



**Ecumenical Humanitarian Organization (EHO)**

**Violations of the Rights of Roma  
Returned to Serbia under Readmission Agreements**

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This publication is primarily based on the extensive research work conducted all over Serbia by a team consisting of the following Romani activists: Ksenija Aleksandrović (Association of Roma Students, Novi Sad), Zekija Balinca (Čerain, Novi Sad), Filip Gračanin (Association of Roma Youth, Valjevo), Svetlana Ilić (Romani Women's Centre Bibija, Belgrade), Dijana Kričković (Eureka, Sombor), Marija Manić (Women's Space, Niš), Slavica Rakić (Romano Alav Association, Kruševac), Kenan Rašitović (Youth Forum for Roma Education, Bujanovac), and Aleksandar Stojkov (Multicultural Banat, Kikinda).

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EHO RRC Project Team

## INTRODUCTION

The process of signing readmission agreements by the Government of Serbia and Montenegro since 2001 opened up a possibility of returning its citizens, stateless persons and third country citizens who do not have legal residence in the countries that signed the agreements. The signing of the agreements was followed by the return of persons originally from Serbia and Montenegro. Some individual cases of return were accompanied by violence – police violence, or other forms of inhuman and degrading treatment. In other cases the return was voluntary, however, the circumstances that led to the agreement to return "voluntarily" indicate that various kinds of pressure were exercised. Upon their return, until recently these persons did not receive any assistance by national or local institutions. It is assumed that the majority of returnees are Roma, and they are additionally facing discrimination on ethnic and racial grounds.<sup>1</sup> Unemployment among returnees is exceptionally high, and the education of their children has in most cases come to an abrupt end. The housing conditions of returnees are often below acceptable levels, and in many cases this is only temporary accommodation. Violations of human rights of returnees are not visible to the public. Apart from the activities of non-governmental organizations, there is no systematic and organized approach to the resolution of returnees' problems.

It is not known how many persons have returned or have been returned to Serbia under the readmission agreements, primarily because there is no precise and arranged manner of registering returnees either in the countries they come from or the countries they are returned to. The data that are available are limited in many ways. For instance, the data of the International Organization for Migration, a UN agency, indicate that 10,924 persons returned voluntarily by 2004.<sup>2</sup> According to the data of the Ministry of Human and Minority Rights quoted in the media, in the course of 2005 some 3,000 persons were returned to Serbia in organized returns, and in January 2006 alone 75 persons returned, most of them Roma.<sup>3</sup> From February to April 2006, 355 returnees arrived to Serbia through the Nikola Tesla airport.<sup>4</sup> The results of a survey which the research and analysis centre Argument conducted on behalf of the NGO Minority Rights Centre in 74 Romani settlements in Belgrade confirm that Roma returnees make a significant part of Roma population in Serbia: out of 2,000 persons surveyed, 139 persons (7%) were Roma returned from Western European countries.<sup>5</sup> In 2003 the Council of Europe estimated that the number of persons who are eligible for return could be in the range of 50-100,000. These figures could easily be higher than that, as the number of persons originally from Serbia who seek asylum in Western European countries is on a constant rise, and the former Minister for Human and Minority Rights, Rasim Ljajić, was

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<sup>1</sup> Negative prejudices against Roma are widely present; see, for instance, the survey conducted by Strategic Marketing Research on behalf of the World Bank: Strategic Marketing Research. *The Decade of Roma Inclusion: Non-Roma Groups Focus Groups Discussion*, 2005. For more information on human rights abuses that stem from the racial discrimination against Roma, see the publications of the European Roma Rights Center and the Minority Rights Centre listed in the Bibliography section.

<sup>2</sup> Antić, Petar. *Roma and the Right to Legal Subjectivity in Serbia*. Belgrade: Minority Rights Centre, 2006, p. 8.

<sup>3</sup> Blic, "Povratak azilanata uslov za Šengen vize", 16.2.2006.

<sup>4</sup> Interview with Zoran Panjković, Readmission Office, Belgrade, 27.11.2006.

<sup>5</sup> Antić, Petar. *Roma and the Right to Legal Subjectivity in Serbia*. Belgrade: Minority Rights Centre, 2006, p. 20.

quoted in early 2006 with estimates that some 100,000 persons from Serbia might be living illegally in Germany alone.<sup>6</sup> The majority of the persons returned by now came from Germany, followed by Switzerland.<sup>7</sup>

The situation as described above inspired the Roma Resource Centre of the Ecumenical Humanitarian Organization (EHO),<sup>8</sup> who has been working with the Roma community in Serbia for ten years now, to launch the project "Researching Human Rights Abuses against Roma Returned to Serbia".<sup>9</sup> The aims of the project follow:

- To increase the visibility of Roma forcibly returned to Serbia and their human rights situation;
- To collect data on human rights of Roma returnees, that could serve as a basis for future actions and strategies;
- To build the capacity of Roma organizations in enforcing the rule of law and respect of the human rights of Roma, by the means of creating a group of a trained, networked and experienced activists;
- To build strong partnerships between Romani and non-Romani organizations, and in-between Romani organizations themselves, through involvement in a common project;
- To promote national, regional and international human rights instruments pertaining to the situation of returned Roma.

Financial support for the project was given by the Human Rights and Good Governance Program of the Open Society Institute<sup>10</sup> in Budapest in September 2006. Soon afterwards, a call for applications was issued, inviting researchers interested in working on this project to apply, and in November 2006 a team of nine field researchers was formed.<sup>11</sup> The team consisted of six women researchers and 3 men, activists of nine Romani non-governmental organizations, located in Belgrade, Bujanovac, Kikinda, Kruševac, Niš, Novi Sad, Sombor, and Valjevo. Support for the field research team was provided by the legal adviser (engaged also to prepare the legal analysis of the returnee situation) and the human rights adviser, with the assistance of EHO staff.

The training of the research team consisted of two two-day training seminars, held in Novi Sad in November and December 2006. The training covered topics in the area of human rights, economic and social rights, discrimination on ethnic and racial grounds, multiple discrimination of Romani women, researching and documenting violations of human rights, reporting on human rights violations, as well as challenges faced by researchers in this line of work. Additionally, the team had the opportunity to hear lectures on the activities of state institutions with regards to readmission issues, as well as the experiences of other NGOs in organizing against discrimination.

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<sup>6</sup> Blic, "Povratak azilanata uslov za Šengen vize", 16.2.2006.

<sup>7</sup> The presentation of Zoran Marković, Ministry of Human and Minority Rights, from May 2006, as printed in *Dekada Roma* No. 5/2006, p. 28.

<sup>8</sup> For more information on the work of EHO, see their website: <http://www.ehons.org>.

<sup>9</sup> For more information on human rights abuses of Roma returnees published prior to this project, see: Perić, Tatjana. "Expelled Roma in Former Yugoslavia Testify". Budapest: *Roma Rights*, No. 2/2002, as well as: Council of Europe, *Roma Returnees To Serbia And Montenegro: Whose Responsibility; Mission Report, Council of Europe fact-finding mission to Serbia and Montenegro*, Strasbourg, 2003, and publications of Group 484 listed in the Bibliography section.

<sup>10</sup> For more information on Human Rights and Good Governance Program, as well as the Open Society Institute, see: <http://www.soros.org/initiatives/hrggp>.

<sup>11</sup> Initially the team had ten members, but one team member left.

The research work itself took place in November and December 2006, as well as January 2007. A total of 190 Romani persons were interviewed (82 women and 108 men). In their work, the researchers focused on four basic economic and social rights – the right to education, employment, health care and adequate housing, in accordance with the priorities of the Decade of Roma Inclusion 2005–2015, that Serbia is a member of. The interviews were collected in over twenty locations all over Serbia.<sup>12</sup> Most of the interviewed persons were returned from Germany (160 persons), followed by Austria (6), the Netherlands (5), Hungary (5), Switzerland (5), Sweden (2), Belgium (1), and Denmark (1).<sup>13</sup> The interviews were held in Serbian, Romani, Hungarian and Albanian. In addition to the interviews with returnees, the research team also interviewed the representatives of 21 (mainly Roma) non-governmental organizations, as well as 29 representatives of local, regional and national institutions, and intergovernmental organizations.<sup>14</sup>

The main objective of this publication is to present the research findings of this project. The number of cases presented in this report is limited, and we do not purport to constitute a comprehensive study on Roma returnees in Serbia, however we believe that they do present a valid illustration that realistically depicts the vulnerable position of this group, and calls for immediate action for the respect of their rights and full social inclusion.

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<sup>12</sup> See the list of locations in Annex I of this publication.

<sup>13</sup> In three cases it was not clear from which country the person was returned, and in two cases the persons were not returned under readmission agreements.

<sup>14</sup> See the list of institutions and their locations in Annex I of this publication.

## **THE ANALYSIS OF THE POSITION OF ROMA RETURNEES WITH REGARDS TO INTERNATIONAL STANDARDS AND AGREEMENTS<sup>15</sup>**

The dissolution of the Socialist Federative Republic of Yugoslavia in 1991 started a number of forced migrations. Rough estimates say that some three million persons were forced to leave their homes. Between 700,000 and one million sought refugee status outside the region.<sup>16</sup>

A large share of these persons is currently under threat of having their asylum applications rejected, or ending their protected status in the countries where they sought shelter, and – as a consequence – a voluntary or forced return to the country. As most statistics are not disaggregated by ethnicity, it is difficult to say the percentage of Roma among them. The Council of Europe delegation that visited Serbia and Montenegro presented its report to the Committee of Ministers of the Council of Europe,<sup>17</sup> stating that the number of Roma with unresolved status in Western Europe exceeds 50,000, and if also taking into account the category of illegal immigrants this figure can reach as much as 100,000 Roma.

Even though the states that accepted refugees made it clear from the beginning that the primary element of temporary protection is the return to the countries they came from as soon as the circumstances allowed this, in the meanwhile these states realized that returns are not always justifiable, and also that vulnerable groups need special treatment.<sup>18</sup> According to the data of the Readmission Section of the Serbian Ministry of Interior, since 2003, when the Ministry of Interior took over responsibility for implementing readmission agreements, until November 2006, Serbia received a total of 21,962 requests for return of its citizens from the states that readmission agreements were signed with, and following citizenship and identity checks 16,842 requests were approved.<sup>19</sup>

Roma are a particularly weak group among the returnees, considering the fact that they belong to a socially vulnerable and marginalized group, which reduces or diminishes their chances to participate in the life of the society.<sup>20</sup> By the means of analyzing international human rights standards, international readmission agreements, recommendations and other non-obligatory acts of the Council of Europe and the European Union, as well as national legislation in the field of readmission, this chapter aims to point out the following:

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<sup>15</sup> The author of this chapter is Orsolya Deli Vidács.

<sup>16</sup> Forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states, Report, Committee on Migration, Refugees and Population, Rapporteur: Mr Mats Einarsson, Sweden, Group of the Unified European Left, Doc. 9990, 31 October 2003. See: [assembly.coe.int/Documents/WorkingDocs/Doc03/EDOC9990.htm](http://assembly.coe.int/Documents/WorkingDocs/Doc03/EDOC9990.htm).

<sup>17</sup> "Roma Returnees To Serbia And Montenegro: Whose Responsibility?", Mission Report, Council of Europe fact-finding mission to Serbia and Montenegro, 16 – 20 February 2003, Report prepared by Mr Alan Phillips (UK). See: [www.coe.int/T/DG3/RomaTravellers/documentation/refugees/default\\_en.asp](http://www.coe.int/T/DG3/RomaTravellers/documentation/refugees/default_en.asp).

<sup>18</sup> Council of Europe, Recommendation No. 1348 (1997) on the temporary protection of persons forced to flee their country.

<sup>19</sup> "U Briselu 20. decembra nastavak pregovora" – quoting the Head of the Readmission Section of the Serbian Ministry of Interior, Zorica Đokić, in a statement of the EU Integration Office, 12.12.2006. See: <http://www.seio.sr.gov.yu>.

<sup>20</sup> UNDP. *At Risk: The Social Vulnerability of Roma, Refugees and Internally Displaced Persons in Serbia*. Belgrade: UNDP, 2006, p. 4.

- the basic human rights of returnees – while placing a special emphasis on the returnees of Romani ethnicity within the returnees category – that should be paid special attention, regarding the frequency of violations of these rights;
- current tendencies in the field of readmission in the European Union, i.e. in the states where most of the potential returnees live;
- the extent of Serbia's preparedness to accept the returnees – its citizens.

To avoid any misunderstandings, it would be useful to define the meaning of basic terminology used here. The term *Romani returnees* in this text refers to the citizens of Serbia who left Serbia for various reasons in the 1990s and went to other states, including the categories of persons who do not fulfil or no longer fulfil the conditions for entering and residing in the territories of these states (for instance, because their asylum applications were rejected, or because they were placed under temporary protection that was cancelled in the meanwhile). The term *readmission* refers to accepting once more persons who do not fulfil or no longer fulfil the conditions for entering or residing in the territory of another state.<sup>21</sup>

### ***International Human Rights Standards***

#### **United Nations**

The 1951 Geneva Convention Relating to the Status of Refugees,<sup>22</sup> together with its 1967 Protocol, is the basic international treaty in the area of protecting refugee rights. All the member states of the Council of Europe ratified this Convention.

According to Article 31 of the Geneva Convention, the refugees who arrive directly from the territories where their lives or liberties were in danger cannot be penalized for their illegal entry or presence in a country, under the condition that they report to the authorities without delay and explain the reasons for coming to the territory of this country. Article 32 provides that the states can expel a refugee lawfully in their territory only if there are compelling reasons related to national security, and only on the grounds of a decision reached in accordance with due process of law. The most important rule in the field of international refugee protection is the so-called *non-refoulement*, or the prohibition of expulsion or return, under Article 33 of the Geneva Convention. The *non-refoulement* principle implies a prohibition of expulsion or return of refugees to the territory of a state where their lives or freedoms would be threatened because of their race, religion, nationality, membership of a particular social group, or political opinion. This principle does not apply to refugees who can be considered a danger to the security of the country in which they are, or if they constitute a danger to the community of that country if they have been convicted of a particularly serious crime.

The basic human rights guaranteed by international treaties of the United Nations, such as the International Covenant on Civil and Political Rights,<sup>23</sup> International Covenant on Economic,

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<sup>21</sup> This definition was taken from the Strategy for Integrated Border Management in the Republic of Serbia, adopted by the Government of Serbia in January 2006. See: <http://www.seio.sr.gov.yu/code/navigate.asp?Id=209>.

<sup>22</sup> Official Gazette of the FPRY, 7/1960 and Official Gazette of the SFRY, Annex 15/1967.

<sup>23</sup> Official Gazette of the SFRY No. 7/1971 and Official Gazette of the FRY, International Agreements No. 4/2001.

Social and Cultural Rights,<sup>24</sup> Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment,<sup>25</sup> Convention on the Rights of the Child,<sup>26</sup> Convention on the Elimination of All Forms of Racial Discrimination,<sup>27</sup> and the Convention on the Elimination of all Forms of Discrimination Against Women<sup>28</sup> also must be taken into account in the case of persons who were expelled or returned from other states. The general comments of the committees established with the aim of monitoring the implementation of these treaties are also very important for the implementation of the treaties' regulations. With regards to the general comments of the Human Rights Committee, in charge of monitoring the implementation of the International Covenant on Civil and Political Rights, special attention should be paid to General Comment No. 12, in parallel with Article 27 of the Geneva Convention, relating to the freedom of movement. The right to the freedom of movement comprises the freedom to choose the location of one's residence, the freedom to leave any country, and the freedom to enter one's own country,<sup>29</sup> which will be discussed in more detail later. Additionally, the Human Rights Committee, in its General Comment No. 27<sup>30</sup> emphasizes that Article 12, paragraph 4, of International Covenant on Civil and Political Rights covers not only the right of a person that left a country to return to it, but also the right of a person that was, for instance, born out of the territory of the country of their citizenship, to enter this country for the first time. The right of return is of key importance for refugees who want to return voluntarily to their countries. With regards to the right to leave a state (including one's own), the Human Rights Committee also stresses in its General Comment No. 27 that the country of origin is obliged to issue a travel document, or to extend the validity of a travel document, for persons who reside out of the territory of this country.

## **Council of Europe**

Since mid-1990s, the Council of Europe adopted several recommendations on the issue of forced returns of persons from the Council of Europe member states.<sup>31</sup> Recommendations, unlike international conventions, do not have the power of obligation, and it is only recommendable that states act in accordance with those recommendations, whereas not acting in accordance with recommendations does not invoke any sanctions. Disrespect for recommendations, however, in some cases can take the consequence of exercising pressure on a state.

With regards to the Council of Europe recommendations, we will discuss in detail the Recommendation 1633 on forced returns of Roma from the former Federal Republic of

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<sup>24</sup> Official Gazette of the SFRY No. 7/1971.

<sup>25</sup> Official Gazette of the SFRY, International Agreements No. 9/1991, Official Gazette of SMN, International Agreements No. 16/2005.

<sup>26</sup> Official Gazette of the SFRY, International Agreements No. 15/1990, Official Gazette of the FRY, International Agreements No. 2/1997, 7/2002.

<sup>27</sup> Official Gazette of the SFRY, Annex 6/1967.

<sup>28</sup> Official Gazette of the SFRY, International Agreements No. 11/1981, Official Gazette of the FRY, International Agreements No. 13/2002.

<sup>29</sup> Human Rights Committee - General Comment No. 12. See: <http://www.ohchr.org/english/bodies/hrc/comments.htm>.

<sup>30</sup> Human Rights Committee - General Comment No. 27. See: <http://www.ohchr.org/english/bodies/hrc/comments.htm>.

<sup>31</sup> Recommendations of the Parliamentary Assembly of the Council of Europe, see: <http://assembly.coe.int/Documents/AdoptedText/>.

Yugoslavia from 2003, considering that it directly relates to the position of Roma returnees as a most vulnerable group of returnees.<sup>32</sup>

The forced returns of Roma to Serbia started after the democratic changes in Serbia, in September 2000, on the basis of bilateral agreements between Serbia and European states. According to the Report of the Committee on Migration, Refugees and Population<sup>33</sup> of the Council of Europe of October 31, 2003, on the basis of which the Parliamentary Assembly of the Council of Europe prepared its Recommendation 1633, at that time around 1,000 Roma were returned to Serbia, and it was estimated that there is a pending return of fifty to one hundred thousand Roma who are awaiting return to Serbia and Montenegro in various member states of the Council of Europe.

In this Recommendation, on the basis of the data provided by Roma non-governmental organizations, the Council of Europe expresses concerns in three return-related areas:

1. the legitimacy of certain decisions on expulsion taken by host countries;
2. the conditions in which forced returns take place;
3. the situation in which Roma find themselves upon their return to Serbia, after they have been forcibly returned from countries where they lived for years.

Recommendation 1633 also stresses that it is particularly worrying that the bilateral agreements do not define the conditions for the reception of returnees, and do not put any responsibility on the receiving state when it comes to the reintegration of returnees.

Additionally, the so-called "voluntary returns" in some cases may amount to disguised forced returns. Namely, voluntary returns imply that returnees were not pressured in any way and that they agreed to return. Limiting the rights and freedoms of a person must be the last resort of a state in reaching the desired aim, and even in the cases where it is justified it must be done with the respect of certain procedural guarantees. With regards to the fact that states may be considered accountable and sued by the victims in case that they violate those guarantees, they often try to disguise forced returns as voluntary, hoping that in this manner they would avoid responsibility and paying financial compensation for damages.

Having this in mind, the Council of Europe made the following recommendations to its member states where Roma from Serbia and Montenegro reside:

Any decision on a forced return of Roma to Serbia and Montenegro must be taken on a case-by-case basis taking into account all relevant circumstances; every Roma who seeks international protection should be given access to fair and effective asylum procedures; Roma who are forcibly returned to Serbia and Montenegro should be in possession of appropriate documents which will enable them to exercise their rights as full citizens; the procedures for deportation should respect the principle of safety and dignity of person; member states of the Council of Europe should financially contribute to the setting-up and implementation of reintegration programmes for returning Roma.

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<sup>32</sup> Full title of the recommendation: Forced returns of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro from Council of Europe member states.

<sup>33</sup> Committee on Migration, Refugees and Population, Rapporteur: Mr Mats Einarsson, footnote 1.

The recommendations to Serbia and Montenegro,<sup>34</sup> *inter alia*, include the following:

- to actively seek financial support from international funds with the aim of implementing programs for the reintegration of Roma returnees, including applying for funds from the Council of Europe Development Bank;
- to pay special attention to Roma when drafting the Poverty Reduction Strategy, regarding that Roma constitute the poorest category in the vulnerable population groups;
- to ensure that relevant ministries are properly informed on and prepared for the readmission process (primarily the ministries in charge of education, housing, employment, social and health insurance), as well as the local authorities. It was also recommended that relevant authorities provide targeted plans for the exercise of the fundamental rights of returnees, starting with access to registration and personal documentation;
- to adopt policies, in cooperation with Roma NGOs, to address all aspects of the human rights situation of Roma returned to Serbia and Montenegro;
- to adopt measures, as a matter of priority, with the aim of preventing statelessness among Roma returnees, and to improve the access to public services that play an important role in the exercise of human rights;
- to speed up and simplify the provision of school attendance certificates to children educated abroad;
- to provide additional classes in Serbian language for Roma returnee children;
- to ensure that no ethnic segregation arises in the education of Roma returnee children.

### **European Union: Visas, Asylum, Immigration and Other Policies Relating to Freedom of Movement**

The Treaty of Amsterdam,<sup>35</sup> i.e. the Treaty on European Union that came into force in 1999, within the framework of Title IV, relates to the policy of the European Union in the area entitled "Visas, asylum, immigration and other policies related to free movement of persons". The issues of asylum, immigration and judicial cooperation in civil matters were additionally expanded by the means of this Treaty into an area where the bodies of the European Union have an exclusive jurisdiction over the proposal and adoption of decisions, i.e. the right of submitting proposals to the Council of the European Union (hereafter "Council") and the European Parliament belongs exclusively to the Commission of the European Union (hereafter "Commission"), whereas the initiatives for the adoption of legal acts put forward by member states are no longer possible.

According to Article 63, paragraph 3, of the Treaty of Amsterdam, the Council adopts measures on immigration policies in the field of conditions of entry and residence, as well as standards and procedures for the issue of long-term visas and residence permits by member states, including those for the purpose of family reunion, as well as in the area of illegal immigration and illegal residence, including repatriation of persons who do not have legal residence.

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<sup>34</sup> At the time these recommendations were adopted, Serbia and Montenegro was one state. On the basis of the Decision on the Obligation of Serbian State Bodies in Carrying Out Serbia's Jurisdiction as a Successor of the State Union of Serbia and Montenegro (Official Gazette of the RS No. 48/2006), Serbia became the legal successor of Serbia and Montenegro.

<sup>35</sup> *Ugovor o Evropskoj uniji*, edited and translated by dr Duško Lopandić, Belgrade: Međunarodna politika, SJP Službeni list SRJ, Belgrade Law School, Belgrade School of Political Science, Institute of Economics, 1999.

Having in mind the new authority given by the Treaty of Amsterdam, the Council of the European Union is invited to conclude readmission agreements, i.e. to include clauses on readmission into the accession and cooperation agreements with third countries.<sup>36</sup> Readmission agreements strictly regulate the readmission field, that is, they give detailed rules on the obligations of the EU member states on the one hand, and the third country on the other hand, with regards to the return of persons who illegally reside in their territory to the country of origin or a transit country (i.e. the country from which this person illegally came to an EU member state). The clause on readmission, on the other hand, is a regulation providing a framework to regulate one issue in the agreement whose primary aim is regulating another matter.<sup>37</sup>

Within the European Union there are regulations enacted with the aim of improving the technical cooperation between member countries, to combat illegal immigration more efficiently. One that needs to be specially emphasized is the 2001 Directive on the mutual recognition of decisions on the expulsion of third country nationals.<sup>38</sup> This directive comprises those decisions of member countries relating to expulsions based on a threat to public order and national security, and expulsions based on the fact that the entry or residence of an alien, i.e. a third country national, fails to comply with national rules of the member state. The text of the Directive emphasizes that it will be applied without prejudice to the provisions of the Dublin Convention.<sup>39</sup>

In 2005 the Commission issued the Communication<sup>40</sup> to the Council on the monitoring and evaluation mechanism of third countries in the field of the fight against illegal immigration. This was the first report of its kind, and in addition to Albania, China, Libya, Morocco, Russia, Tunisia, and Ukraine, it also includes information on Serbia and Montenegro. This reports contains certain political and technical recommendations aiming at the improvement of existing mechanisms.

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<sup>36</sup> In this case, third countries are countries that are not members of the European Union.

<sup>37</sup> See *Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Croatia, of the other part*, signed in Luxemburg on October 29, 2001. In the chapter of this agreement regulating the freedom of movement, Article 77 sets the framework for mutual obligations in the field of repeated return – readmission. Croatia (as well as the other party in the Agreement) thus obliged itself in the sense of this rule to accept again all its citizens who illegally reside in the territory of a member state, at its request and without additional formalities, and also that it will provide its citizens with personal documents and support them in this process. Croatia is also obliged to sign an agreement with the European Union, at request, to regulate special obligations with regards to readmission, including the obligation of readmission of citizens of other states and stateless persons, and also that it will – at the request of some member states – sign a special bilateral agreement to regulate this matter. The text of the agreement is available at this website: [www.vlada.hr/Download/2004/06/14/SSP\\_bez\\_dodataka.pdf](http://www.vlada.hr/Download/2004/06/14/SSP_bez_dodataka.pdf).

<sup>38</sup> Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals.

<sup>39</sup> Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention, OJ C 254, 19.8.1997. The objective of this convention is to determine the Member State responsible for examining an asylum application, as this issue was not regulated by the 1951 Geneva Convention Relating to the Status of Refugees. In this manner, applicants will not be sent from one member state to another, and on the other hand multiple asylum applications will be prevented.

<sup>40</sup> Communication from the Commission to the Council on the monitoring and evaluation mechanism of third countries in the field of the fight against illegal immigration, COM(2005) 352. See: <http://europa.eu/scadplus/leg/en/lvb/l14505.htm>.

After that, on January 25, 2006, the Commission sent to the Council and the European Parliament the Communication on the Thematic programme for the cooperation with third countries in the areas of migration and asylum,<sup>41</sup> with a proposal for measures that should be taken in this field in the period 2007–2013. The Communication also envisages that, in the course of implementing readmission agreements, the social aspects of returnee reintegration should be taken into account, with the aim of their sustainable return. There is also particular mention of assistance to third states in implementing readmission agreements, which includes creating adequate conditions in the centres where illegal immigrants would be placed prior to repatriation. The Communication stresses that human rights must be respected in the implementation of these measures.

With regards to Serbia and Montenegro, the Commission notes that there is evident progress in the field of asylum and immigration, nevertheless further efforts for improvement are necessary. It is also noted that the implementation of readmission agreements with the European Union member countries and neighbouring countries is in progress, yet that the lack of means impedes the reintegration of returnees to a great extent. There is mention of the existence of projects aiming at improved cooperation within the CARDS programme.

### **Readmission Agreements**

Since 1996, Serbia signed 15 bilateral readmission agreements with 17 states, including 12 members of the European Union.<sup>42</sup> Bilateral readmission agreements have a similar structure and contain provisions on the obligation of accepting citizens of state parties, the exceptions from this obligation, the procedures related to readmission requests, and the procedures on return and admission. In addition to the Ministry of Interior of the Republic of Serbia being responsible for the implementation of readmission agreements, the Ministry of Human and Minority Rights (which existed on the level of state union) also took part in the process of concluding readmission agreements. After the dissolution of the state union and the closure of the Ministry of Human and Minority Rights, the Ministry of Interior of the Republic of Serbia took over full responsibility in this field.<sup>43</sup>

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<sup>41</sup> Thematic programme for the cooperation with third countries in the areas of migration and asylum, COM(2006) 26 final. See: [eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0026en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0026en01.pdf).

<sup>42</sup> The statement of Zoran Marković, Ministry of Human and Minority Rights, May 2006, as printed in *Dekada Roma* No. 5/2006, pp. 27-29. Until now, Serbia and Montenegro concluded readmission agreements with the following states: Austria (Official Gazette of SMN - International Agreements, No. 3/2004); BENELUX (Official Gazette of the FRY - International Agreements, No. 12/2002); Bosnia and Herzegovina (Official Gazette of SMN - International Agreements, No. 22/2004); Bulgaria (Official Gazette of the FRY - International Agreements, No. 1/2001); Denmark (Official Gazette of the FRY - International Agreements, No. 12/2002); Croatia (Official Gazette of SMN - International Agreements, No. 9/2004); Italy (Official Gazette of SMN - International Agreements, No. 5/2003); Canada (Official Gazette of SMN - International Agreements, No. 3/2006); Hungary (Official Gazette of the FRY - International Agreements, No. 12/2002); Germany (Official Gazette of the FRY - International Agreements, No. 2/2003); Slovakia (Official Gazette of the FRY - International Agreements, No. 1/2002); Slovenia (Official Gazette of the FRY - International Agreements, No. 9/2001); Switzerland (Official Gazette of SMN - International Agreements, No. 3/2004); Sweden (Official Gazette of the FRY - International Agreements, No. 2/2003). The agreement with France was signed but not ratified.

<sup>43</sup> The Regulation on Financing the Responsibilities of the Republic of Serbia Taken Over from the Former Serbia and Montenegro (Uredba o finansiranju nadležnosti koje su prešle na Republiku Srbiju s bivše Srbije i Crne Gore), Official Gazette of the RS, No. 49/2006.

In November 2006, the Commission of the European Communities adopted the Serbia 2006 Progress Report, noting that Serbia signed a number of readmission agreements with member states of the European Union, yet the legal and financial framework for the integration of returnees is still missing.<sup>44</sup> Though certain results have been achieved in the area of combating illegal migrations, this area was judged as problematic.

On March 21, 2007, Serbia and the European Union concluded negotiations on the Community Readmission Agreement, to regulate the return of persons from the European Union member states to Serbia.<sup>45</sup> According to the statement of the EU Integration Office of January 19, 2007, the aim of the negotiations in the readmission field was to establish the mutual obligations and procedures necessary to organize the return of persons who illegally reside in the territories of the states parties to the agreement.<sup>46</sup> At the time of writing this report, the initialling of the agreement was slated for the end of April 2007.<sup>47</sup> It is expected that the agreement will be signed in September, and enter into force on January 1, 2008.<sup>48</sup> European Union expressed its willingness to financially support the returnee integration process, and after the agreement is signed Serbia will be able to access European Union funds earmarked for returnee integration.<sup>49</sup>

As mentioned earlier, Recommendation 1633 of the Parliamentary Assembly of the Council of Europe expresses concern at the fact that bilateral readmission agreements do not define the conditions for the reception of returnees, and do not put any responsibility on the receiving state when it comes to the reintegration of returnees. It is expected that these shortages will be overcome with a unified procedure envisaged in the Community Readmission Agreement.

### ***Regulations of the Republic of Serbia***

#### **The Constitutional Legal Framework in Serbia**

In the course of 2006, the constitutional legal framework in Serbia underwent significant changes because of the dissolution of the state union of Serbia and Montenegro, on the one hand, and because of the adoption of the new Constitution of the Republic of Serbia (hereafter "Constitution") on the other hand.<sup>50</sup>

In terms of their content, but also in terms of the formulations used, the provisions of the new Constitution related to human rights and freedoms are, to a considerable extent, based on the provisions of the Charter on Human and Minority Rights and Civil Liberties of the State Union of Serbia and Montenegro (hereafter "Charter").<sup>51</sup>

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<sup>44</sup> See: Internet website of the EU Integration Office: <http://www.seio.sr.gov.yu/code/navigate.asp?Id=123>.

<sup>45</sup> "Paraf na sporazum o readmisiji sa EU početkom aprila", 21.03.2007, see: <http://www.seio.sr.gov.yu/code/navigate.asp?Id=127#598>.

<sup>46</sup> "Održana druga runda pregovora o viznim olakšicama i o readmisiji", 12.12.2006, see: <http://www.seio.sr.gov.yu/code/navigate.asp?Id=127#598>.

<sup>47</sup> B92, "Sledeće nedelje o viznim olakšicama", 19.4.2007.

<sup>48</sup> B92, "Iduće nedelje ponovo o vizama", 18.4.2007.

<sup>49</sup> "U Briselu 20. decembra nastavak pregovora", 12.12.2006, see: <http://www.seio.sr.gov.yu>.

<sup>50</sup> Official Gazette of the RS, No. 98/2006.

<sup>51</sup> Official Gazette of SMN, No. 6/2003.

In the course of the analysis of national legal regulations, we will provide an overview of and compare the formulas from the Constitution and the Charter in the sections relevant to the field of the return and readmission of Roma.

**Applying international law.** With regards to the application of international law, and especially regulations on human and minority rights, Article 16 of the Constitution provides that generally accepted rules of international law and ratified international treaties are an integral part of the legal system in the Republic of Serbia, and they are applied directly, however the ratified international treaties must be in accordance with the Constitution. Article 18 of the Constitution, similar to Article 7 of the Charter, specifies that human and minority rights guaranteed by the Constitution will be applied directly. The Constitution guarantees and as such directly implements both human and minority rights guaranteed by the generally accepted rules of international law, and ratified international treaties and laws.

**Hierarchy of Legal Acts.** The most important change in comparison with the Constitutional Charter of the State Union of Serbia and Montenegro (hereafter: "Constitutional Charter")<sup>52</sup> is the change in the hierarchy of legal acts. Namely, whereas Article 16 of the Constitutional Charter stated the priority of international law compared to national law, i.e. the ratified international treaties and generally accepted rules of international law had precedence over the law of Serbia and Montenegro and the laws of the member states, Article 16 of the Constitution states that ratified international agreements must be in accordance with the Constitution, i.e. the place of ratified international laws in the hierarchy of legal acts is between the Constitution and the laws. This position of international agreements was stipulated earlier as well, by the Constitution of the Federal Republic of Yugoslavia. There are examples of both solutions in comparative law. However, the position of ratified international agreements, according to the new Constitution, leaves space for a possibility that certain provisions of these acts would not be applied in case that the Constitutional Court of the Republic of Serbia would decide that they are unconstitutional.

**Right to rehabilitation and compensation.** With regards to the right to rehabilitation and compensation, Article 35 of the Constitution provides that any person deprived of liberty, detained or convicted for a criminal offence without grounds or unlawfully has the right to rehabilitation and compensation of damage by the Republic of Serbia, as well as other rights stipulated by the law. A similar solution existed under Article 14, paragraph 8, and Article 22 of the Charter, i.e. right to compensation was given in cases of unlawful arrest, and the right to rehabilitation and compensation if a person was convicted without a valid ground for a punishable act. The Charter did not, however, deal with unlawful detention. This provision of the Constitution can be relevant to returnees who might be unlawfully detained upon return, as they would be able to seek compensation from the state by directly invoking this constitutional provision.

**Prohibition of discrimination of national minorities.** Article 21 of the Constitution, as it was the case with Article 3 of the Charter, specifies the absolute prohibition of all forms of direct and indirect discrimination, as well as the possibility of introducing affirmative action measures as the so-called special measures. According to the Charter, it was permitted to temporarily impose special measures required for the exercise of equality, special protection and prosperity of persons or groups of persons in unequal position, in order to enable them to

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<sup>52</sup> Official Gazette of SMN, Nos. 1/2003 and 26/2005.

fully enjoy human and minority rights under equal conditions. The Constitution uses a different formulation, specifying that affirmative action measures cannot be considered discrimination. The Charter does not include this provision, however it gives a limited time frame for the special measures, i.e. requests that they are applied only until the achievement of aims for which they are undertaken.

Taking into account all of the abovementioned facts, it is clear that, with regards to human and minority rights, the new Constitution considerably follows the provisions of the Charter on Human and Minority Rights of the former state union Serbia and Montenegro. There are certain differences, and there are notably unnecessary abbreviations and omissions of certain formulas and solutions from the Charter, yet it is necessary to keep in mind that a number of regulations are waiting to be enacted on the basis of the new Constitution. The quality of future laws and bylaws, as well as their implementation, will be the true indicator of the effect of the new Constitution on human and minority rights in Serbia.

## INSTITUTIONAL POLICIES RELATED TO THE RETURNEES OF ROMA ETHNICITY

The process of signing readmission agreements greatly took place in parallel with the process of systematically resolving the problems of the Roma population in Serbia, starting with the formal acknowledgment of Roma as a national minority in the Law on the Protection of Rights and Freedoms of National Minorities in 2002. Soon afterwards the then Ministry of Human and Minority Rights of the Federal Republic of Yugoslavia (FRY) was formed, and in 2003 it launched the process of writing the Draft Strategy for the Integration and Empowerment of Roma, presented to the public in December 2003. The issue of Roma returnees from Western Europe was addressed in the Draft Strategy and it included a recommendation for the Government to identify the possibilities that certain groups do not have to return to FRY, that the governments of Western European countries which deport Roma do not deport Kosovo Roma to other parts of the country, and that they respect the dynamics of returns that was agreed on. It was also recommended that it is necessary that competent authorities prepare the "Reintegration Program for Roma Returnees", including legal and administrative assistance to returnees, and also that children of returnees should be given the opportunity to attend Serbian language classes.<sup>53</sup> Unfortunately, even though this draft strategy was adopted by the National Council of the Roma National Minority in April 2004, it was never adopted by state authorities.

At that time some first steps were made in relation to the launching of the Decade of Roma Inclusion 2005–2015. The Roma Decade is an international initiative whose member states committed to the improvement of the situation of Roma in their territories. It was envisaged that all countries prepare national action plans (NAP), to be implemented in the course of the Roma Decade, with the emphasis on education, employment, health and housing, as well as the cross-cutting themes of poverty, discrimination, and gender equality.<sup>54</sup> In Serbia the preparation of national action plans commenced in late 2004, under the auspices of the Ministry of Human and Minority Rights. In January 2005, the Government of the Republic of Serbia adopted the first four national action plans, in the fields of education, employment, health and housing, and soon afterwards, on February 2, 2005, Serbia formally joined the Roma Decade, by signing the Declaration on the Decade of Roma Inclusion. Other action plans, including the Draft Action Plan on Returnees, were written until March of the same year. The Draft Action Plan on Returnees envisages meeting the following objectives:<sup>55</sup>

- Providing mechanisms for all Romani citizens for obtaining all necessary documents in an easy way,
- Data base on returnees,
- Exemption from customs duties and other taxes on personal goods,
- Resolving the issue of personal documents,

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<sup>53</sup> Ministry of Human and Minority Rights of Serbia and Montenegro. *Draft Strategy for the Integration and Empowerment of Roma*. Belgrade: Ministry of Human and Minority Rights of Serbia and Montenegro, 2002, pp. 68-69, see: <http://www.humanrights.gov.yu>.

<sup>54</sup> For more information on the Decade of Roma Inclusion, see: <http://www.romadecade.org>.

<sup>55</sup> For the full text of the Draft Action Plan on Returnees, see the website of the (former) Ministry of Human and Minority Rights of Serbia and Montenegro, <http://www.humanrights.gov.yu>.

- Integration into the educational system,
- Informing citizens on their rights,
- Resolving housing and accommodation issues of returnees,
- Providing health care for returnees,
- Preparing rules of procedure for implementing readmission agreements that will ensure respect for human rights, and
- Providing access to the right to work for returnees.

The Draft Action Plan on Returnees also offers suitable measures for reaching the desired goals, as well as indicators, implementing agencies, implementation monitors, available data and time periods in which these measures should be taken. This draft, as well as all the other drafts completed in March 2005, were not adopted by state institutions to this day, which practically makes them irrelevant and no one is obliged to implement the suggested measures.

With regards to the adopted national action plans, the only one that mentions the issue of returnees is the Common Action Plan for the Advancement of Education of Roma in Serbia, where the measures for providing quality education for Roma also suggest developing a special program for working with special categories of Romani children and youth, where the mentioned special categories also include "the children of returnees from other countries".<sup>56</sup> The time frame set for the implementation of the suggested measure is the period of 2005–2007, however at the time this report was written, the data on the real implementation of such programmes was not yet available to the public. The report on social vulnerability in Serbia by the United Nations Development Program (UNDP) also notes that this action lacks indicators on the children of returnees integrated into the educational system.<sup>57</sup>

Soon afterwards, the respect for human rights in Serbia was assessed by the United Nations Committee on Economic, Social and Cultural Rights, and in its session in April and May 2005 the Committee considered the initial report of Serbia and Montenegro on the application of the International Covenant on Economic, Social and Cultural Rights. In its concluding comments, published in July 2005, the Committee also noted the issues affecting returnees:

"The Committee expresses its deep concern about the uncertain residence status and the limited access by [...] returnees from third countries [...] to personal identification documents which are a requirement for numerous entitlements, such as eligibility to work, to apply for unemployment and other social security benefits, or to register for school."<sup>58</sup>

The Committee also expressed its concerns with regards to the situation of Roma in Serbia and Montenegro, especially the cases of violence against Roma, and the discrimination against them in many economic and social aspects of life. The Committee recommended to the Government that they can assist the returnees, as well as refugees and internally displaced persons, by simplifying the procedures for obtaining personal documents, including birth

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<sup>56</sup> Ministry of Human and Minority Rights of Serbia and Montenegro. *Common Action Plan for the Advancement of Education of Roma in Serbia*. Belgrade: Ministry of Human and Minority Rights of Serbia and Montenegro, 2005.

<sup>57</sup> United Nations Development Program (UNDP). *At Risk: The Social Vulnerability of Roma, Refugees and Internally Displaced Persons in Serbia*. Belgrade, 2006, p. 21.

<sup>58</sup> UN Office of the High Commissioner for Human Rights. *Primena paktova o ljudskim pravima u Srbiji*. Belgrade: OHCHR, 2006, p. 28.

certificates, personal IDs and health booklets.<sup>59</sup> Even though these recommendations were made almost two years ago, as this report was written the recommended simplification of the abovementioned procedures did not take place. Besides, with the aim of the overall improvement of the socioeconomic situation of Roma, the Committee also recommended the participation of Roma representatives in the drafting and implementation of all action plans, taking special measures to eradicate poverty among Roma, ensuring adequate housing for Roma, taking action so that Romani children attend school, and improving interethnic tolerance and understanding.

As the first concrete step in assisting returnees, the Readmission Office was opened in February 2006 at the Belgrade airport, as a project of the Ministry of Human and Minority Rights. Initially the aim of the Readmission Office was offering legal and urgent humanitarian aid to returnees.<sup>60</sup> In the words of the then Assistant Minister Jelena Marković, one of the tasks of this office was to create a data base on returnees, so that special projects could be launched in the municipalities with most returnees. It was also disclosed, on this occasion, that in an unspecified past period some 3,500 persons were forcibly returned to Serbia per year, which fell within the abilities of the state when it comes to economic and social absorption, as well as that there are no records on the return of the persons who came back voluntarily, without state law enforcers' accompaniment. With regards to forced deportations, Marković said that they are announced to Serbian authorities, that the Ministry of Internal Affairs checks the citizenship of the returnees, and gives official escort to such flights. The Readmission Office was established with the assistance of the Swedish International Development Agency (SIDA).<sup>61</sup> In the initial phase of the project, until October 2006, the office operated with two employees, a legal adviser and an adviser on social issues, whereas since April 2007 it has been expanded and it also includes staff of Romani ethnicity.

It is also important to note that most of the media reports, as well as officials' statements, relate the signing of readmission agreements and the acceptance of returnees to the inclusion of Serbia into the list of countries whose citizens will not need to have visas when entering the states signatories of the Schengen agreement. The issue of the "white Schengen list" was also discussed at the round table "European Integration and Readmission", held in Belgrade on February 20, 2006, organized by the Institute for International Politics and Economy, the European Movement in Serbia, and Group 484. The round table gathered the representatives of the Ministry of Foreign Affairs, Ministry of Human and Minority Rights, as well as the Serbian Parliament. One of the conclusions of the event was that the return process has to continue without impediments, as it is a "democratic principle and an obligation of the state", yet that at the same time the well-being of returnees must be taken care of.<sup>62</sup>

In 2006 a working group was formed under the auspices of the Ministry of Human and Minority Rights, and by November 2006 they prepared a Draft Strategy for the Reintegration of Returnees under Readmission Agreements. The Draft Strategy sets the legal framework for the solution of the returnees' problems and describes the process of readmission and migrations in Central and South East Europe. The draft then discusses the possible ways of

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<sup>59</sup> UN Office of the High Commissioner for Human Rights. *Primena paktova o ljudskim pravima u Srbiji*. Belgrade: OHCHR, 2006, pp. 32-33.

<sup>60</sup> Danas, "Na zapadu nelegalno 250 hiljada državljana SCG", 13.2.2006.

<sup>61</sup> Romano Nevipe, "Beograd – readmisija", No. 15-16, 2006.

<sup>62</sup> "Održan okrugli sto o 'Readmisiji i evropskim integracijama', 20. februara 2006. godine", Minority Rights Centre, *Dekada Roma*, No. 4, 2006, pp. 25-26.

reintegrating returnees, as well as informing the returnees themselves. Minorities from Kosovo returned to other parts of Serbia and Montenegro were set aside as a particularly vulnerable group, as well as unaccompanied children, and victims of human trafficking. The Draft Strategy also describes the conditions of reception of returnees and their problems, and gives recommendations for every area that it covered.<sup>63</sup> This draft still does not envisage any concrete measures nor their implementing agents, time frames for implementation, monitoring mechanisms, relevant budgets. Also, by the time this report was written in April 2007, this draft has not yet been adopted by state institutions, thus it cannot be implemented institutionally.

The Centre for the Integration of Returnees has also been launched in mid-2006, as a project of the Agency for Human and Minority Rights,<sup>64</sup> supported by the Organization for European Security and Cooperation (OSCE) and financed by the European Agency for Reconstruction (EAR). The Centre works with institutions on resolving the issues affecting returnees and protecting their rights in a strategic manner, and it also individually interviews returnees. One of the Centre's activities is also the preparation of the "Manual on Conduct in the Frame of Returnees' Integration", targeting the staff of institutions where returnees turn to help, as well as the "Information for Returnees".<sup>65</sup> Additionally, working groups were formed within relevant ministries that focus on readmission, and these working groups also took part in writing the manual.<sup>66</sup>

It is very important and commendable that these projects have been launched, and that state institutions acknowledged the gravity of the problems faced by returnees, and in particular returnees of Roma ethnicity. However, one needs to raise the issue of the limitations these projects have, with regards to human resources, financial support, as well as project-like character of these initiatives, i.e. its being limited in terms of time. In the meanwhile, the process of return is continued regardless of the circumstances awaiting returnees in Serbia, and despite the protests of international non-governmental organizations and UN agencies. In its recent statement of the topic of Roma returns to Serbia from February this year, the European Roma Rights Center in Budapest warned once more that the return of such persons is in most cases "impermissible":

"ERRC notes that Romani individuals and other persons regarded as 'Gypsies' in Serbia may face treatment rising to the level of persecution in the sense of the 1951 Geneva Convention, if returned to Serbia. Depending on the specifics of individual claimants, Romani individuals and other persons regarded as 'Gypsies' originating from Serbia and outside the borders of the country may be refugees. It may therefore be impermissible under international law to return such persons to Serbia."<sup>67</sup>

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<sup>63</sup> Ministry of Human and Minority Rights of Serbia and Montenegro and MARRI. *Draft Strategy for the Reintegration of Returnees under Readmission Agreements*. Belgrade: Ministry of Human and Minority Rights of Serbia and Montenegro, 2006. The text of the draft is available online at: <http://marri-rc.org>.

<sup>64</sup> After Montenegro declared independence in summer 2006, a part of the Ministry of Human and Minority Rights was transformed into the Agency for Human and Minority Rights.

<sup>65</sup> Interview with Đurđica Zorić, Centre for Integration of Returnees, Belgrade, 7.2.2006.

<sup>66</sup> Interview with Milena Isaković, OSCE, Belgrade, 15.2.2007.

<sup>67</sup> European Roma Rights Center (ERRC). *Briefing Paper on Protection Issues Concerning Roma and Others Regarded as "Gypsies" in Serbia (not including Kosovo) and on the Possibilities to Return Such Persons to Serbia*. Budapest: ERRC, 2007, p. 8.

The situation of Kosovo Roma deserves special attention according to the UN High Commissioner for Refugees (UNHCR) as well, and in their opinion Roma from Kosovo should continue to enjoy the protection of the states where they seeks asylum, as in the case of return they would face risks of persecution, and their forced return to other parts of Serbia and Montenegro (*internal flight*) cannot be considered as appropriate.<sup>68</sup>

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<sup>68</sup> UN High Commissioner for Refugees (UNHCR). *UNHCR's Position on the Continued International Protection Needs of Individuals from Kosovo*. Geneva: UNHCR, 2006.

## THE ANALYSIS OF THE SITUATION OF RETURNEES ON THE BASIS OF EHO FIELD RESEARCH FINDINGS

In the following pages we will present the situation of Roma returned under readmission agreements, with the emphasis on the circumstances of the return itself as well as the respect for their basic economic and social rights that are also the key themes of the Decade of Roma Inclusion – education, employment, health care and housing.

### *The Circumstances of Return*

All the families interviewed had submitted asylum applications in Western European countries where they lived, however they never received concrete responses to their applications and have instead constantly been given extensions of their tolerated status in the country, for periods that became shorter and shorter. Some of the families extended their residence in this manner for years, every time receiving a permission to stay for a few months longer, or even less.<sup>69</sup> Such long term insecurity surely created stress and had negative consequences for the mental health of persons who are forced to live under such circumstances.

According to the manner of return after the permitted residence ended, there are generally two basic categories: forced returns i.e. deportations, and voluntary returns. In a very large number of forced deportation cases, police officers arrived to the flats of Romani families in the night, and gave them a very short period of time to collect a limited amount of belongings. Some of the families have been given advanced notice that they are due to leave the country, but it was not always the case, and some of the families were deported even though in their knowledge they still had the right to stay in Germany.<sup>70</sup> In some registered cases, police officers gave returnees incorrect information prior to return. M.K. from Kikinda believes that his family received a note that they should come to the social services office because their stay in Germany was prolonged for the next five years, however they were soon visited by the police who detained him and then deported him in March 2005.<sup>71</sup> When in March 2002 the Frankfurt police officers burst into the apartment where D.S. lived with his family, they took him with them claiming that "he will already be released tomorrow" and that his wife need not worry. The next day, when his wife went to the police station to inquire about him, she was also detained, and the next day they were deported to Serbia by plane.<sup>72</sup>

In the course of many such deportations families were separated – as M.Z. testified, his mother was detained in 2003, and her children taken to a children's home, and they were separated this way for almost a month, until they were all returned to Serbia. The most commonly given reason for long detention periods was that time was needed so that the deported persons' travel documents were prepared, in most cases travel certificates (*putni list*). Some families were completely separated by deportations. In one such family the husband was deported from Berlin (Germany) in October 2003, and the rest of the family came back to

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<sup>69</sup> Interview with D.D, Kotešica (Valjevo), 21.1.2007.

<sup>70</sup> Interview with G.A, Novi Sad, 16.11.2006.

<sup>71</sup> Interview with M.K, Kikinda, 1.12.2006.

<sup>72</sup> Interview with D.S. and M.S, Osečina (Valjevo), 5.1.2007.

Serbia under duress in October 2004. The father of the family lives in Belgrade and refuses to see his wife and children, as he allegedly cannot forgive them the fact that they did not immediately come to Serbia after him.<sup>73</sup> In another case, when D.M. was forcibly taken from his apartment in Düsseldorf (Germany) in September 2004, his wife was not allowed to see him at the police station the next day.<sup>74</sup> D.M. was deported after that, and he has not seen his wife and son, who stayed in Germany, for two years. In some cases, the families fell apart after the deportation – in one drastic case, T.F. attempted suicide after this wife left him, as she could not endure the poverty that befell the family after they were deported from Germany.<sup>75</sup>

Many found the manner of deportation humiliating, and some interviewees testified on members of their family having their hands tied, even though they did not display aggressive behaviour at any point.<sup>76</sup> According to many statements, such deportations, unannounced, with handcuffs, remain deeply traumatic experiences for many returnees and especially the children who were present. B.E. from Bujanovac had one such experience when he was deported from Zurich (Switzerland):

"When the police showed up one day, the whole family was surprised. They gave us 5-10 minutes to pack our things. They did not even let us call our brother to tell him that we are leaving. Then they took us to the police station and we were detained for three nights. When they were taking us into detention they handcuffed us, when they took us out and lead us to the airport they also handcuffed us all – my father, mother and myself – all the way to the entrance to the airport. [...] That was the most stirring experience we ever had, as we were an honest family who only wanted a better life, and not at the expense of Switzerland, we wanted to do it with our own labour. We never stole anything, we have done nothing to deserve this kind of treatment."<sup>77</sup>

A certain number of deportees were taken away in group deportations, with large numbers of other deported persons, mostly Roma. For instance, E.H. from Novi Sad was returned from Germany in 2004 – he was detained on account of refusing to leave the country after his asylum application was refused. When he was taken to the airport allegedly over two hundred people were already there, and they were all returned to Serbia by plane.<sup>78</sup> Some group deportations took place by bus – the family of Č.K. was returned from Germany in this manner, in a bus "full of Gypsies".<sup>79</sup> Some families, though, were returned on regular flights, in isolated cases.<sup>80</sup>

The deported persons were brought in an exceptionally unfavourable situation, as all their property was left in the countries they were deported from, and they mostly arrived to Serbia without IDs, school certificates, and other necessary documents. Some arrived to the Belgrade airport without any money whatsoever.<sup>81</sup> The researchers also registered cases

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<sup>73</sup> Interview with a person who wished to remain anonymous, Novi Sad, 29.12.2006.

<sup>74</sup> Interview with D.M, Dublje (Valjevo), 15.1.2007.

<sup>75</sup> Interview with T.F, Subotica, 29.11.2006.

<sup>76</sup> Interview with M.I, Bujanovac, 2.12.2006.

<sup>77</sup> Interview with B.E, Bujanovac, 7.12.2006.

<sup>78</sup> Interview with E.H, Novi Sad, 14.11.2006.

<sup>79</sup> Interview with Č.K, Veternik, 26.11.2006.

<sup>80</sup> Interview with I.G, Novi Sad, 4.12.2006.

<sup>81</sup> Interview with M.Š, Ruski Krstur, 5.1.2007.

where heavily pregnant women were also deported.<sup>82</sup> Also, some persons were deported to Serbia straight from prisons where they were either detained during investigation or serving their sentences. This was the case of a returnee from Vojvodina, who was caught in Berlin in the course of illegal actions and detained – in detention, he was promised a release if he signed papers that he returns to Serbia voluntarily. After his residence permit expired, he was immediately deported by plane, without any money and any luggage.<sup>83</sup>

Some deported Roma also complained of the treatment by the police in Serbia, as well as taxi drivers who abused their unenviable position. It happened that one taxi driver charged a family as much as 300 EUR for a ride from the Belgrade airport to the bus station.<sup>84</sup> Something similar happened to J.F, who had to sell the golden earrings from her daughter's ears at the Novi Sad bus station, in order to purchase bus tickets to Zrenjanin.<sup>85</sup>

Many interviewed families stated that they returned voluntarily, however if the circumstances of their "voluntary" return are analysed carefully, it is evident that there was, on one hand, pressure and threats, and on the other hand financial incentives as an encouragement to leave. The statement of a man returned from Germany who now lives in Bujanovac is illustrative:

"In May 2004 I got my last warning, the so-called *Abschiebung*, that I have to sign a statement that I voluntarily return to my country, and that in return I will get some pocket money in the value of 300 EUR and plane tickets. They threatened me that otherwise they would deport me, that we will be put into prison. To avoid all that, as I did not want anyone frightening my family – and I was myself afraid of such situations and any troubles with the police – I signed the statement that I return voluntarily."<sup>86</sup>

A returnee man from Zrenjanin had a similar experience, when he returned from Germany with his family in October 2004:

"They started imposing conditions on us, telling us that we have to go back to Serbia, that we have to sign that we are returning on our own otherwise they will send us back. [The employees of the Centre for Social Work] threatened us every day, they would not give us money any more, they said they will throw us out of our flat. We feared that we would be thrown out by force, as it happened to some families, so we agreed to sign that we return voluntarily."<sup>87</sup>

Just like with forced deportations, the transportation mostly took place by plane or bus, where the travel expenses were covered by the state that sent them away. Very often the returnees chose to travel by bus, as this gave them an opportunity to take more luggage than it was the case by plane.<sup>88</sup> Alternatively some families decided to return in their own vehicles, vans or cars. Some persons who returned voluntarily received one-time financial support from the

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<sup>82</sup> Interview with D.M, Trstenik, 18.11.2006, who was deported when she was in the ninth month of her pregnancy, and interview with S.J, Kruševac, 13.11.2006, whose wife was deported when she was six months pregnant.

<sup>83</sup> Interview with a person who wished to remain anonymous, 23.1.2007.

<sup>84</sup> Interview with D.B, Trstenik, 18.11.2006.

<sup>85</sup> Interview with J.F, Zrenjanin, 3.1.2007.

<sup>86</sup> Interview with J.R, Bujanovac, 1.12.2006.

<sup>87</sup> Interview with a person who wished to remain anonymous, Zrenjanin, 2.12.2006.

<sup>88</sup> Interview with I.S, Kikinda, 3.12.2006.

agencies of the state that deported them, and the amounts mentioned ranged from 600 EUR to 1500 EUR. On the other hand, there were also cases of persons who agreed to return but did not receive any financial assistance, so it cannot be said with certainty that there were rules in this respect.

The returnees from Kosovo are a particularly vulnerable category. Some of them were deported back to Kosovo, despite the requests by UNHCR that such deportations should not take place, but then the returnees decided on their own to move on to other areas. This was the case of N.Š. who returned from Germany in 2005, and went with his family to Prishtina first, as this is where they originally came from. However, they did not stay there for long, as none of their relatives lived there any longer. N.Š. and his family then continued their trip to Novi Sad, where they still live in the predominantly Romani Adice settlement.<sup>89</sup> In some cases, the families deported to Kosovo decided not to stay there for security reasons – one such family told our researchers that Kosovo Albanians previously kidnapped two members of their family, and they never heard anything about them again, so out of fear the family decided to move to Novi Sad.<sup>90</sup> B.S, her husband and son, originally from Kosovska Kamenica, were initially deported by plane from Cologne (Germany) to Prishtina in November 2002. All the other passengers on the plane were Kosovo Albanians who did not allow the family to talk among themselves in Romani. After landing in Prishtina the family decided to travel further to Niš, where they currently live.<sup>91</sup> It is obvious that the return of Roma to the Kosovo area is not a sustainable solution, due to the lack of safety for these persons, which forces them into multiple migrations.

Another group consists of Kosovo Roma who are returned to other parts of Serbian territory. The family of A.K. was deported from Frankfurt (Germany) to the Belgrade airport in 2004, even though they come from the town of Prizren in Kosovo, and they were told not to worry as "they are not going to Kosovo, they are being sent to Serbia, and it will be very good for them there".<sup>92</sup> The deported family decided to go to Kruševac as they had some relatives there, however it turned out that their relatives were also very poor, and could only offer them shelter for a few days, so the returnees had to rent an apartment soon.

Some of the returned persons arrive to Serbia after they were informed that they must return to a third state. The mother of K.H. from Novi Sad who was interviewed by our researchers received a notification in 2004 that she must leave Hamburg (Germany) and return to Macedonia, where she originally came from. Nevertheless, she decided to come to Serbia, as none of her family members lived in Macedonia any longer. This lady came to Serbia with her children, whereas her common-law husband stayed in Germany.<sup>93</sup> In some cases relationships fell apart as partners had different citizenships. D.Đ. was deported from the Netherlands in March 2002, and his girlfriend, with whom he lived, stayed in the Netherlands for another year. Then she also had to return to Macedonia, where she originally came from.<sup>94</sup> There were also cases that Roma from Montenegro were returned to Serbia. A.S. from Podgorica was deported to Belgrade by plane with her five children in March 2006, without any financial means to continue her trip to Montenegro. Thanks to the Readmission Office, transportation

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<sup>89</sup> Interview with N.Š, Novi Sad, 15.11.2006.

<sup>90</sup> Interview with a person who wished to remain anonymous, Novi Sad, 24.12.2006.

<sup>91</sup> Interview with B.S, Niš, 23.12.2006.

<sup>92</sup> Interview with A.K, Kruševac, 9.1.2007.

<sup>93</sup> Interview with K.H, Novi Sad, 14.11.2006.

<sup>94</sup> Interview with D.Đ, Barajevo (Belgrade), 15.11.2006.

to Podgorica was provided, however several months later A.S. and her children moved to Belgrade nevertheless, where they currently live in the illegal Romani settlement Bežanijska kosa in extremely bad circumstances that forced her into begging.<sup>95</sup>

One of the serious issues affecting returnees is of psychological nature: how to overcome the experience of forced return. As explained by an activist, "One moment they had homes, jobs, friends, in one word they had a life, and in the next moment they had nothing."<sup>96</sup>

### ***Education***

Field research findings indicate that children from returnee families probably bear the biggest burden of making their way in their new environment. Due to the surprising and/or stressful circumstances of their return, many families did not take any documents with them, which often included school certificates. On the other hand, in very many cases school certificates were required in the process of enrolling in schools in Serbia. The families that did take certificates with them, or they managed to get them from abroad, were faced with expensive, complicated and time consuming procedures of certifying these document by relevant Serbian institutions. In addition to a large number of documents that had to be submitted and high taxes to pay, they also had to have the foreign documents translated by court-certified translators, which is expensive – it all required very high expenses from families that were largely poor. Very often the parents in returnee families themselves did not have formal education and could hardly cope with those complicated bureaucratic procedures related to certifying foreign documents.<sup>97</sup> For instance, the family of I.S. from Osečina near Valjevo was deported from Germany in 2002, when the boy already attended school, took classes in German and was considered a very good student. Upon their arrival to Serbia, however, he could not continue his education, as they needed documents from Germany which his parents did not have, and also did not know how to get. The only solution was that the boy starts from scratch, and in the words of his mother he did not fit well as he did not speak Serbian.<sup>98</sup> Some parents tried to obtain the necessary documents from abroad. Z.M. from Trstenik, deported from Germany in April 2006, appealed with the German Embassy for assistance in getting the necessary school certificates for his children. The elder son of Z.M. graduated from a high school for electricians, and the younger son attended the eighth grade of primary school when the deportation took place. As of the day he was interviewed for this research, Z.M. had not received any reply from the Embassy.<sup>99</sup>

One of the key problems faced by children who managed to overcome those obstacles and enrol into schools is that many of them do not know the official language and script in Serbia. Because of their language skills many children had to pause their education. The daughter of a returnee from Zrenjanin was enrolled in school one year after they had arrived to Serbia, so that in the meanwhile she could learn the language and get used to living in Serbia.<sup>100</sup> In some cases children were enrolled in special schools merely on account of their lack of language skills – it was the case of a girl who finished three grades of primary school in Germany, however upon her arrival to Novi Sad she was enrolled in the first grade of special school, as

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<sup>95</sup> Interview with A.S, Belgrade, 1.12.2006.

<sup>96</sup> Interview with Ljiljana Krstić, NGO Korak, Valjevo, 20.11.2006.

<sup>97</sup> Interview with the headmaster of a primary school, Kikinda, 15.1.2007.

<sup>98</sup> Interview with M.S, Osečina (Valjevo), 5.1.2007.

<sup>99</sup> Interview with Z.M, Trstenik, 18.11.2006.

<sup>100</sup> Interview with a person who wished to remain anonymous, Zrenjanin, 2.12.2006.

she did not speak the language.<sup>101</sup> The lack of language skills is also a problem for highly educated Roma who spent longer periods outside Serbia. Twenty-five year old T.G. was deported from Budapest (Hungary) in September 2006, which interrupted her education at the nursing college in Budapest. Upon her arrival to Sombor she could not continue her education as she does not speak Serbian well enough.<sup>102</sup> The Budapest-based Roma Education Fund (REF) also noted the problem of education for children returned from Western Europe, stressing that there is no institutional support in terms of learning Serbian for Romani children from returnee families.<sup>103</sup> A twenty-year-old woman from Bujanovac, who was returned from Germany three years ago and who was educated there to become a pharmacist, learned Serbian through watching television series.<sup>104</sup>

Another problem that was registered in the area of education are the children whose education abroad was interrupted, and upon their return to Serbia they were too old to attend regular primary schools. The only option for such children are schools for adult education, that are in any case attended by many Romani children, largely internally displaced persons from Kosovo. Z.B, who was returned from Germany in 2004, now living in Sombor, tried to enrol his daughter in primary school but he was told that he must have the necessary documents. By the time that Z.B. managed to obtain the documents from Germany the girl was allegedly too old to enrol in primary school, so she was enrolled in the school for adult education.<sup>105</sup> Some parents that our researchers spoke with refused to enrol their children in such schools, on principle, as it is widely considered that education in these schools is not of the same quality as education in regular primary schools.<sup>106</sup>

Many children are also challenged by the educational system in Serbia, which largely differs from educational systems in Western Europe. For instance, two children from Kruševac, whose parents managed to certify their school documents, still followed the curriculum with difficulties, not only because they lacked Serbian language skills, but also because the educational program was much more difficult compared to what the children were used to. It necessitated the additional help of school teachers, as well as private lessons paid by the parents.<sup>107</sup> After two years, the children fully merged into their environment. However, one needs to raise the question how many other Romani families can afford such additional expenses, and how many teachers are willing and available to pay additional attention to some pupils – surely not many of them. When they still lived in Western Europe, in addition to regular classes some of these children also took music classes and had hobbies, whereas upon their return to Serbia their parents had difficulty affording even the basic school necessities.

The cases of children who were not educated at all were also registered. The four children of S.Š. from Kikinda, deported from Germany in August 2005, were not registered anywhere and are illiterate. Now these children are aged 12 to 15, and their father is not familiar with any possibilities for their education at this stage.<sup>108</sup>

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<sup>101</sup> Interview with K.R, Novi Sad, 5.12.2006.

<sup>102</sup> Interview with T.G, Sombor, 12.1.2007.

<sup>103</sup> Roma Education Fund (REF). *Advancing Education of Roma in Serbia*. Budapest: REF, 2007, p. 10.

<sup>104</sup> Interview with P.I, Bujanovac, 6.12.2006.

<sup>105</sup> Interview with Z.B, Sombor, 29.11.2006.

<sup>106</sup> Interview with Ć.K, Veternik, 26.11.2006.

<sup>107</sup> Interview with Tomislav Aleksić, pedagogue of the Nada Popović Primary School in Kruševac.

<sup>108</sup> Interview with Š.S, Kikinda, 2.12.2006.

Many children have difficulties in education, or cannot get education at all, because of the poverty of their families. S.Đ. from Lajkovac, a woman returned from Germany, testified that it is very difficult for her to afford the education of her children because she cannot afford the purchase of necessary textbooks.<sup>109</sup> In some returnee families, the children also have to make an income, and thus they cannot attend school. V.V. and her husband live with their children in the Deponija settlement in Belgrade since they were deported from Germany in 2005. The family supports itself by begging and collecting recyclable goods, and the children also beg and wipe car windshields at a nearby crossroad. None of the children go to school, because their parents do not have the means to buy them text books and clothes, and on the other hand they also cannot allow it that their children are humiliated by other children at school. Besides, this five-member family lives with the husband's parents, in a very small and dilapidated house, without running water or a bathroom – it raises questions what kind of conditions for studying the children would have, in such living circumstances, even if they had attended school.<sup>110</sup>

### ***Employment***

According to the findings of our field work, unemployment among returnees is very high, and only a very small number of returnees managed to find lawful employment. One of the most commonly stated reasons was the low educational level of Roma. " I was at the unemployment bureau many times, and they told me there that I can only get manual labour – I guess we Gypsies are predestined for that", a returnee man from Valjevo told our researchers.<sup>111</sup> With regards to Romani returnees who were indeed educated abroad, many did not take their certificates with them and thus cannot provide evidence of their education. This is the case with the daughter of D.J, a Romani man from Kikinda deported from Germany in December 2003, who does not have any documents about the education she got in Germany and is thus registered with the National Employment Agency (NEA) as a person without education.<sup>112</sup> However, in addition to having these documents, the persons educated abroad also have to have these documents certified by competent state authorities in Serbia, which – as described in the previous section – requires a long, complicated and expensive process. All the persons whose educational certificates are not certified are registered with the NEA as "persons without labour skills".<sup>113</sup>

It also seems that, in addition to the lack of education, a certain role is played by racial discrimination. This was also the opinion of Z.M, a returnee woman from the vicinity of Valjevo, who graduated from a high school for tailoring in Germany and has been registered with the NEA since her return from Düsseldorf, Germany, in 2002. Nevertheless, she has only been offered jobs twice, both times with the City Utilities Vidrak, despite her education.<sup>114</sup> "Nobody wants to hire my husband, they only offer him a broom because we are Gypsies", claimed a woman who returned from Austria.<sup>115</sup> There were also cases when the returnees

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<sup>109</sup> Interview with S.Đ, Lajkovac, 5.12.2006.

<sup>110</sup> Interview with V.V, Belgrade, 29.11.2006.

<sup>111</sup> Interview with Z.P, Balačka (Valjevo), 1.12.2006.

<sup>112</sup> Interview with D.J, Kikinda, 4.12.2006.

<sup>113</sup> Interview with the Head of the Employment Mediation, NEA Kikinda, 8.1.2007.

<sup>114</sup> Interview with Z.V, Gornja Grabovica (Valjevo), 10.1.2007.

<sup>115</sup> Interview with D.D, Kotešica (Valjevo), 21.1.2007.

interviewed complained of racial discrimination in hiring procedures. For instance, 26-six-year old E.S, a hairdresser who returned from Denmark in 2004 and lives in Belgrade, applied over phone for an advertised vacancy and she was scheduled an interview the next day. E.S. was very encouraged by the positive course of the phone conversation, however, when she appeared at the hairdressers' she was told that the job was already taken, and after that she was thrown out. E.S. was very hurt by this experience, which she thinks is due to racial discrimination; she is extremely discouraged when it comes to seeking a new job, and quite concerned that she would be humiliated like this again.<sup>116</sup>

It is necessary to mention that the unemployment levels in Serbia are quite high generally. Many Roma returnees registered with the NEA, however there are very few vacancies available. In the municipality of Valjevo, for instance, there are around ten thousand unemployed persons waiting for a job, and it is very unlikely that there will be work opportunities for Romani returnees.<sup>117</sup> Single mothers are particularly vulnerable in such situations, as is the case of N.K. from Mionica, who has been registered with the NEA since she returned from the Netherlands in 2001, but she has never received any job offers. N.K. and her son live off children's allowance, and the assistance of her father and brother.<sup>118</sup> G.S from Čuprija is in a similar situation, deported from Germany in 2002, without employment since she came back, and living with three children in one room in a small and substandard house belonging to her parents, who are also social assistance recipients.<sup>119</sup>

Some of the returnees interviewed were confused by the procedures in the NEA and the treatment they got there:

"Not one of us has a job, even though we have been registered with the unemployment bureau since we returned from Germany, and we regularly go there for checks. Yet, to be honest, I do not like to go there, things are changing all the time, you need to do this, you need to do that, I never know where I should go. I am not educated, I can read and write, but I can never find my way at the NEA. I always have to ask someone, then they send me to ask another person, and that other person sends me to someone else, and so on."<sup>120</sup>

A consequence of all this is that for many Roma, grey economy is the only source of income – which means no rights related to employment, no social and health security, and often taking risks to be fined by state institutions. Some of the returnees we interviewed are private craftsmen, and most of those doing something make their ends meet by selling clothes in markets and similar trade jobs.<sup>121</sup> Many future careers were interrupted by deportations – D.M. from Valjevo, for example, won the first place in a German singing contest for young talents, which offered him an opportunity to record a CD. The recording was scheduled for September 9, 2004, however D.M. and his family were deported from Duisburg, Germany, two days before that.<sup>122</sup>

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<sup>116</sup> Interview with E.S, Belgrade, 1.12.2006.

<sup>117</sup> Interview with Dragan Stojanović, Valjevo Municipality, 28.12.2006.

<sup>118</sup> Interview with N.K, Mionica, 24.12.2006.

<sup>119</sup> Interview with G.S, Čuprija, November 2006.

<sup>120</sup> Interview with M.K, Novi Sad, 12.1.2007.

<sup>121</sup> Interview with M.J, Valjevo, 27.11.2006. and interview with Z.P, Balačka (Valjevo), 1.12.2006.

<sup>122</sup> Interview with R.M, Valjevo, 2.12.2006.

Many returnees who were interviewed said that they find not having any employment very difficult to bear. "All I can do is walk around the whole day and watch Latin American soap operas", said a man who is a Romani returnee.<sup>123</sup> Those who are most vulnerable "do the garbage cans", as they call it themselves – they take discarded clothes, footwear, food, as well as recyclable materials, from garbage containers.<sup>124</sup>

### *Health Care*

Many returnees do not have health insurance in Serbia because they lack the necessary personal documents. This is particularly problematic for those suffering from illnesses that require treatments which, in Serbia, are not the same as the ones received abroad. For instance, A.R. from Bujanovac, deported from Germany in December 2003, takes care of his mother who is a diabetic. As his mother does not have health insurance, and A.R. cannot find employment, they cannot afford to buy the necessary insulin: "How can it be possible, that in a country one cannot get treated at all", said A.R.<sup>125</sup> One of the most vulnerable groups in this respect are children. Four-year-old L.M. from Valjevo, whose family was deported from Germany in 2004, suffers from epilepsy, and in Germany he started with a therapy that was supposed to last six months. After only two months the family was deported, and the interrupted therapy never finished.<sup>126</sup> The Minority Rights Centre also reported on the violations of right to health care of Romani children from returnee families, noting that many of these children do not have Serbian citizenship, thus medical institutions refuse to treat them, even though the Law on Health Care stipulates that health care is obligatory for children under 15.<sup>127</sup>

Many interviewees claimed that their health worsened because of the deportation, which they described as traumatic, and also the stressful living conditions that awaited them upon arrival. P.S. from the Romani settlement Bački Ilovik near Zemun was deported from Germany with her husband and daughter in 2002. P.S. complained that after the deportation, which she experienced as an extremely stressful event, she had a heart attack. As her family lives on social assistance, they cannot afford to buy the expensive medicines that P.S. needs, and her 4-year-old daughter K.S. has asthma since they returned to Serbia, most probably because of the family's bad living conditions, and her asthma is not being treated.<sup>128</sup> Many returnees are not aware of the rights they are entitled to in the field of health care, or the possibilities for enjoying these rights. For example, K.H. from Novi Sad, a woman returned from Germany, did not know that she can get health insurance if she registered with the NEA until she was told so by our researcher.

Because of their vulnerable economic situation and overall poverty, many returnees cannot afford to buy medicines and they manage in ways that could be detrimental for their health. For instance, D.S. from Kikinda, a Romani woman deported from Germany in winter 2004, is a heart patient, and she had previous surgeries. Now she buys medicines only if she has money, and if there is no money she "buys a pill for her nerves [a sedative], and goes to

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<sup>123</sup> Interview with W.R, Bujanovac, 1.12.2006.

<sup>124</sup> Interview with N.Š, Novi Sad, 15.11.2006.

<sup>125</sup> Interview with A.R, Bujanovac, 23.11.2006.

<sup>126</sup> Interview with R.M, Valjevo, 2.12.2006.

<sup>127</sup> Antić, Petar. *Roma and the Right to Health Care in Serbia*. Belgrade: CPM, 2004, p. 7.

<sup>128</sup> Interview with P.S, Bački Ilovik (Zemun), 20.11.2006.

sleep."<sup>129</sup> The health condition of many has worsened since they arrived to Serbia – "This life in fear destroyed my health", described a returnee woman.<sup>130</sup>

Some returnees also complained of the treatment they got from health care professionals they turned to. K.M. from Belgrade, a single mother deported from Switzerland in 2005, went to the local health centre because of a strong asthma attack. As she did not have health insurance, the doctor on duty refused to see her, and offered to receive her in his private surgery, which K.M. could not afford to pay. In the next shift, another doctor also refused to see her despite the fact that she was an urgent case, and he threatened a nurse who tried to help K.M. with dismissal.<sup>131</sup>

### ***Housing***

Some of the medical problems experienced by Romani returnees can be attributed to their largely substandard housing conditions and the lack of basic infrastructure. The most drastic case are probably the interviewed families that literally had no place to stay and they had to sleep in the open air upon their arrival. Fortunately, they arrived from Germany during summer months.<sup>132</sup> Many sold their houses and property in order to cover the expenses of travelling abroad, and when they returned to Serbia there was nothing they could return to.<sup>133</sup> The dwellings in which returnees now reside are mostly overcrowded and families with many members live in very small rooms.

There are very few returnees who managed to save some money and buy themselves flats or houses upon return.<sup>134</sup> Some returnees live in their own houses, however their housing conditions are very bad. The family of Z.S, returned from Germany in 2004, live in their own house in the Novi Sad neighbourhood of Adice, however the house has no electric supply because the family cannot afford to cover the costs of a legal connection to the city power network.<sup>135</sup> In Kruševac, for example, many interviewees live in the Romani settlement Panjevac, without sewage, where running water is available only at one public tap, and electric power is illegally distributed from one house to another.<sup>136</sup> Some returnees were unpleasantly surprised at the state of their homes upon their return. So, when the family of D.B. returned to the Romani settlement Pejevac in Trstenik, they found the following:

"When we arrived to Trstenik, the house we left was in a terrible state. All the windows and doors were taken away, the furniture and appliances were gone, just bare walls. As we could not stay there, we went to my wife's parents. We reported the burglary with the police, however they did not give us any assistance. They simply told us that there is no evidence, who knows when this happened, and why didn't we sit at home and take care of our property instead of going abroad."<sup>137</sup>

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<sup>129</sup> Interview with D.S, Kikinda, 2.12.2006.

<sup>130</sup> Interview with D.D, Prokuplje, 18.11.2006.

<sup>131</sup> Interview with K.M, Belgrade, 10.1.2007.

<sup>132</sup> Interview with K.R, Novi Sad, 5.12.2006.

<sup>133</sup> Interview with M.V, Marinkova Bara (Belgrade), 9.1.2007.

<sup>134</sup> Interview with G.R, Belgrade, 21.11.2006.

<sup>135</sup> Interview with Z.S, Novi Sad, 28.11.2006.

<sup>136</sup> Interviews held in the Panjevac settlement in Kruševac, November 2006.

<sup>137</sup> Interview with D.B, Trstenik, 18.11.2006.

There is no security of tenure for many returnees, as they are tenants or they live at their relatives' – the six-member family of R.M. from Valjevo, for instance, lives illegally in her mother's house, as the mother is in Germany.<sup>138</sup> Some returnees were tenants before they went abroad, so the same fate waited for them upon their return to Serbia.<sup>139</sup> Many returnees who now live in Novi Sad, for instance, said that they pay rents of around 100 EUR, which is almost a half of average net monthly income and a considerable burden for families that mostly have minimal income only.<sup>140</sup> Before they left abroad, some families occupied state social housing, and when they returned this housing was not available to them any more.<sup>141</sup> Lacking any other options, some families had to turn to illegal solutions. When the family of B.D, deported from Hamburg (Germany) in June 2004, came to Leskovac, they unlawfully occupied an abandoned house whose owners are not known.<sup>142</sup> Some returnees to the Romani settlement of Podvrce in Leskovac built their houses illegally – as the entire settlement is built illegally, it does not seem that they had any other choice.<sup>143</sup>

### *Other Issues*

Because of the circumstances of their return, many returnees come to Serbia without basic personal documents. Obtaining these documents once more is a process that is long, demanding and often expensive. A 60-year-old returnee from Prokuplje testified that it took him a month to get a personal ID and a health booklet.<sup>144</sup> Obtaining personal documents is particularly a problem for Roma from Kosovo. In the family of S.K. from Prokuplje, originally from Prishtina, the only personal document that the members have is a personal ID, obtained with the assistance of a local Romani non-governmental organization.<sup>145</sup> It took one returnee family from Kosovska Kamenica, now living in Niš, over a year to obtain all the documents.<sup>146</sup>

Many returnees, and especially children and youth, have difficulty adapting to the culture of Serbia, and many stated that – as Roma in Serbia – they feel much more discriminated than it was the case in Western European countries. "Here I have a feeling that not a single right I have is respected", explained Z.B. from Sombor. "I do not have a flat, I do not have regular documents, a full time job, an address. I even had to leave school because they would not accept my documents. I cannot get medical treatment here, the doctors won't even talk to me unless I have a health booklet and health insurance."<sup>147</sup>

Children's allowance is the only source of income for many families, yet social assistance was not given to all returnees who applied for it. A Romani man from Kikinda, deported from Germany in 2002, applied for social assistance, however he was refused with the explanation that "he was in Germany, so he must have some money".<sup>148</sup>

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<sup>138</sup> Interview with R.M, Valjevo, 2.1.2006.

<sup>139</sup> Interview with N.Š, Novi Sad, 15.11.2006.

<sup>140</sup> Interview with Č.K, Veternik, 26.11.2006.

<sup>141</sup> Interview with K.H, Novi Sad, 14.11.2007.

<sup>142</sup> Interview with B.D, Leskovac, 26.12.2006.

<sup>143</sup> Interview with B.D, Leskovac, 26.12.2006.

<sup>144</sup> Interview with A.A, Prokuplje, 18.11.2006.

<sup>145</sup> Interview with S.K, Prokuplje, 18.11.2006.

<sup>146</sup> Interview with B.S, Niš, 23.12.2006.

<sup>147</sup> Interview with Z.B, Kupusina (Sombor), 29.11.2006.

<sup>148</sup> Interview with Z.L, Kikinda, 20.12.2006.

Non-governmental organizations are critical of the fact that the Government of Serbia signed numerous readmission agreements without any programs for integrating returnees into the society.<sup>149</sup> There are also opinions that NGO projects alone cannot help returnees, and that comprehensive action by competent state institutions is also required.<sup>150</sup> Some Romani leaders think that there is no sincere interest in returnees' concerns, and that within the Romani community of Serbia there is little understanding for returnees, because of prejudice that returnees do not need assistance as they are considered to have money.<sup>151</sup>

The lack of solution for the situation of Romani returnees leaves space for secondary migration – the possibility that some of them will leave Serbia again and go to Western Europe, this time illegally, without registering with local authorities. In many cases, the interviewees expressed a desire to go back to Western Europe, by any means, and in the meanwhile some of them managed to do so.<sup>152</sup> A returnee from Zrenjanin said: "[I will do anything] just to get away from here, I cannot bear to look at this suffering and poverty any more, I can have a life there, and I can work, and I can educate my children as I should."<sup>153</sup> Additionally, a number of interviewees tried to avoid deportation by hiding within the country, or moving to other Western European countries, sometimes several countries in a row.<sup>154</sup> This kind of development can aggravate the problem of human trafficking, and it also endangers the position of illegal immigrants themselves, which is not good for any of the states involved but also for the persons who get involved in this kind of migrations.

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<sup>149</sup> Interview with Dragana Vesić, NGO Association of Roma Youth, Valjevo, 25.11.2006.

<sup>150</sup> Interview with Osman Balić, NGO YUROM Centar, Niš, 4.1.2007.

<sup>151</sup> Interview with Osman Balić, NGO YUROM Centar, Niš, 4.1.2007.

<sup>152</sup> Interview with D.Đ, Barajevo (Belgrade), 15.11.2006.

<sup>153</sup> Interview with S.P, Zrenjanin, 6.12.2006.

<sup>154</sup> Interview with B.S, Resnik (Belgrade), 23.11.2006. and S.V, Rakovica (Belgrade), 16.11.2006.

## CONCLUSIONS AND RECOMMENDATIONS

According to the results of the research conducted by EHO and its partner organizations, deportations as well as conditioned "voluntary" returns are often conducted in a manner disrespectful of the basic rights of Roma returnees. In the course of some deportations families have been separated, temporarily or permanently. The process of deportation itself has been experienced by many as extremely humiliating and traumatic. Some persons were returned within unlawful group deportations. Many had to leave property and money in the countries they were returned from. An especially vulnerable category are Roma from Kosovo, who are in some cases returned to Kosovo, and in other cases to other parts of Serbia. Children from returnee families face numerous problems with regards to continuing their education: the lack of necessary documents, an expensive and time consuming certification process, not knowing the language and script, a different curriculum, as well as the novelty of poverty of their families that hinders their education. A large number of returnees is unemployed. Persons educated abroad need to have their degrees certified, otherwise the National Employment Agency will register them as uneducated. A certain percentage of Roma returnees also complained of racial discrimination in hiring procedures.

Social transfers are the only kind of income for many families. A number of returnees do not have health insurance, as they do not have the necessary personal documents, or cannot fulfil the necessary conditions for other reasons. They are not aware of the procedures to follow and the rights they have with regards to employment and health care. Housing conditions of returnees are to a great extent extremely substandard, primarily in the sense of lacking infrastructure, and also the temporary character of their shelter, due to living as tenants or with relatives. Many lack personal documents. Because of their situation, some wish to return to Western Europe, which mainly implies new illegal migrations. On the other hand, both national and local institutions noticeably lack information on the situation of Roma returnees, which is in some cases accompanied by a lack of interest in resolving returnees' problems. Within the Romani community itself, to some extent there is also a certain dose of lack of understanding for issues affecting returnees, often due to misconceptions about the returnees' financial status.

For these reasons, the Ecumenical Humanitarian Organization would like to recommend that the governments of the states returning Roma to Serbia under readmission agreements fully respect Recommendation 1633 of the Parliamentary Assembly of the Council of Europe, and to the competent authorities in Serbia we recommend the following measures:

- Without delay, provide the necessary financial and human resources for implementing the adopted National Action Plans in the framework of the Decade of Roma Inclusion, implement the plans in a efficacious and transparent manner including meaningful participation of the representatives of the Roma community, and proactively work on including Roma returnees among beneficiaries in NAP implementation.
- Also adopt the remaining draft action plans prepared in the framework of the Roma Decade, including the Draft Action Plan on Returnees.
- Establish a public institution that will deal with returnees' issues, with a mandatory participation of Roma community representatives.

- In addition to agreeing on how to deal with returnee issues on the national level, also adopt programmes on regional and local government levels, with adequate financing, and actively introduce public officials with the situation of returnees.
- Adopt the Draft Strategy for the Reintegration of Returnees under Readmission Agreements, and complement the document with concrete measures, responsible agencies, deadlines, and monitoring mechanisms.
- Improve cooperation with the states that return Roma and seek agreement on financial support for returnee reintegration programmes.
- Offer legal aid, including the assistance with obtaining personal documents, to all returnees who need it, and also simplify procedures for Roma returnees obtaining personal documents.
- Without exception, include all returnee children of school age into the educational system, and provide them with additional teaching assistance and support, particularly for Romani children who do not speak Serbian, with the engagement of Roma teaching assistants.
- Provide free education (including textbooks, other equipment, and meals) for returnee children from socially vulnerable Romani families.
- Simplify the procedures for certifying foreign educational certificates for Romani returnee children, and also provide financial assistance to those who cannot meet the high accompanying expenses.
- Provide employment to unemployed Roma returnees by the means of special programmes where they will be identified as a specially vulnerable category.
- Find temporary accommodation to those returnees who have no homes to return to.
- Identify Roma returnees as a particularly vulnerable group in all the activities aiming at the improvement of the situation of Roma and poverty eradication, and work in a coordinated manner for the solution of returnee issues.
- Enact all the recommendations of the UN Committee on Economic and Social Rights, particularly those relating to the situation of Roma returnees.

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## ANNEXES

### *Annex I: Tables*

**Table 1: Locations at which interviews were held**

<b>No.</b>	<b>Location</b>	<b>No. of persons interviewed</b>
1.	Belgrade (city area)	20
2.	Bujanovac	15
3.	Ćuprija	3
4.	Deronje	1
5.	Kikinda	18
6.	Kruševac	13
7.	Lajkovac	2
8.	Leskovac	4
9.	Mali Idoš	3
10.	Niš	5
11.	Novi Sad (city area)	30
12.	Prokuplje	15
13.	Sombor (municipality)	20
14.	Srbobran	1
15.	Subotica	2
16.	Trstenik	9
17.	Valjevo (municipality)	15
18.	Veternik	1
19.	Vladičin Han (municipality)	1
20.	Zemun	1
21.	Zrenjanin	11
<b>Total:</b>		<b>190</b>

**Table 2: Interviews with representatives of institutions**

<b>Institution</b>	<b>Location</b>
Centres for social work	Belgrade Bujanovac Kruševac Novi Sad Prokuplje
Centre for the Integration of Returnees	Belgrade
Readmission Office	Belgrade
Coordinator for Roma Issues	Prokuplje
Commissariat for Refugees and Displaced Persons	Kruševac
Local self-government	Belgrade Bujanovac Prokuplje Valjevo
National Employment Agency	Kikinda Novi Sad
Municipal Office for National Minority Issues	Kikinda
Organization for European Security and Cooperation (OSCE)	Belgrade
Primary schools	Bečej Kikinda Beočin Kruševac
Vojvodina Secretariat for Labour, Employment and Gender Equality	Novi Sad
Police	Kikinda
Roma media	Bujanovac
Schools for adult education	Novi Sad
Schools for primary and secondary education	Novi Sad
Kindergartens for Romani children	Belgrade
Health institutions	Zemun

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