roma in Serbia and Montenegro is at present extremely high. In addition, there are widespread allegations of discrimination against Roma in access to employment. Further, some Roma in Serbia and Montenegro who are employed report problems related to racial discrimination in the workplace. Measures to combat discrimination in the labour market and widespread exclusion from work should be adopted without delay. Policies to foster small business and small agriculture among extremely excluded communities should also be developed and implemented. Mechanisms to ensure that credit and micro-credit are available to Roma should also be adopted and implemented.

Exclusion from Personal Documents and/or Citizenship: A serious obstacle to the exercise of basic rights by Roma in the countries of the former Yugoslavia, including Serbia and Montenegro, is a lack of personal documents, including, but not limited to, birth certificates, personal identity documents, local residence permits, documents related to state-provided health insurance and social welfare, and passports. In extreme cases, Roma lack citizenship, and the phenomenon of statelessness has arisen among Roma in Serbia and Montenegro. Exclusionary obstacles created by lack of documents can be daunting and in many instances, the lack of one document can lead to a "chain reaction", in which the individual is unable to secure further documents. The situation of Roma displaced from Kosovo and other parts of Serbia and Montenegro is particularly problematic. Many Roma lack basic identity documents (which have been destroyed or never obtained) and reside "unlawfully" in illegal settlements. Legally and practically, it is currently very difficult for such groups to regularise their legal status, including establishing nationality/citizenship. The Serbian government has refused to provide any form of documents to significant segments of displaced communities from Kosovo. These issues have not been addressed in any systematic way by authorities in Serbia and Montenegro, and there are no domestic legal provisions requiring authorities to resolve issues of statelessness on the territory of Serbia and Montenegro. Exclusions resulting from a lack of personal or other documentation need to be addressed on an emergency basis, such that Roma are able to have access to goods and services crucial for the realisation of fundamental rights.

Discrimination in Access to Social Assistance: Discrimination against Roma in the allocation of state social assistance is frequently reported in Serbia and Montenegro. Also, many Romani persons in Serbia testified to the ERRC that the staff members of social work centres are often rude to Romani applicants who request assistance. Humanitarian assistance provisions for displaced Roma from Kosovo are generally inadequate. However, there are additional reports of discrimination against Kosovo Roma in allocating humanitarian assistance on the grounds of their ethnicity and religion – most Kosovo Roma are Muslims, in predominantly Christian Orthodox Serbia and Montenegro. The government(s) should ensure that no exclusion from social assistance takes place on an ethnic or religious basis, or as a result of lack of personal or other documents.

Discrimination in Access to Public Accommodation: Instances of discrimination against Roma in access to public accommodation, such as discotheques, cafes, and swimming pools, occur in Serbia and Montenegro with disturbing frequency. Government efforts to address this problem have been inadequate to date. The government(s) should adopt a “zero tolerance” approach to public and private establishments refusing to provide service to Roma for reasons of racial discrimination, including for pre-textual reasons informed by racist prejudice.

Turkey¹⁷

Explicitly Racially Discriminatory Provisions in Turkish Legislation: Law No: 2510 on Settlement, adopted on 14.06.1934, Article 4: “Those that are not bound to the Turkish culture, anarchists, migrant gypsies, spies and those that have been deported, are not recognized as migrants”. There is no data about the implementation of this provision, but it is alleged that during the large-scale migration from Bulgaria in 1989, Roma who were/could be identified, were not permitted to enter.

Law No: 5683 on the Movement and Residence of Aliens, adopted on 15.07.1950, Article 21: “The Ministry of Internal Affairs is authorised to expel stateless and non Turkish citizen gypsies and aliens that are not bound to the Turkish culture”. Article 19 of the Law, authorises the Ministry for expulsion of “harmful people to the general security, political and administrative order of the state”. In addition, this law provides particular authority to the Ministry, under Article 21, to expel stateless or non-Turkish citizen “Gypsies”.

In March 2003, the Minister of Interior, under pressure from Turkish Parliamentarians, admitted that in 2003, the Ministry of Internal Affairs sent to all offices of registration a circular instructing them to examine whether applicants for Turkish citizenship had any link with being beggars or Gypsies. The Minister claimed the circular had been withdrawn and apologised to Roma. The government should, without delay, review all legislation and other regulations to ensure that no explicitly racist laws, ordinances or other rules remain in force.

Police Violence Against Roma: Roma have been subjected to a range of degrading treatment at the hands of police and other public officials in Turkey. Cases reported include:

- Death of Roma in police custody;
- Torture of Roma in police custody;
- Abusive police raids on Romani neighbourhoods;

¹⁷ The ERRC is currently involved in a two-year project, with local partners and supported by the European Commission’s EIDHR initiative, including research and documentation of the human rights situation of Roma in Turkey.

- Racial profiling and arbitrary detention, where Roma individuals are disproportionately subjected to stops and searches by police in the central parts of cities and kept in police custody reportedly without reasonable suspicion.

The government should extend in practice to Roma basic legal protections against violence and other degrading treatment.

Forced Evictions from Housing/Substandard Housing: Major segments of the Romani community (particularly those living in extreme poverty) are routinely subjected to forced eviction from housing, and are thus forcefully held in situations of compelled, permanent circulation. Forced evictions are generally implemented without any provision of alternative accommodation, and therefore in contravention of international law. Housing conditions among Roma exposed to forced evictions, as well as among other segments of the Romani community are often extremely substandard, and slum settlements prevail in a number of areas. There is also extreme overcrowding in some areas, caused in part by the arrival of displaced Roma from Kosovo. Given the widespread and systemic nature of housing rights abuses of Roma in Turkey, a specific government programme is needed in this area, including an immediate ban on all forced evictions of Roma. The government should also incorporate all elements of the international human rights acquis on the right to adequate housing into the domestic legal order.

Discrimination in Education: Reported issues facing Roma in the Turkish education system include, but are not necessarily limited to:

- Refusal to enrol Romani children in schools with prevailing number of non-Romani students;
- Segregation of Roma in schools; inferior quality of education in schools in which Romani students are the majority;
- Segregation of Romani children in separate classrooms;
- Segregation within the classroom;
- Humiliating treatment by teachers and non-Romani children.

The government should, without delay, undertake comprehensive study to determine (i) where Romani children are placed in educational institutions and (ii) the extent and nature of racial discrimination in enrolment procedures, as well as in other aspects of the school system. On the basis of this survey, policy measures should be designed and implemented to end discrimination and racial segregation in the school system.

Denial of Access to Fundamental Rights Due to Lack of Personal Documents: Very significant segments of the Romani community lack one or more personal or other documents necessary for having access to goods and services fundamental for realising a range of fundamental rights. In some instances, persons may have no documents whatsoever. The widespread nature of the exclusion of Roma from documents key for the realisation of fundamental social, economic, civil and political rights – as well as the complete absence to date of any significant efforts to change this status quo -- mitigates strongly in favour of the need for a specific government policy to correct this issue.

Discrimination in Access to Health Care: Doctors reportedly refuse to treat Romani patients; many Roma lack health insurance “green cards” and are denied access to primary and hospital care. The government should adopt a “zero tolerance” approach to exclusion of Roma from health care, and design and implement policies to ensure full and effective access to primary, emergency and preventative health care.

Finally, Turkey lacks adequate domestic law to protect individuals from discrimination, including racial discrimination. Without delay, Turkey should be urged to adopt comprehensive anti-discrimination law, in conformity with EU and international norms and standards.

The **European Roma Rights Centre (ERRC)** is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma, in particular strategic litigation, international advocacy, research and policy development, and training of Romani activists. Information about the European Roma Rights Centre is available at <http://www.errc.org>.