

Report on Serbia

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Foreword

The European Commission against Racism and Intolerance (ECRI) was established by the Council of Europe. It is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members, who are appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

One of the pillars of ECRI's work programme is its country-by-country approach, whereby it analyses the situation as regards racism and intolerance in each of the member States of the Council of Europe and makes suggestions and proposals as to how to tackle the problems identified.

The country-by-country approach deals with all member States of the Council of Europe on an equal footing. The work is taking place in 4-5 year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998 and those of the second round at the end of the year 2002. Work on the third round reports started in January 2003. This third cycle includes for the first time the preparation of a report on the situation in Serbia as regards racism and intolerance.

The working methods for the preparation of the reports involve documentary analyses, a contact visit in the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidences. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on an important number of national and international written sources. The in situ visit allows for meeting directly the concerned circles (governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to propose, if they consider it necessary, amendments to the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final report of ECRI.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation as of 14 December 2007 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposals made by ECRI.

Executive summary

Serbia has taken a number of measures to combat racism and intolerance. It is a party to the Convention on the Elimination of All Forms of Racial Discrimination and to Protocol No. 12 to the European Convention on Human Rights which contains a general non-discrimination clause. In 2006 Serbia adopted a new Constitution which establishes the principles of non-discrimination and protection of minority rights and provides for the state to promote understanding, recognition of and respect for ethnic, cultural, linguistic and religious diversity. In 2006 Serbia also enacted a new Criminal Code which prohibits racist offences and racial discrimination. It has taken a number of measures to improve the situation of Roma, particularly in the area of access to health care, which are beginning to bear fruit. In 2004 an Ombudsman was appointed in the autonomous province of Vojvodina and he has a deputy who deals with the situation of national or ethnic minorities in the region. In June 2007, a national Ombudsman (Protector of Citizens) was elected and officially assumed his duties the following month. The National Assembly passed the Law on Asylum on 24 November 2007 and it will enter into force on 1 April 2008.

However, a number of measures remain to be taken. Although a bill on discrimination has been drafted, Serbia has not yet enacted exhaustive provisions against racial discrimination in the area of civil and administrative law. The Law on Churches and Religious Communities and its implementation do not allow all religious communities living in Serbia to fully enjoy their right to freedom of thought, conscience and religion enshrined in Article 9 of the European Convention on Human Rights. The Criminal Code is still too seldom applied to persons who commit racist offences against national or ethnic minorities, religious minorities or antisemitic offences. The situation of Roma, Ashkalis and Egyptians displaced inside the country remains precarious and steps must still be taken to provide them, inter alia, with the identity papers they need in order to exercise their rights such as the right to housing, education and employment. The steps taken by the authorities to improve the situation of Roma in general in several areas (access to health care, housing, education and employment) must be backed by more human and financial resources. Long-term measures are needed to establish a climate of mutual respect between the different ethnic and religious groups, especially those living in the autonomous province of Vojvodina.

In this report, ECRI recommends that the Serbian authorities amend the Law on Churches and Religious Communities to bring it more closely into line with international and European standards in this area. It also recommends that they ensure that the perpetrators of racist acts are brought to justice, and that they provide the judiciary with initial and on-going training in the legislation on the subject. ECRI recommends that the Serbian authorities provide the Office for Human and Minority Rights as well as the Ombudsman with the human and financial resources they need to perform their tasks. Concerning antisemitism, ECRI recommends that the Serbian authorities combat this phenomenon in all its forms. It also recommends that they adopt a legal framework for ethnic data collection in compliance with international and European standards in this area, notably so that they can measure the effectiveness of some measures taken to resolve the problems facing Roma. ECRI calls on the authorities to take steps to apprehend and punish the perpetrators of racist acts and acts committed against religious minorities in the autonomous province of Vojvodina and to conduct campaigns to promote tolerance in that region.

SECTION I: OVERVIEW OF THE SITUATION

International legal instruments

1. Serbia has ratified a number of international legal instruments of concern to ECRI. Since 12 March 2001 Serbia has been a party to the International Convention on the Elimination of All Forms of Racial Discrimination, and it has made the declaration under Article 14 of the Convention, recognising the competence of the Committee on the Elimination of Racial Discrimination to receive and examine complaints by individuals or groups of individuals. Since 12 March 2001 Serbia has been a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the UNESCO Convention against Discrimination in Education. Since 24 November 2000 Serbia has been a party to International Labour Organisation Convention 111 concerning Discrimination (Employment and Occupation). Since 3 April 2004 it has also been a party to the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights). ECRI welcomes the fact that since 3 April 2004 Serbia has been a party to Protocol No. 12 to the European Convention on Human Rights. Since 2001 Serbia has been a party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.
2. Serbia has been a party to the Framework Convention for the Protection of National Minorities since 1 September 2001 and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment since 3 March 2004. The Serbian authorities have informed ECRI that the Revised European Social Charter, which was signed on 3 April 2005, will be ratified before the end of 2007.
3. Serbia has not yet ratified the following instruments: the Convention on the Participation of Foreigners in Public Life at Local Level, the European Convention on Nationality and the European Convention on the Legal Status of Migrant Workers. Serbia has not yet ratified the Convention on Cybercrime and its additional protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. On 11 November 2004 it signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, but it has not yet ratified it.
4. ECRI encourages Serbia to ratify the Revised European Social Charter as soon as possible. It also recommends that Serbia ratify the Convention on the Participation of Foreigners in Public Life at Local Level, the European Convention on Nationality and the European Convention on the Legal Status of Migrant Workers.
5. ECRI recommends that Serbia ratify the Convention on Cybercrime and its additional protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Constitutional provisions and other basic provisions

- ***The Constitution***

6. The Serbian Constitution adopted by referendum on 29 October 2006 contains several provisions establishing the principles of equality and non-discrimination and protecting the rights of national minorities. Article 21 of the Constitution, which provides that everyone is equal before the law, thus prohibits all direct and indirect discrimination based on, inter alia, race, national origin, religion, culture or language. It also provides that any positive measures introduced by the state to achieve the full equality of individuals or groups of individuals who are in a substantially unequal position compared to other citizens shall not be deemed to be discrimination. Article 22 establishes for everyone the right to judicial protection when any of their human or national minority rights have been violated. Article 32 provides that everyone shall have the right to free assistance by an interpreter if they do not speak or understand the official language used in the courts. Article 36 protects the right to equality before the courts and other state bodies at both national and local level. Article 38 provides for the right to citizenship under the conditions prescribed by law.
7. Freedom of thought, conscience and religion is enshrined in Article 43 of the Constitution. Article 44 establishes the principle that the church is separate from the state and that all churches and religious communities are equal in the organisation of their internal structure, with regard to questions relating to their worship, in the performance of their rites, in the establishment and management of religious schools as well as social and charitable institutions. It also provides that the Constitutional Court may ban a religious community only if its activities infringe the right to life, the right to mental and physical well-being, the rights of the child, the right to personal and family integrity, they are against public order, or if they incite to religious, national or racial intolerance. Article 46 protects the right to freedom of thought and expression. These may only be restricted, inter alia, to protect the rights of others. Article 48 provides that the state shall promote understanding and recognition of and respect for ethnic, cultural, linguistic and religious diversity through measures implemented in education, culture and public information. Article 49 prohibits incitement to racial, ethnic or religious hatred and Article 50, which establishes freedom of the media, provides that the courts may ban the dissemination of information in order to prevent incitement to racial, ethnic or religious hatred, discrimination, hostility or violence. Article 57 establishes the right of asylum for anyone with a reasonable fear of persecution, inter alia, on account of their race, language, religion and national origin.
8. Chapter 3 of the Constitution (Articles 75 to 81) protects the rights of national minorities, including the right to non-discrimination (Article 76) and to an appropriate representation in public administration, which is provided for by Article 77. The Serbian authorities have informed ECRI that Article 77 2) of the Constitution provides that as concerns employment in state bodies, public services, bodies of autonomous provinces and local self-government units, the ethnic composition of the population and an appropriate representation of members of national minorities shall be taken into consideration. Article 81 provides that in the field of education, culture and information, the state shall encourage the spirit of tolerance and intercultural dialogue and shall take effective measures to promote mutual respect, understanding and co-operation among all people living in Serbia irrespective of their ethnic, cultural, linguistic and religious identity. The authorities have also informed ECRI that Article 180 4) of the Constitution requires that a proportional representation of national

minorities in assemblies be provided for, in accordance with the law, in autonomous provinces and local self-governments with a population of mixed nationalities.

9. While welcoming the above-mentioned provisions of the Constitution which mark an important step towards combating racism and racial discrimination in Serbia, ECRI considers that Article 1 may give rise to criticism. This article, which provides that the Republic of Serbia is the state of the Serbian people and all citizens who live in it, indirectly distinguishes between a native population, namely the Serbs, and other citizens. Concerning this Article, the Serbian authorities have stated that the Preamble of the Constitution provides that: "Considering the state tradition of the Serbian people and equality of all citizens and ethnic communities in Serbia, [...] the citizens of Serbia adopt the Constitution [...]". The authorities have indicated that they consider that the Constitution is to be interpreted in the spirit of the Preamble.
10. ECRI recommends that the Serbian authorities ensure that no legal consequences detrimental to the national or ethnic groups making up the population of Serbia arise in practice from Article 1 of the Constitution.

- ***Law on Churches and Religious Communities***

11. On 27 April 2006 Serbia enacted a Law on Churches and Religious Communities. This law, about which the Council of Europe, the OSCE and various international and national NGOs had expressed reservations prior to its adoption, raises a number of problems. The Serbian authorities have informed ECRI that seven so-called "traditional" churches and religious communities, namely the Serbian Orthodox Church, the Greek Orthodox Church, the Reformed (Calvinist) Church, the Roman Catholic Church, the Reformed (Lutheran) Christian Church, Judaism and Islam have been registered in accordance with this law. Other religions have also been registered. They are religions which according to the Serbian authorities are known in Europe: Adventists, Methodists, Baptists, Evangelists, New Protestants, Mormons and Nazarenes. This law provides that any religious community wishing to register must apply to the Ministry of Religion by submitting the signatures of at least 0.001% of the population of Serbia according to the latest census, as well as its statutes which must set out the basic tenets of its religious teaching and its activities. According to the latest census conducted in 2002, Serbia has approximately 7 500 000 inhabitants¹, which means that only 75 signatures should be enough. However, NGOs have informed ECRI that communities with fewer than 100 members cannot register. The authorities have confirmed this information and explained that the 2002 census did not take account of Kosovo and that in view of the results of the census and the estimated population of Kosovo, Serbia has 10 000 000 inhabitants, 0.001 % of which amounts to 100.
12. As indicated above, as a result of the enactment of this law, so-called "traditional" religions were registered, whereas other religious communities established in Serbia for several years have not been registered and have had to re-apply for registration. On this point, ECRI notes with concern that there are several consistent reports of arbitrary refusals to register certain communities. Although the Serbian authorities have stated that no religious communities are obliged to register, those that do not register have no legal status and cannot therefore pursue certain activities nor enjoy the rights arising from having legal status. They

¹. See "Monitoring the situation" below.

cannot, for example, open a bank account, own, purchase or sell immovable property or publish their literature. Concerning the registration of religious organisations, the Serbian authorities have stated to ECRI that the Law on Churches and Religious Communities grants the choice to religious communities to re-register or pursue their activities on the basis of their previous legal status and the rights provided for by the Constitution. The authorities consider that this law does not abolish the status and rights granted to religious communities by previous legislation in this area. However, no information was provided on the manner in which, in practice, this system functions and on religious organisations registered within this framework.

13. Jehovah's Witnesses have filed a case before the Supreme Court of Serbia because 60 days after they had lodged an application to register with the Ministry of Religion, no action had been taken on it. Article 20 of the Law on Churches and Religious Communities provides that if the ministry does not give a decision within 60 days (in accordance with Article 1 of the law), an application to register shall be considered to have been accepted. Yet this organisation has not been registered to date. Article 19 of the law also poses a problem because it provides that no religious community may be registered if its name is entirely or partially similar to that of another. A number of religious communities with similar names would therefore be obliged either to unite or to change their names in order to be able to register.
14. ECRI has been informed that the Serbian Baptist Union has filed a case before the Constitutional Court on the grounds that the Law on Churches and Religious Communities is unconstitutional. As indicated above, the Constitution includes provisions establishing religious equality and non-discrimination (Articles 21, 44 and 48). Article 194 of the Constitution also provides that all laws and other general acts enacted in Serbia must comply with the Constitution.
15. Although some of the recommendations made by the Council of Europe and the OSCE before the Law on Churches and Religious Communities was passed have been taken into account, the two organisations expressed their concern in a joint communiqué dated 25 April 2006 about certain provisions which appear to be inconsistent with the standards they have established, particularly the European Convention on Human Rights. These organisations therefore noted that the law will not contribute in the best way to the implementation of Serbia's commitments to promote freedom of religion and belief, or to positive relations and co-operation among religious communities in the country. On this point, NGOs have informed ECRI that religious minorities currently encounter a negative climate and that their members are often attacked and their places of worship damaged.²
16. ECRI urges the Serbian authorities to amend the Law on Churches and Religious Communities to bring it fully into line with international and European standards on the right to freedom of thought, conscience and religion. It strongly recommends on this point that they take account, amongst others, of the comments made by international organisations and NGOs which were not taken into account when the law was enacted. In the meantime, it strongly recommends that they avoid applying this law in an arbitrary fashion.

² For further information on the subject, see "Vulnerable groups" below.

- **Law on the Restitution of Property to Churches and Religious Communities**

17. ECRI welcomes the enactment in 2006 of a Law on the Restitution of Property to Churches and Religious Communities. This law provides for the restitution of property confiscated from them by the State after 1945. It provides for them to be granted the title deeds, or if this proves impossible, another form of compensation (financial, for example). These communities have until 30 September 2008 to lodge their request for restitution with the Denationalisation Department. The authorities have informed ECRI that this agency will restore property to all churches and religious communities which can prove that it was confiscated from them. They have also informed ECRI that property confiscated from religious groups will be returned to them regardless of the period in which the law or other regulation under which the religious organisation acquired its legal status were passed. However, it would seem that those which are not registered under the above-mentioned Law on Churches and Religious Communities will not be able to obtain the restitution of their property. Their situation is all the more complicated because they cannot register under other arrangements, for instance as a citizens' association. Registering them in this way would moreover be inconsistent with the principle of equality between religions embodied, as indicated above, in the Constitution. The situation of the Jewish community, most of whose property was seized before 1945, during the Second World War, is likewise unclear. It would seem that representatives of this community have received assurances from the authorities that their property seized during this period will be restored to them. However, ECRI has no information on the arrangements for such restitution.³
18. ECRI strongly recommends that the Serbian authorities ensure that all religious communities enjoy the right to restitution of their nationalised property, without any distinction whatsoever and irrespective of the date at which they were deprived of their property.

Criminal law provisions

19. ECRI welcomes Serbia's enactment in 2006 of a new Criminal Code containing several provisions prohibiting racist offences and racial discrimination. Article 128 of the Code prohibits any violation of the rights of others, on among other grounds, national or ethnic origin, race, religion or language. Article 129 prohibits the violation of citizens' right to use their mother tongue or alphabet in their relations with the public authorities. Article 130 punishes whoever prevents others from expressing their national or ethnic identity or culture or compels others to declare them. Article 131 prohibits any violation of freedom of religion. Article 174 prohibits persons from ridiculing a nation or a national or ethnic group living in Serbia. Article 317 forbids incitement to national, racial and religious hatred and intolerance. Article 387 prohibits discrimination on among other grounds race, colour or national or ethnic origin. This article also forbids the persecution of organisations or individuals on account of their commitment to promoting equality between peoples, and prohibits the propagation of ideas of racial superiority, intolerance as well as incitement to racial discrimination. The Criminal Code also provides for the racist motivation of a crime to be taken into consideration as an aggravating circumstance at sentencing. The authorities have informed ECRI that some racially motivated offences can also be prosecuted as misdemeanours.

³ For further information on the situation of the Jewish community, see "Antisemitism" below.

20. The Serbian courts have given a number of judgments in cases of racial discrimination and racism which are beginning to establish some case law in the matter. In 2004 the Supreme Court thus upheld the conviction of a swimming-pool owner who had denied access to it to four Roma. In July 2006 the Belgrade district court also upheld a first-instance judgment ordering the Serbian state to pay 485 000 dinars (6 356 euros) to a Roma who had been the victim of police misconduct with racist motives. However, the Criminal Code provisions prohibiting racist offences and racial discrimination are still all too seldom applied. For example, none of the twenty or so antisemitism cases brought before the courts have resulted in a conviction. ECRI also notes a certain reluctance on the part of the police to conduct investigations⁴ and on the part of the prosecuting authorities to initiate legal proceedings, despite the many racist attacks against national or ethnic minorities and religious minorities counted in recent years.⁵ To date, most of the cases brought before the courts for racists acts or acts of racial discrimination have been brought by NGOs as civil parties because the prosecuting authorities often take no action. NGOs have explained to ECRI, however, that they can only bring legal proceedings if they represent a particular victim. They cannot therefore do it on their own initiative. They also deplore the fact that the small number of cases brought to court against persons suspected of committing racist or antisemitic acts helps to generate a certain feeling of impunity. The Serbian authorities have provided to ECRI statistics gathered on racist crimes in 2006 and in the first three months of 2007. According to these statistics, in 2006, 93 criminal prosecutions were brought primarily for incitement to national or racial hatred or for incitement to religious intolerance or hatred, and for destruction or damage to another's property. 45 crimes were solved, 33 persons were arrested and 9 were deprived of their liberty. However, ECRI has no information on the sentences meted out to those found guilty.
21. ECRI strongly recommends that the Serbian authorities ensure that the perpetrators of racist and antisemitic acts are brought to justice in order to combat any impunity in this area. As regards the role of NGOs in the process, ECRI draws the Serbian authorities' attention to paragraph 25 of its General Policy Recommendation No. 7 in which it advocates that organisations such as associations, trade unions and other legal entities which have, according to the national legislation, a legitimate interest in combating racism and racial discrimination are entitled to bring civil cases, intervene in administrative cases or make criminal complaints, even if a specific victim is not referred to.

Civil and administrative law provisions

22. There is no single law in Serbia prohibiting racial discrimination in areas such as education, employment or access to public places. There are twenty or so texts, including laws, which cover these subjects. For example, Articles 8 and 12 of the Labour Law prohibit discrimination in access to employment and in the workplace. However, it appears that this law does not prohibit racist harassment at work. Article 218 of the Law on Employment and Unemployment Insurance provides for compensation in the event of discrimination for racist motives, among others.
23. Given the current gaps in Serbia's legislation, ECRI notes with satisfaction that a draft law against discrimination has recently been drawn up. ECRI has not been able to analyse it in depth, but it has noted that it contains definitions of direct and

⁴ For further information on the police, see "Conduct of law enforcement officials" below.

⁵ For more information, see "Vulnerable groups" and "Specific issues" below.

indirect discrimination, that it provides for the setting up of a commission for the protection of equality and establishes the composition and working methods of this body.

24. ECRI recommends that the Serbian authorities draw inspiration from the guidelines established in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination in order to finalise and enact as soon as possible an exhaustive and precise legislation which prohibits racial discrimination, by ensuring that areas such as education, access to housing, to public services and to public places as well as contractual relationships between individuals are covered. ECRI draws the Serbian authorities' attention to the sections of General Policy Recommendation No. 7 which deal with civil and administrative law provisions.

Administration of justice

25. As indicated above⁶, given that few cases of racism and racial discrimination brought before the courts result in convictions, the judiciary needs to have more in-depth knowledge of these problems. ECRI has been informed that judges do not receive formal training before taking office. However, a number of steps have been taken in recent years to provide them with training in human rights and in the European Convention on Human Rights. NGOs consider that a programme conducted from 2005 to 2007, in which twenty legal specialists trained others in this convention, was a success. The Judicial Training Centre was set up in 2002. Since then it has provided about 2,000 judges with training in the European Convention on Human Rights and other international instruments concerning the protection of human rights, with the aid, amongst others, of the Council of Europe and several NGOs. NGOs have informed ECRI that fewer prosecutors have taken part in the courses. They consider, however, that prosecutors need to have better knowledge of human rights issues. ECRI has also been informed that there are as yet few judges from minority backgrounds and that no steps appear to have been taken to recruit more of them.
26. ECRI recommends that the Serbian authorities ensure that the entire judiciary receive initial and on-going training in the problems of racism and racial discrimination. It also recommends that they promote greater diversity among the judiciary by taking steps to ensure the recruitment of persons from national or ethnic minority backgrounds.

Specialised bodies and other institutions

- Office for Human and Minority Rights

27. After the dissolution of the Republic of Serbia-Montenegro, the Office for Human and Minority Rights (the Office) was set up in June 2006 to replace the ministry formerly in charge of these issues. The decision to keep a state body in charge of human and minority rights indicates that the Serbian state is committed to continuing to address these issues. The Office has informed ECRI that it performs technical tasks relating, inter alia, to the protection and promotion of human and minority rights, to participating in the drafting of legislation on the subject, to monitoring the compatibility of this legislation with international standards, to the status of minorities and the exercise of their rights. The Office has sections and divisions dealing with minorities, including a section which is

⁶ See "Criminal law provisions" above.

specifically responsible for Roma issues⁷. The Serbian authorities have informed ECRI that this Office is a special service within the Government. Better co-operation between the Office and NGOs would nevertheless help to make it more effective. Although the authorities have provided a list of its tasks, clarifications as concerns its legal powers also seems necessary and NGOs have deplored the fact that the general public knows little about the Office's position and capacities and that this body does not always have a positive attitude towards them. On this point, the Special Representative of the Secretary General of the United Nations on the situation of human rights defenders noted, following a visit to Serbia in September 2007, that the Office did not appear to have the necessary powers and resources to play a leading role in protecting human rights and to support the work of NGOs and civil society in this area. The Special Representative also expressed concern at the hostility encountered by human rights defenders from certain state bodies, which seems to be linked to their work on transitional justice and minority rights.⁸ The Special Representative therefore recommended that the Serbian authorities take practical steps, amongst others, to confer political recognition and legitimacy on human rights defenders and their work and that they institutionalise the process of co-operation and consultation with them.

28. ECRI recommends that the Serbian authorities clarify the status of the Office for Human and Minority Rights and improve its capacity to accomplish its tasks by granting it the necessary human and financial resources to that end. It also recommends that they promote better co-operation between the Office and NGOs and civil society in the protection of human rights in general and the protection of minority rights and combating racial discrimination in particular, by taking account, inter alia, of the recommendations made on the subject by the Special Representative of the Secretary General of the United Nations on the situation of human rights defenders.

- ***Protector of Citizens (Ombudsman)***

29. ECRI welcomes the enactment in 2005 of the Law on the Protector of Citizens (Ombudsman). This law provides for the Ombudsman to be elected by the parliament. It provides that he is assigned the task of protecting all individuals and legal entities, whether nationals of Serbia or not, before all public service bodies and those to which the latter have delegated their powers. The Ombudsman is also empowered to initiate disciplinary proceedings against civil servants and to bring cases to court. He may therefore either respond to complaints or deal with cases on his own initiative. People can apply to the Ombudsman verbally or in writing and he has indicated that he intends to conduct field visits to meet complainants. He is empowered to propose new laws as well as amendments to existing legislation. The Law on the Protector of Citizens provides for him to open offices elsewhere than in Belgrade. Furthermore, the Law on Local Self-Government provides for ombudsmen at municipal and provincial level. The autonomous province of Vojvodina⁹ has one, for example, as well as 10 other municipalities and the city of Belgrade. The Ombudsman informed ECRI that he considered it more useful to co-operate with his peers working at local level and that he had already reached an agreement with the

⁷ See "Specific issues" below.

⁸ <http://www.unhchr.ch/hurricane/hurricane.nsf/view01/D55AC665B10958A9C1257361>.

⁹ For further information on the Ombudsman of the autonomous province of Vojvodina, see "Specific issues" below.

Vojvodina Ombudsman as well as with those of other municipalities, including Belgrade, on the subject.

30. The 2005 Law on the Protector of Citizens provided for him to be appointed six months after its entry into force. However, he was not appointed until July 2007 and does not yet have premises of his own. The Ombudsman has not yet recruited all his staff either. He informed ECRI that his office is to have 63 staff members and four deputies. At a press conference at which he explained his strategy, the Ombudsman said that one of his priorities would be to combat discrimination and to ensure that all citizens have equal access to the institution. The authorities have informed ECRI that his four deputies are expected to be elected by Parliament at the beginning of 2008 and that they will be specialised in issues concerning national minorities. The Ombudsman has informed ECRI that combating discrimination will also be part of their tasks.
31. ECRI recommends that the Serbian authorities ensure that the Ombudsman's office is operational as soon as possible by providing it with the necessary resources as well as premises of its own, and by ensuring that his deputies are elected as soon as possible. It also recommends that they ensure that he has sufficient resources to deal with issues relating to racial discrimination and the rights of national or ethnic minorities, to enable him to be present at local level and to co-operate with regional ombudsmen.

Education and awareness-raising

32. ECRI notes with interest that the Law on the Foundations of the Education System enacted in 2003 and amended in 2004 includes provisions on combating racism and racial discrimination. This law provides that the aims of education include the development of tolerance and respect for each others' rights and freedoms as well as learning skills for the development of a tolerant society. It also establishes the right to education without discrimination based on, amongst others, race, religion and national or ethnic origin, and requires teachers to comply with its general aims, failing which there will be penalties. The Serbian authorities have informed ECRI that persons currently training to be teachers are, *inter alia*, required to pass an examination on this law and that the article on general aims is distributed at teachers' colloquies. ECRI welcomes the decision to train future teachers in the provisions of this law. However, such training is needed for all teaching staff, in view, *inter alia*, of the problems encountered, for example, by Roma children in the school system.¹⁰
33. ECRI recommends that the Serbian authorities provide all teaching staff with initial and on-going training in the provisions of the Law on the Foundations of the Education System as well as in issues concerning the fight against racism and racial discrimination. On this point, it wishes to draw their attention to its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.
34. A regulation issued in 2001 provides that upper secondary school pupils as well as first to sixth grade pupils are required to take a course in either religion or civics. The Serbian authorities have explained to ECRI that the civics class includes the following subjects: 1. tolerance in debates; 2. learning how to solve problems peacefully; 3. the rights included in the Convention on the Rights of the Child and, 4. the different forms of communication. In secondary school, pupils are also taught about the Convention on the Rights of the Child, mechanisms for

¹⁰ For further information on the subject, see "Specific issues" below.

the protection of human rights as well as the activities of non-governmental organisations. On this point, the authorities said they planned to take steps to provide more in-depth teacher training. They said that the religion course took the form of catechism for the seven “traditional” religions.¹¹ They also explained that religious tolerance was taught. Approximately the same numbers of children chose the catechism and the civics course. However, although the authorities informed ECRI that other courses such as history also include elements of human rights education, pupils who opt for catechism do not receive civics classes. The Serbian authorities have also indicated to ECRI that in primary and secondary school issues pertaining to, amongst others, antisemitism and the Holocaust are taught.

35. ECRI recommends that the Serbian authorities ensure that all pupils receive a course in civics. On this point, it draws their attention to Chapter II, paragraph 2 a) of its General Policy Recommendation No. 10, in which it recommends that human rights education be an integral part of the school curriculum at all levels and across all disciplines.

Reception and status of non-citizens

- *Legislation on asylum seekers and refugees*

36. As indicated above, Serbia is a party to the 1951 Convention Relating to the Status of Refugees and to its 1967 Protocol. However, the legal framework for asylum seekers and refugees is governed by the 1980 Law on the Movements and Residence of Foreigners, which is regarded as out-of-date and inapplicable, and the 1992 Law on Refugees which recognises only those from the countries of the former Yugoslavia. In view of this legal vacuum, ECRI welcomes the passing of the Law on Asylum, on 24 November 2007. However, it hopes that the new law repeals the 1992 law so that two different categories of refugees are not created. ECRI also hopes that the authorities drafted this law in cooperation with NGOs and other civil society actors specialising in these issues.
37. At present, the Office of the United Nations High Commissioner for Refugees (UNHCR) is responsible for examining asylum applications under an agreement with the Serbian authorities. According to the UNHCR’s statistics, it received 44 asylum applications in 2006, more than half of which were lodged by Iraqis, while the other applicants were from countries such as Egypt, Moldova, India and Ghana. It takes a maximum of about a month to consider an asylum application. Once an application has been accepted, in most cases the UNHCR seeks a resettlement country, which takes an average of six months. As there was, at the time of writing, no legislative framework granting rights to refugees which would enable them to integrate into Serbian society, they cannot work and only have access to health care and to schooling for their children on the basis of agreements reached by the UNHCR with the appropriate authorities. The UNHCR also rents a block of flats in which asylum seekers and refugees are accommodated until respectively the procedure concerning their status is finalised or their resettlement in a third country is accomplished.
38. ECRI strongly recommends that the Serbian authorities ensure that the Law on Asylum does not create different categories of refugees. It also recommends that they ensure that this law complies with their international obligations and Article 57 of the Constitution which concerns the right to asylum.

¹¹ See “Constitutional provisions and other basic provisions” above.

39. The UNHCR has opened an office at Belgrade airport and arranged training for the border police so that they will direct asylum seekers to this organisation. On this point, persons who come to the border without identity papers are sometimes placed in detention in the wing of a prison for minor offenders. The UNHCR has access to this wing and can interview persons placed in detention there. However, apart from this initiative of the UNHCR, border guards and immigration staff do not appear to receive training in the international standards governing the protection of asylum seekers and refugees.
40. ECRI recommends that the Serbian authorities ensure that the border police as well as all immigration staff receive initial and on-going training in issues relating to asylum seekers and refugees, as well as in combating racism and racial discrimination.

Vulnerable groups

- *Situation of Roma, Ashkalis and Egyptians displaced inside the country*

41. There are also approximately 98,500 refugees in Serbia due to the conflicts which occurred in the former Yugoslavia¹². The Serbian authorities have informed ECRI that there are approximately 207,000 internally displaced persons in Serbia who come from Kosovo. According to the authorities, 75% of internally displaced persons are Serbs, the rest being made up of 31 different ethnic or national groups, including 11% of Roma, Ashkalis and Egyptians, i.e. 23 000 people. The authorities have explained that steps were taken to help displaced persons in 2006, with the aid of the UNHCR and the European Union. A block of 16 flats was built, and three flats were allocated to Roma, Ashkalis and Egyptians. These groups are in a particularly difficult situation, largely because they lack identity papers. This prevents them from finding decent housing, employment and schooling for their children. Furthermore, owing to their lack of identity papers, it is difficult to establish exactly how many of them there are. On this point, the UNHCR and various NGOs have set up mobile teams to enable Roma, Ashkalis and Egyptians to obtain these papers. Roma, Ashkalis and Egyptians are also subjected to prejudice and discrimination, which aggravates the precariousness of their situation. ECRI regrets that the authorities appear to have taken few measures specifically designed for this population group. The authorities have indicated that the Roma National Strategy Secretariat within the Office for Human and Minority Rights is currently updating the draft Strategy for the Integration and Empowerment of Roma as well as its Action Plans which should be adopted in March 2008. The draft Action Plan on internally displaced Roma, Ashkalis and Egyptians has established, amongst other goals, assistance in obtaining the necessary documentation, access to accommodation, employment and education. However, ECRI has no information on the modalities for the implementation of this plan, notably in terms of budget and deadlines.
42. ECRI recommends that the Serbian authorities pay special attention to the situation of internally displaced Roma, Ashkalis and Egyptians by ensuring, inter alia, that they receive identity papers. It also recommends that they take steps to improve their situation regarding access to housing, education and employment and to combat the prejudice and discrimination they face.

¹² See, Situation of longstanding refugees and displaced persons in South East Europe, Report, Committee on Migration, Refugees and Population, Rapporteur : Mr Nikolaos DENDIAS, Greece, Group of European's People Party, Doc. 11289 rev., 24 May 2007, paragraph 50

- **Albanian minority**

43. ECRI notes with concern reports according to which the situation of the Albanian minority in Serbia is difficult. This is especially the case in the regions of Preševo, Bujanovac and Medveđa (in the south of the country) where this minority suffers from discrimination in areas such as access to education and the civil service, particularly the police and the judiciary.
44. ECRI strongly recommends that the Serbian authorities take measures to combat all discrimination suffered by members of the Albanian minority in Serbia, and that they pay particular attention to their situation in the regions of Preševo, Bujanovac and Medveđa.

- **Religious minorities**

45. ECRI is concerned to note that, as indicated in other parts of the report,¹³ there is a climate of hostility against religious minorities. This climate is partly created by certain media outlets and politicians. Members of these groups are also attacked, sometimes by members of neo-Nazi or far-right groups, and their places of worship are vandalised and/or deliberately set on fire. Despite a decrease in the number of these attacks over the past few years, NGOs, some of which have counted between 100 and 150 attacks per year, note that they have become more violent. Religious communities appear reluctant to report these attacks or talk about them publicly. This might be because the police and the judicial apparatus do not always respond appropriately to this problem. Religious communities deplore the fact that few persons are brought to justice for perpetrating these acts and that those found guilty are often only sentenced to a fine.
46. By differentiating between the various religious groups, the Law on Churches and Religious Communities¹⁴ has also helped to create a negative climate against so-called “non-traditional” religious communities such as Jehovah’s Witnesses and certain evangelical groups. Some representatives of the Serbian Orthodox Church, which plays an important part in the country’s social and political life, play a part in fuelling hostility against these groups, some of which have settled in Serbia fairly recently. Representatives of the Serbian Orthodox Church sometimes call these groups “sects” and accuse their members of being followers of “Satanism”. A number of media outlets and politicians then repeat these terms. NGOs have noted a correlation between the rise in hostility against religious minorities and statements of this type. Although the principle that the church is separate from the state is enshrined in Article 44 of the Constitution, the Serbian Orthodox Church is very much involved in the social and political arenas in Serbia, as indicated above. ECRI has been informed that, for example, a priest of this church is a member of the government agency responsible for authorising the broadcasting of audiovisual programmes. The dominant position of the Serbian Orthodox Church therefore leaves little room for accepting the idea of a multi-faith society.
47. ECRI recommends that the Serbian authorities combat all religious intolerance, in compliance with Articles 48 and 81 of the Constitution. It recommends in this regard that they ensure that the Criminal Code is applied in respect of persons who commit hate crimes against members of religious minorities and their

¹³. See “Criminal law provisions”, “Administration of justice”, “Climate of opinion” and “Media”.

¹⁴. See “Constitutional provisions and other basic provisions” above.

property. ECRI also recommends that the Serbian authorities assert the principle of the separation of the state and the church more forcefully and promote a society in which everyone fully enjoys freedom of thought, conscience and religion as enshrined in Article 9 of the European Convention on Human Rights. It recommends to that end that they carry out awareness-raising campaigns designed to promote the idea of a multi-faith society.

Antisemitism

48. Although the 2002 census puts the number of Jews in Serbia at about 1,600, representatives of this community have informed ECRI that according to their estimates there are about 3,300 Jewish people in the country. Most of them live in Belgrade. In 2005, as a result of successful negotiations with the audiovisual authorities, the Jewish community obtained a time-slot to present the Jewish religion and culture during religious festivals. However, ECRI is concerned to note the existence of antisemitism which is expressed in the widespread and unencumbered sale of antisemitic books and other publications as well as in acts of vandalism including the desecration of graves and graffiti on the walls of synagogues and Jewish monuments. As indicated earlier, the judicial authorities have not as yet taken the necessary steps to punish the perpetrators of these acts.¹⁵ In 2005 representatives of the Jewish community invited thirty or so journalists to a press conference organised to speak to them about the rise of antisemitism. Although some press articles subsequently appeared, on a political level, few measures have been taken. For example, although the authorities express their sympathy to members of the Jewish community when antisemitic acts are committed, they do not publicly condemn those acts. The ambiguous role of some members of the Serbian Orthodox Church also helps to maintain antisemitism in Serbia. On the one hand, some of its representatives condemn antisemitic acts, but on the other hand, the church has, for example, canonised an archbishop who published several antisemitic books. Furthermore, far-right organisations which are sometimes openly antisemitic, seem to have close ties with some representatives of the Serbian Orthodox Church. A further problem facing the Jewish community is that it is not expressly prohibited to deny the fact of the Holocaust. Yet Holocaust denial is often visible in antisemitic literature, which is not banned either, as stated above.
49. ECRI strongly recommends that the Serbian authorities combat all forms of antisemitism by applying the legislation in force. It also recommends that in compliance with its General Policy Recommendation No. 9 on the fight against antisemitism, they criminalise the public denial, trivialisation, justification or condoning of the Holocaust as well as the public dissemination or public distribution, production or storage aimed at public dissemination or public distribution of written, pictorial or other antisemitic material.

Media

50. A few positive developments are to be noted in the media sector since the democratisation process got under way in Serbia. For example, the Association of Serbian Journalists and the Association of Independent Serbian Journalists have both adopted a code of professional ethics which bans discrimination among other things. The Law on Public Information provides that the media must develop a spirit of multicultural dialogue, prevent hate speech and allow everyone living in Serbia to receive and transmit information in the media. The

¹⁵. See "Administration of justice" above.

Broadcasting Agency (a state body) has drawn up rules on the subject for the public broadcasting sector. ECRI has been informed that the agency takes steps when the rules are breached. NGOs also welcome the emergence of local media as a step forward because the public television corporation has set up channels in regions inhabited by national or ethnic minorities in which news in their languages is broadcast. However, the development of democracy has also resulted in the proliferation of tabloid press which often publishes negative articles on, amongst others, national or ethnic minorities and religious minorities. ECRI has been informed that a number of more serious media also spread ideas of this kind, which helps to generate a negative climate against those minorities.¹⁶ On this point, Serbia does not yet have an independent body responsible for receiving complaints against the media and for imposing penalties on journalists who breach the legislation on incitement to racial hatred. ECRI has been informed that the Association of Independent Serbian Journalists provides training for its members, but it does not know whether this covers issues concerning racism and racial discrimination.

51. ECRI recommends that the Serbian authorities ensure that the legislation against hate speech is applied to journalists who infringe it. It also recommends that they encourage any media initiatives to provide their peers with training in this legislation as well as in national and international standards governing the elimination of racial discrimination and the fight against racism. ECRI recommends that the Serbian authorities encourage the setting up of an independent agency responsible for ensuring that the media comply with the legislation and the principles of professional ethics as well as for examining complaints brought against them. It also recommends that they promote greater diversity in the information sector by taking steps to ensure that journalists from national or ethnic minority backgrounds are trained and recruited.

Climate of opinion

52. There is currently a certain climate of hostility in Serbia against national or ethnic minorities, including Roma, as well as religious groups which is fuelled by a number of media outlets and politicians. Far-right groups also help to generate negative feelings towards these communities and towards NGOs and civil society organisations which defend their rights. These groups, some of which regard the wanted war criminals Radovan Karadžić and Ratko Mladić as heroes, are particularly active in Vojvodina.¹⁷ On 7 October 2007 one of these groups had planned to hold a racist demonstration in Novi Sad. The authorities banned it only after several protests from national and international organisations. Despite the ban, these groups attacked a number of persons who held an anti-racist demonstration that day, some of whom were allegedly hospitalised as a result. These groups held their demonstrations despite the ban. In a statement issued on 8 October 2007, the organisers of the anti-racist demonstration said that the police had not protected them. ECRI notes the police's statement that an investigating judge had questioned 15 members of these extremist groups and that the others would be questioned by the police in Novi Sad. However, NGOs condemn a certain tendency on the authorities' part to downplay this climate of intolerance against national or ethnic minorities and religious minorities and the fact that they have taken few steps to remedy it.

¹⁶ For further information on the situation of national or ethnic minorities and religious minorities, and on the climate of opinion, see below "Vulnerable groups", "Climate of opinion" and "Specific issues", respectively.

¹⁷ For further information on the situation in Vojvodina, see "Specific issues" below.

53. ECRI recommends that the Serbian authorities recognise the seriousness of the problem with regard to the climate of opinion concerning national or ethnic minorities and religious minorities and that they take adequate measures to address this problem. It also recommends that the Serbian authorities promote mutual tolerance and a multicultural society as provided for by Article 81 of the Constitution. To do so, it recommends that they organise awareness campaigns about combating racism and intolerance throughout the country with the aid of NGOs and civil society members specialising in these issues.

Conduct of law enforcement officials

54. The Serbian authorities have informed ECRI that police officers are required to comply with a code of professional ethics which obliges them to do their jobs impartially, irrespective of the person's nationality, ethnic origin, race and language, and in a spirit of full respect for human dignity. They have also informed ECRI that since March 2004, following a decree by the Ministry of the Interior, the police have taken steps to curb, amongst others, offences committed against national or ethnic minorities. However, as indicated in other parts of this report, NGOs continue to note that persons who commit racist offences or offences against religious minorities still all too often enjoy a degree of impunity.¹⁸ Moreover, although there are some Roma in senior posts in the police, relations between the Roma community and law enforcement agencies remain difficult because members of this group are sometimes the victims of police misconduct and of racism on the part of the police.¹⁹ On this point, in April 2007 the Police Inspectorate lodged a complaint under Article 317-2 of the Criminal Code against a police officer in Vrbas for committing racist acts against a Roma. According to the authorities, the case was referred to the Novi Sad municipal prosecutor. However, ECRI has not been able to obtain information on the action taken on this complaint. Concerning the Police Inspectorate, it was set up in 2003 and its powers include the right to conduct investigations, lodge complaints as well as initiate disciplinary proceedings. It can receive complaints from both individuals and other state bodies. The authorities have informed ECRI that under the 2005 Law on the Police, complaints lodged by individuals against the police must be investigated under a special procedure involving a representative of the public appointed by the Minister of the Interior following a recommendation by NGOs. However, ECRI has no information on the setting up of this mechanism or on the financial and human resources allocated to the Police Inspectorate to enable it to do its work.
55. ECRI recommends that the Serbian authorities ensure that the police apprehend the perpetrators of racist crimes and offences against national or ethnic minorities and religious minorities. It recommends in this regard that they take account of its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, in which it calls, in Chapter III, on the member states to establish and operate a system for monitoring racist offences and to encourage victims and witnesses of racist acts to report them. It recommends, in line with paragraph 10 of this General Policy Recommendation, that the Serbian authorities provide for a body, independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially motivated misconduct by the police. It also recommends that they provide the Police Inspectorate with the human and financial resources it needs to perform its task properly.

¹⁸. See "Criminal law provisions", "Climate of opinion", "Vulnerable groups" and "Specific issues".

¹⁹. For further information, see "Specific issues" below.

56. As regards human rights training, the Serbian authorities have informed ECRI that round tables for the training of the police force have been arranged, with the aid of the OSCE, to discuss issues of importance to national or ethnic minorities. It is also planned to hold a training course at the end of 2007 for officers working at local level with a view to establishing communication with representatives of these groups. Thereafter, an officer in charge of co-operation and direct contact with the representatives of national or ethnic minorities will be appointed in each police department. However, the police do not appear to receive initial or on-going training in issues concerning racism and racial discrimination.
57. ECRI recommends that the Serbian authorities ensure that, as advocated in its General Policy Recommendation No. 11, the police are trained in human rights and in issues concerning racism and racial discrimination. It also recommends that they train the police to work in a multicultural society.
58. The Serbian authorities have informed ECRI that 3.6% of police officers are from national or ethnic minority backgrounds. As indicated earlier, they have also explained that some senior posts in the police are held by Roma, but the latter account for only 0.10% of police officers. As according to the 2002 census, minority groups account for about 17% of the population,²⁰ the police force does not yet reflect the diversity of Serbian society.
59. ECRI recommends that the Serbian authorities promote the recruitment of more persons from national or ethnic minority backgrounds to the police and ensure that they have equal opportunities in their career development, as advocated in ECRI's General Policy Recommendation No. 11.

Monitoring the situation

60. According to Serbia's latest official census conducted in 2002, the ethnic composition of the country is as follows: the population of 7 498 001 comprises 6 212 838 Serbs (82.86%); 293 299 Hungarians (3.91%); 136 087 Bosniaks (1.82%); 108 193 Roma (1.44%); and 80 721 Yugoslavs (1.08%). The other groups who are Albanians, Bulgarians, Bunjevacs, Croats, Czechs, Germans, Gorani, Macedonians, Montenegrins, Muslims, Romanians, Russians, Ruthenians, Slovaks, Slovenes, Ukrainians, Vlachs and groups referred to in the census as "others" number 472 163 people (6,29%). Each of these groups represents less than 1% of the population.
61. Although a new law is being drafted on the subject, issues relating to ethnic data collection are regulated by the Federal Law on Personal Data Protection enacted in 1998 at the time of the Federal Republic of Yugoslavia. Article 18 of the law provides that personal data on racial origin, national identity or religious or other beliefs may be collected, processed and published only with the written consent of the person concerned. ECRI notes that the Commissioner for Information of Public Importance, an independent body whose tasks include receiving complaints on the application of the Federal Law on Personal Data Protection, was set up in 2004 under the Law on Free Access to Information of Public Importance.
62. As there is no legislation on the classifying or confidentiality of personal data, the Commissioner's office considers and NGOs confirm that the requirements for introducing a policy on ethnic data collection are not yet fulfilled. Enacting legislation on ethnic data collection is therefore of cardinal importance, especially

²⁰ See "Monitoring the situation" below.

as a number of positive measures adopted by the authorities, notably to improve Roma's situation²¹, can be of maximum benefit only if these persons can declare their identity in full compliance with international principles in the matter and if the necessary data is collected to measure the effectiveness of these measures and alter them if necessary. Moreover, on 6 September 2005, Serbia ratified the 1981 Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, which Article 4 provides that the state parties must enact the necessary legislation to give effect to the basic principles of data protection set out in it.

63. ECRI strongly recommends that the Serbian authorities enact legislation on ethnic data collection, as soon as possible, which complies with all international and European regulations and recommendations, including the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. ECRI asks the Serbian authorities to ensure that in all cases this data is collected in absolute compliance with the principles of confidentiality, informed consent and voluntary self-identification by the individual of his/her belonging to a particular group. In addition, the system for collecting data on racism and racial discrimination should take account of the gender equality dimension, especially in view of the possibility of double or multiple discrimination.

Kosovo

64. As this report is addressed to the Serbian authorities, ECRI does not examine the situation in Kosovo since this region is not under their control (see Resolution 1244 (1999) passed by the United Nations Security Council at its 4011th session on 10 June 1999). As part of its work, ECRI nevertheless wishes to express its concern, in general terms, at reports of a situation of interethnic tensions in Kosovo. ECRI is also concerned at reports of discrimination between the different groups living in this region in access to health care, education and other services.

SECTION II: SPECIFIC ISSUES

Situation of Roma

- Identity documents

65. The census carried out in 2002²² found that there were some 107,000 Roma living in Serbia, although Roma organisations put the number at between 450,000 and 500,000. Many Roma, including those who have been internally displaced²³, those living in rural communities, those who were born in other countries of the former Yugoslavia and those who have returned after living for several years in western Europe, are being deprived of their rights as they do not have identity documents. According to Roma organisations, the fact that Roma live in places which are not registered by the authorities is one of the main reasons why they have difficulties in obtaining identity documents. The Serbian authorities have informed ECRI that the Roma National Strategy Secretariat will participate in the implementation of a project prepared by the UNHCR which will, inter alia, assist Roma, Ashkalis and Egyptians in obtaining personal documentation.

²¹ For further information on the situation of Roma, see "Specific issues" below.

²² See "Monitoring the situation".

²³ See "Vulnerable groups" above.

66. ECRI strongly recommends that the Serbian authorities take urgent measures to provide identity documents to Roma who do not have them. To this end, it recommends that they work with Roma organisations and other members of civil society and that they take inspiration from experiences in other countries in this area.

- **Education**

67. Among the problems encountered by the Roma community in the education sector is a high drop-out rate. For example, 62% of Roma children have either dropped out of school or not gone to school at all and only 9.6% have completed post-primary education. Moreover, a large number of Roma children are not enrolled in school, research having shown that the main reasons for this are financial problems (49.8%) and the lack of the necessary documents such as birth certificates and proof of residence.²⁴ Roma children are also overrepresented in schools for children with special needs, often because of their insufficient knowledge of the Serbian language and because there are financial incentives which incite Roma parents, who are largely poor, to enroll their children in such schools. It has been observed that in some of these schools, 50 to 80% of the children are Roma. NGOs have also identified primary schools where, in the 2005/2006 school year, Roma children were placed in separate classes, notably in Horgoš, Senta and Bujanovac.²⁵
68. ECRI notes with satisfaction that the authorities have taken a number of measures to resolve the problems facing Roma in the education sector. The Ministry of Education has thus made Roma education one of the priorities of its Strategy for Education (2005-2010). The following five projects have been launched by the ministry: 1) improving access for Roma children to pre-school education; 2) professional primary education for Roma; 3) participatory research on the needs and problems of Roma; 4) protection of Roma children against discrimination and 5) introduction of Roma assistants to support children from the Roma community. There have been some positive results, namely the inclusion of 600 Roma children in pre-school education and a rise in the number of Roma pupils attending primary school. In addition, 250 Roma aged between 15 and 35 are going to receive vocational training which will enable them to obtain a certificate recognised by the Ministry of Employment and Labour. Over the period 2006-2008, 32 school inspectors will be trained to spot cases of discrimination and to take appropriate action at both national and local level. This move is particularly welcome as there have been reports of discrimination against Roma children by some pupils and teachers alike. Twenty Roma assistants began work in the second half of the 2006/2007 school year and a further 54 are undergoing training. The authorities have also informed ECRI that positive measures to assist Roma in entering secondary school and university have been taken and that in 2007/2008, 173 Roma entered secondary school and approximately 90 enrolled at university. While recognising the importance of these measures, Roma NGOs would like to see the Ministry of Education taking the initiative more often, as many of the schemes put in place are introduced at the request of the Roma National Council and thanks to donors and international organisations.

²⁴ *Decade of Roma, Yearly Report, League for Decade 2006, No.6, 2007, Information Booklet of Minority Rights Center*, p.6

²⁵ *Ibid.* p.6 and 8

69. ECRI encourages the Serbian authorities to continue giving a high priority to improving Roma access to education. It recommends that they become more involved in the design, funding and delivery of measures to implement the five Roma education projects. It further recommends that in order to do this, they have regard to its General Policy Recommendation No. 10. ECRI urges the Serbian authorities to take steps to prevent Roma children from being unnecessarily placed in special schools. It also calls on them to combat any form of segregation to which these children may be subject in school, as advocated in its General Policy Recommendation No. 3 on combating racism and intolerance against Roma/Gypsies.

- **Employment**

70. The unemployment rate is significantly higher in the Roma community than in the majority population. For persons in the 35 to 44 age group, it is 2.5 times higher, and only 20% of Roma are employed full-time compared with 60% for the rest of the population. A disproportionate number of Roma are employed in sectors where no qualifications are required.²⁶ In addition, Roma who live in places which are not registered by the authorities cannot register with the National Employment Service in their local area. The Ministry of Labour, Employment and Social Policy has allocated 120 million dinars (approximately 1,576,221 euros) for improving access to employment for the unemployed, including Roma. When implementing schemes to help the unemployed become self-employed, positive measures were taken to assist Roma. They received extra points, for example, if they submitted an application. It is difficult to gauge the impact of these measures, however, as the practice of collecting data based on ethnic origin does not exist in Serbia²⁷. ECRI further notes that the law on employment and insurance includes positive measures to encourage the recruitment of certain categories of persons, including national or ethnic minorities, who suffer from high unemployment. It appears, however, that it will be difficult to enforce this law without data collection, the legal framework for which does not exist yet.²⁸ Another measure mentioned by the Serbian authorities is the approval by the Ministry of Economy and Regional Development of 20 Roma projects which have as a priority the improvement of Roma settlements. However, ECRI has no information on measures taken to ensure the implementation of these projects. ECRI also notes with satisfaction that the National Strategy for Employment (2005-2010) and the National Action Plan for Employment (2006-2008) have programmes specifically for Roma. However, it does not have any information about their implementation.

71. ECRI encourages the Serbian authorities to continue taking measures to better integrate Roma in the employment sector. It recommends that they ensure, in cooperation with NGOs, that Roma are informed about the programmes put in place to combat unemployment among the most vulnerable groups. It recommends that the Serbian authorities provide the necessary human and other financial resources to support the Roma employment measures they have introduced.

²⁶ *Decade of Roma, Yearly Report, League for Decade 2006, No.6, 2007, Information Booklet of Minority Rights Center, p.11*

²⁷ See "Monitoring the situation" above.

²⁸ *Ibid.*

- **Housing**

72. As stated in other parts of the report²⁹, Roma tend to live in often insalubrious housing in areas not registered by the authorities, which contributes to their social and economic marginalisation. Of the 593 Roma settlements, for example, 72% are not registered by the authorities or are only partially registered and 43.5% are classed as slum housing. Of these 593 settlements, 285 are located in towns, while the rest are in rural areas or on the outskirts of towns. The infrastructure in these settlements is especially poor, and more than half do not have asphalted roads or a water supply system. More than 60% do not have sewerage and 35% are without electricity. The settlements are also isolated; 50% are situated more than a kilometre from the nearest school, 60% from the nearest hospital or health centre and 80% from the nearest shop³⁰. ECRI has been informed that in 2004, in Belgrade, the authorities attempted to re-house Roma in suitable dwellings but they were faced with protests from local residents and ended up giving in. Although better housing for Roma forms part of the projects included by the authorities in the National Housing Policy, it appears that these projects have not been carried out yet, and that the legislation on housing needs revising. Implementing the legislation is also problematic, including because of discrimination on the part of certain local authorities, which refuse, for example, to recognise that there is a problem, and because of budgetary difficulties. The Serbian authorities have, inter alia, indicated to ECRI that the Ministry of Infrastructure plans on financing, in 2008, the legalization of approximately 20 Roma settlements.
73. ECRI recommends that the Serbian authorities continue giving special attention to the housing problems facing the Roma community. It recommends that they take urgent measures to implement the programmes and projects developed for this purpose, by providing them with the necessary human and financial resources. It further recommends that they combat the discrimination suffered by Roma in this area, including by implementing the relevant legislation and conducting awareness-raising campaigns.

- **Access to health care**

74. Roma face barriers in access to health care because of a lack of information, documents and resources and due to discrimination. For example, of the 100,000 people living in Belgrade in insalubrious conditions, 30,000 are Roma. Roma suffer disproportionately from diseases related to the conditions in which they are compelled to live. The authorities have informed ECRI that in 2007, the Ministry of Health approved 36 projects concerning, amongst others, health care within the Roma community. ECRI notes with interest that Roma organisations have expressed satisfaction with the action taken by the Ministry of Health to tackle this problem. In 2005 and 2006 the ministry held consultations with, among others, Roma representatives, and in 2007 it doubled the funding for projects to help Roma. NGOs report that the ministry has made active and concerted efforts in implementing the Action Plan for Improving Roma Health but they also feel that local authorities need to become more involved.³¹

²⁹ See "Reception and status of non-citizens".

³⁰ *Decade of Roma, Yearly Report, League for Decade 2006, No. 6, 2007, Information Booklet of Minority Rights Center*, p. 13 to 14.

³¹ *Ibid*, p. 16 to 20

75. ECRI encourages the authorities to continue taking measures to improve Roma access to health care and recommends that they ensure that the initiatives taken to that end are implemented at local level as well. It also recommends that they take steps to combat discrimination against Roma in this sector.

- ***Other issues involving Roma***

76. As stated in other parts of the report,³² Roma are discriminated against in various areas, such as the media, where there is still an all too frequent tendency to mention a suspect's ethnic origin if he or she is Roma. There have also been cases of discrimination by the police and local authorities against members of the Roma community. It seems that little research is being carried out on discrimination against Roma and that few cases of this kind are brought to the notice of the authorities. Therefore, the creation within the Office for Human and Minority Rights of an Office for Roma is a step forward in addressing the community's needs. The Office is responsible for implementing the Decade of Roma. At present, however, it has only four staff and is operating thanks to funds from international organisations such as the United Nations Development Programme (UNDP). On this subject, the Serbian authorities have informed ECRI that Office for Human and Minority Rights has requested that funds from the 2008 state budget be allocated to the Office for Roma. To date, ECRI has no information on the follow-up provided to this request.
77. ECRI strongly recommends that the Serbian authorities take measures to combat the racism and discrimination suffered by Roma in various areas. It recommends that they provide the Office for Roma with the necessary human and financial resources and that they work in consultation with Roma NGOs. It further recommends that they promote research on the situation of the Roma community in order to improve the programmes designed for them.

Situation in the autonomous province of Vojvodina

78. The autonomous province of Vojvodina, situated in northern Serbia, has approximately 2 million inhabitants. Of these, 30% are from 25 different minority groups (Hungarians, Slovaks, Croats, Roma, etc.), Hungarians being the largest minority (approximately 15%) in the region.

- ***Ombudsman of the autonomous province of Vojvodina***

79. An Ombudsman was appointed in the autonomous province of Vojvodina in 2004. ECRI welcomes the fact that he has a deputy responsible for matters relating to national or ethnic minorities. The latter is authorised to receive complaints, monitor existing legislation on their rights and to make recommendations to the authorities concerning the implementation of the said legislation. The Ombudsman's office has informed ECRI that it considers that the right of national or ethnic minorities to use their mother tongue in the media and public administration is broadly respected. In its 2006 report, however, it observed that there were not enough primary and secondary school teachers in the province to teach pupils subjects such as mathematics, physics and computer studies in their mother tongue. The Ombudsman's office has explained to ECRI that it receives few complaints about racial discrimination and that these usually concern access to employment or work-related problems. The office carried out research on the representation of persons from national or ethnic minorities in the

³² See "Media" and "Conduct of law enforcement officials".

province's administration and found that it was not always proportional to the size of the populations concerned, especially in the police force. The Ombudsman's office therefore recommended that positive measures be taken to remedy this situation. However, NGOs have told ECRI that this has not been possible, as the persons whom it was directed at did not wish to reveal their national or ethnic origin. This reluctance might be partly due to the fact that, as indicated above³³, Serbia does not yet have the necessary legal framework for initiatives of this kind.

80. ECRI recommends that the Serbian authorities take measures to ensure a more balanced representation of national or ethnic minorities in the public administration of the autonomous province of Vojvodina. It also recommends that they provide training so as to have teachers capable of teaching all subjects in the languages of the national or ethnic minorities in this region.
81. With regard to the powers of the Ombudsman of Vojvodina, ECRI notes that filing complaints with the Ombudsman's office is subject to certain restrictions which might make it difficult for the public to access this institution. In particular, the Ombudsman will not accept complaints for which not all legal remedies have been exhausted. It also appears that the Ombudsman's office does not have sufficient resources to perform its task properly and that its budget is subject to government decisions, thereby undermining its independence.
82. ECRI recommends that the Serbian authorities ensure that anyone who so wishes is able to file a complaint with the Ombudsman's office without undue restrictions. It recommends that they ensure that the legislation on the Vojvodina Ombudsman is amended accordingly. In addition, it strongly recommends that they ensure that the office has a budget which is commensurate with its tasks and is sufficient to enable it to operate independently.

- ***Situation of Roma in the province***

83. According to the 2002 census, there are approximately 29,000 Roma in the autonomous province of Vojvodina. However, NGOs put the figure at around 80,000 given, *inter alia*, that some Roma do not identify themselves as such. The Roma community in Vojvodina is faced with the same problems of poverty, lack of documents, discrimination, inequality in access to education and employment as in the rest of the country.³⁴ ECRI notes with interest that the local government has begun to take a number of steps to improve their situation in the region. Having noted that Roma participation in the public administration was extremely low relative to the size of the community, local authorities have, for example, decided to introduce quotas for Roma trainees in the region's Executive Council. Also, following the influx of displaced persons from Kosovo, most of them Roma, in 2005, a Roma Inclusion Office was set up to deal with the problems facing them. The office, which has three staff from Roma backgrounds, has carried out three studies on the situation of Roma in the province, namely in the areas of housing and the position of teachers from the Roma community. It was also involved in the framing of the Strategy for improving the situation of Roma and works closely with the region's Ombudsman. ECRI does not have any information on the measures taken to inform the Roma community of the existence of this body, and it notes that although the Roma Inclusion Office has its own budget, the office feels that it is inadequate. In addition, the human

³³ See "Monitoring the situation" above.

³⁴ See "Situation of Roma" above.

resources available to the office are not commensurate with the problems which it is supposed to address.

84. ECRI encourages the Serbian authorities to continue taking measures to resolve the problems facing the Roma community in Vojvodina and recommends that they involve members of these communities as far as possible. It also recommends that they ensure that the Roma Inclusion Office is provided with sufficient human and financial resources to tackle the problems within its purview. ECRI recommends that the Serbian authorities conduct information campaigns directed at the region's Roma community in order to inform them about their rights and the various bodies to which they can turn to in order to assert those rights.

- ***Interethnic tensions in the province***

85. Although reports indicate that the situation in the autonomous province of Vojvodina has calmed down in recent years, ECRI is concerned to note that there were some serious interethnic incidents in the region between 2003 and 2005. These incidents took the form of physical and/or verbal attacks on members of national or ethnic minorities and religious minorities³⁵ as well as acts of vandalism against their property. Then as now, the racist acts committed against national or ethnic minorities by the Serbian majority are usually committed by young people who fled to the region in the wake of the conflicts that occurred in the former Yugoslavia in the 1990s. Cases of reprisals against the Serbian majority and of clashes between groups of Serbian youngsters and those from minority groups have also been noted. Some of these clashes clearly had racist overtones while in other cases racism does not seem to have been the trigger, although these clashes did subsequently take a racist turn. The Ombudsman's office has said on this point that it has conducted research which shows a higher level of intolerance among young people than among their elders.
86. The Ministry of Internal Affairs and several national and international organisations have supplied estimates of the number of incidents that occurred in the region during this period. In his 2005 annual report, the Ombudsman of Vojvodina noted 76 interethnic incidents in the period from January to September 2004, other organisations having put the figure as high as a hundred for the period 2003 to 2004. One reason why the number of interethnic incidents has not been able to be clearly established seems to be the inadequate response on the part of the authorities, in particular the police and the judiciary. Several human rights organizations have thus repeatedly complained that the police failed to help the victims and to recognise the racist nature of the incidents. The tendency among the police, in fact, was to treat such acts as mere vandalism or as score-settling between groups of youngsters from mixed backgrounds. On the other hand, the Ministry of Internal Affairs has reported that during the period from January 2003 to June 2004, 50 police investigations were instituted in the course of which 49 interethnic incidents were noted. The bulk of these cases involved the desecration of cemeteries, damage to property, brawling, etc. In the majority of instances, however, the perpetrators were merely ordered to pay a relatively small fine, having only been found guilty of a violation of public order.
87. The inconsistency of action on the part of the police and the courts seems to have been due partly to the relatively young age of most of the perpetrators and to the fact that these authorities either failed to acknowledge or underestimated

³⁵ For further information on the situation of religious minorities, see "Vulnerable groups" above.

the racist aspect of the offences. A degree of nationalism and a lack of sensitivity to incidents of this kind have been observed within the police. The problem is further explained by the fact that, as stated above, national or ethnic minorities are poorly represented in the public administration. For example, although Hungarians make up around 15% of the population in Vojvodina, they account for only 5% of police officers and prosecutors.³⁶ NGOs and international organisations have noted that the authorities began to take these incidents seriously and to prioritize their investigation and the prosecution of those responsible only when the violence attracted the attention of the international community. Thus, on 29 September 2005, the European Parliament adopted a resolution on the situation in Vojvodina in which it stated that the Serbian authorities were turning a blind eye to the violence and were failing to ensure respect for fundamental rights at central and local level.

88. ECRI has received information according to which the violence has diminished in recent years, with reportedly five times fewer incidents in 2005 than in 2004. This decline would seem to coincide with the more vigorous measures taken by the police and the courts. However, the failure of the authorities to deal firmly with the violence from the outset served to encourage the persons involved in it and helped to create a climate where racist violence appears to be tolerated. On this point, the Vojvodina Ombudsman's office has informed ECRI that violence of this kind tends to recur whenever there is trouble on the country's political stage. It has also found instances of interethnic violence in sport. For example, after interethnic clashes during a football match between Slovaks and Serbs, the office advised the Council of the Slovak Community to refer the matter to the Ministry of Internal Affairs. The Ombudsman's office has also conducted an awareness-raising campaign on this issue. ECRI notes in this regard that although awareness-raising campaigns designed to promote better understanding and to combat intolerance have been conducted by local and national NGOs, the authorities do not seem to have implemented an action plan to this effect. Also, the above-mentioned clashes between neo-Nazi groups and anti-racist demonstrators which took place on 7 October 2007 in Novi Sad³⁷ (the province's capital) show there is still a certain atmosphere of interethnic tensions in the region.
89. ECRI urges the Serbian authorities to maintain a close watch on racist offences committed in Vojvodina by ensuring that the criminal code is duly applied to anyone who commits acts of this kind. It strongly recommends that they ensure that local authorities, in particular the police and the judiciary, are trained in those provisions of the code which deal with racist offences as well as in international standards on issues relating to racism and racial discrimination. ECRI recommends that the Serbian authorities promote the recruitment of more people from national or ethnic minorities to the police and judiciary.
90. ECRI strongly recommends that the Serbian authorities conduct awareness-raising campaigns to promote better understanding between the different ethnic or national groups and religious groups living in the autonomous province of Vojvodina. It recommends that organizations representing these groups, the Ombudsman's office, the media as well as any other stakeholders be involved in these campaigns. It particularly recommends that the authorities ensure that these campaigns also target, and involve, young people. In this regard, ECRI

³⁶ Ethnic Violence in Vojvodina : Glitch or Harbinger of Conflicts to Come?, Florian Bieber and Jenni Winterhagen, ECMI Working Paper #27, European Centre for Minority Issues (ECMI), April 2006, p. 23.

³⁷ See "Climate of opinion" above.

recommends that they focus on places and activities which bring together young people from the majority population and from national or ethnic minorities. It further recommends that they ensure that school education in the region plays a key role in the fight against racism and discrimination, as advocated by it in Chapter II, paragraph 2 of its General Policy Recommendation No. 10.

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