



## EUROPEAN ROMA RIGHTS CENTRE

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Member

United Nations Committee on the Rights of the Child  
Office of the High Commissioner for Human Rights (OHCHR)  
Palais des Nations  
8-14, Avenue de la Paix  
CH-1211 Geneva 10  
Switzerland

Honourable Committee Member,

The *European Roma Rights Centre (ERRC)* is an international public interest law organisation, which monitors the situation of Roma in Europe and provides legal defence in cases of human rights abuse. Since its establishment in 1996, the *ERRC* has undertaken first-hand field research in more than a dozen countries, including Bosnia and Herzegovina, and has disseminated numerous publications, from book-length studies to advocacy letters and public statements. *ERRC* publications about Bosnia and Herzegovina and other countries, as well as additional information about the organisation, are available on the Internet at <http://www.errc.org>.

The *ERRC* respectfully submits herewith *The Non-Constituents: Rights Deprivation of Roma in Post-Genocide Bosnia and Herzegovina*, a comprehensive report on the human rights situation of Roma in Bosnia and Herzegovina, published by the *ERRC* in February 2004, for consideration by the United Nations Committee on the Rights of the Child (the Committee) at its 39<sup>th</sup> Session, May 16 – June 3, 2005.

The *ERRC* believes that the current session of the Committee offers an opportunity to highlight some of the most important aspects in which the government of Bosnia and Herzegovina has failed to respect its commitments under the Convention on the Rights of the Child (the Convention). In particular, the *ERRC* draws the attention of the Committee to measures, policies and/or practices contravening Articles 2, 3, 4, 6, 7, 8, 16, 19, 24, 26, 27, 28, 29, 30 and 39 of the Convention, as described by the *ERRC* country report submitted herewith. *ERRC* monitoring of the situation of Roma in Bosnia and Herzegovina has established that Roma in Bosnia and Herzegovina are regularly exposed to abuses of their civil, political, economic and social rights as a result of their official second-class status in Bosnia and Herzegovina,<sup>1</sup> and also because

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<sup>1</sup> The constitutional law of Bosnia and Herzegovina, violating both themselves and the international human rights law, prevents Roma from enjoying a number of fundamental political rights. Bosnia and Herzegovina is the only

entrenched anti-Romani sentiment in Bosnia and Herzegovina gives rise to endemic racial discrimination and other human rights violations against Roma. Lack of personal documents also results in the denial of a number of services crucial for the realisation of a range of fundamental rights, including schooling, public housing, health care and social support services. Many Romani families have not been able to repossess their pre-war properties, and, as such, live in very precarious situations, often in informal settlements with substandard conditions in various parts of the country. In addition, instances of violence against Romani children have been reported.

A brief outline of the concerns detailed in the *ERRC* country report follows:

**1. Difficulties in accessing personal documents and citizenship in contravention of Articles 7 and 8 of the Convention:**

A serious obstacle to the exercise of fundamental human rights by Roma in Bosnia and Herzegovina is the lack of personal documents – including but not limited to birth certificates, personal identification documents, documents related to state-provided health insurance and social welfare. The lack of one document leads to the inability, in many cases, to access others. In extreme cases, Roma lack citizenship, and the anathema phenomenon of statelessness has arisen among Roma in Bosnia and Herzegovina.<sup>2</sup>

- Many Romani children in Bosnia and Herzegovina encounter serious hurdles in obtaining birth certificates due to lack of one or more of the following documents by their parents: ID card, permanent residency or address registration at the place of the child birth, etc.
- Roma in Bosnia and Herzegovina experience extreme difficulties obtaining ID cards often because of lack of birth certificates, lack of evidences for a legal permanent address or the informal nature of their living arrangements.
- The *ERRC* and partner organisations have documented a disturbing number of cases in which Bosnian Roma have failed to secure evidence of citizenship in Bosnia and Herzegovina or of any other state, and are therefore for all intents and purposes stateless.

(Please see pp. 61-77 of the enclosed Country report)

**2. Racially motivated violence and other abuse by both state and non-state actors, in contravention of Articles 2, 4, 6, 16 and 19 of the Convention:**

- *ERRC* field research indicates that the police brutality against Roma has been widespread in Bosnia and Herzegovina and still occurs frequently.
- Police in Bosnia and Herzegovina have also subjected Romani families to abusive raids on their homes.
- Racially motivated attacks against Roma by vigilante individuals and groups have persisted since the end of the war.
- Roma in Bosnia and Herzegovina also face verbal abuse and threats of violence by non-Roma.

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country in Europe in which Roma are barred by law from holding crucial high political offices, including the Presidency.

<sup>2</sup> The principle that statelessness is anathema has been repeatedly affirmed by the international community. A number of international legal instruments address the issue of statelessness exclusively. Article 24 of ICCPR, addressing the rights of children, stipulates that “[e]very child has the right to acquire a nationality.” The Convention on the Reduction of Statelessness includes a number of provisions aiming to prevent statelessness as a result of loss of nationality due to any change in the personal status of an individual. The European Convention on Nationality recognises the right to nationality and Article 3 acknowledges the principle that each State determines under its own law who are its nationals. However, the European Convention on Nationality renders explicit that the context of state succession places particular burdens on states to act to avoid statelessness.

- In cases of violent acts against Roma by non-state actors the police fail to adequately investigate and prosecute the perpetrators of such crimes.  
(Please see pp. 87-108 of the enclosed Country report)

### **3. Discriminatory practices in the field of housing in contravention of Articles 2, 3, 6, 16 and 27 of the Convention:**

- Roma in Bosnia and Herzegovina frequently experience forced eviction and/or the threat of forced eviction rendering Romani children and their families homeless.
- Conditions in a number of Romani settlements around Bosnia and Herzegovina are extremely inadequate, lacking the provision of even rudimentary infrastructure directly affecting the health and well-being of Romani children.
- Many Romani dwellings lack legal authorisation and have neither running water nor electricity.
- Some Romani settlements in the Federation are located near hazardous areas, leaving Romani children and their families exposed to catastrophic events .

(Please see pp. 109-154 of the enclosed Country report)

### **4. Lack of access to social security in contravention of Articles 3, 4, 26 and 27 of the Convention:**

- Many Romani families in Bosnia and Herzegovina experience problems in accessing social assistance because the parents are unable to register at a permanent address due either to a lack of the required personal documents or because they do not have a formal, permanent place to live.
- Many Romani families considered social welfare to be completely out of their reach, and the procedures and institutions related to it obscure and bureaucratic.

(Please see pp. 167-173 of the enclosed Country report)

### **5. Lack of access to public health care in contravention of Articles 2, 3 and 24 of the Convention:**

- In 2002, the Council of Europe concluded that the vast majority of Roma in the Tuzla Canton were “totally excluded from access to the health care service”.<sup>3</sup> This is, in fact, characteristic of other parts of Bosnia and Herzegovina as well.
- Medical teams in Bosnia and Herzegovina often do not come to Romani settlements even when their mandatory duties are at stake, such as vaccination of children.
- The lack of possibility to access health care in a timely manner sometimes had fatal consequences for Romani children and their families in Bosnia and Herzegovina.
- The inability of many Roma to register for medical care combined with the substandard conditions in which they live has a profound effect on the overall health situation of Romani children and their parents.

(Please see pp. 174-178 of the enclosed Country report)

### **6. Discrimination in education in contravention of Articles 2, 3, 28, 29 and 30 of the Convention:**

- Roma are on the margins of the educational system in Bosnia and Herzegovina, primarily as a result of their lack of access to formal schooling.

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<sup>3</sup> Council of Europe. “Access of Roma to Education and Health Care Services in Tuzla Canton, Federation of Bosnia and Herzegovina.” December 2001-January 2002, p. 7.

- The segregation in education of Romani students in Bosnia and Herzegovina has been mainly practised in areas of the Federation with high numbers of returnees and with high concentrations of ethnically mixed populations through the policy of so-called “two schools under one roof”.
- The Ombudsman’s Office in the Federation has reported that significant proportions of those children who are not enrolled in primary school are Romani children with an unknown permanent residence.<sup>4</sup>
- It is estimated that relevant bodies in the entities of Bosnia and Herzegovina in a vast number of cases do not exercise their duty to remind parents of their obligation to send children to primary schools, with the excuse of having special understanding for the situation of the Romani community.
- *ERRC* field research in Bosnia and Herzegovina revealed that the most commonly cited reason for the exclusion, both in terms of Romani children who never enrolled in school and those who left it before completion, was the lack of financial resources to secure clothing, supplies, books, and tuition.<sup>5</sup>
- Romani children living in marginalised communities on the periphery of towns and cities experience great difficulties in accessing schools as they must commute long distances and, in many cases, are unable to do so.
- Many Romani children are impeded from attending school in Bosnia and Herzegovina because, together with their families, they have suffered forced eviction on one or more occasions, or for other reasons related to a lack of legal security of tenure.
- Discrimination and verbal harassment are also cited as educational concerns sometimes faced by Romani children, creating an environment that is by no means conducive to learning. Moreover, teachers sometimes pulled children’s hair or committed similar abusive acts.
- Roma-related topics are absent from the current educational programs in Bosnia and Herzegovina. Romani-language education in the Federation is also currently inadequately provided.
- The problem of discrimination against Romani children exists outside the formal education system as well.

For all of the reasons briefly outline above, it is therefore hardly surprising that only a very small number of Romani pupils proceed to secondary school.

(Please see pp. 178-200 of the enclosed Country report)

## **7. Discrimination in access to public places in contravention of Articles 2, 3 and 31 of the Convention:**

- Roma in the Bosnia and Herzegovina frequently experience different forms of humiliating treatment in public places. (Please see pp. 201-202 of the enclosed Country report)

The visible extreme situation of Roma in Bosnia and Herzegovina has to date failed to provoke any widespread view that the situation of Roma in Bosnia and Herzegovina constitutes a human rights emergency. This is so even though the denial of basic rights has resulted in the deaths of Romani individuals on a number of occasions. It is also true notwithstanding the very evident fact that generations of Romani children are currently so excluded from the system that without

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<sup>4</sup> Save the Children UK, p. 30.

<sup>5</sup> There are no tuition fees for primary education in Bosnia and Herzegovina, but persons seeking to complete an education interrupted or for some reason unfinished must pay significant enrollment fees for classes aimed at requalification or catch-up.

swift emergency intervention now, they are nearly assured to constitute a future extremely deprived underclass. Despite being aware of the situation of Roma for long periods of time, authorities have to date not undertaken sufficient measures to correct even rudimentary aspects of the problems detailed above and in the attached report.

Thank you in advance for your consideration of the *ERRC* concerns, as outlined here and detailed in the *ERRC* country report. Please do not hesitate to contact us in any connection.

Sincerely,

Claude Cahn  
Acting Executive Director