



In Search of Happy Gypsies

Persecution of Pariah Minorities in Russia

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A REPORT BY THE EUROPEAN ROMA RIGHTS CENTRE

European Roma Rights Centre

IN SEARCH OF HAPPY GYPSIES

*Persecution of Pariah Minorities
in Russia*

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*“I travelled far down many roads,
On my way I met happy Gypsies”*

Gelem, Gelem (Romani anthem)

*Why do you, Gypsies, go in the streets? You must hide
yourselves from the police, why don't you stay indoors?
Look at me, I myself have darker skin and that is why I
hide here in my office. Our whole life is entirely lawless,
don't bother yourself about it.*

A prosecutor from Southern Russia,
reacting to a Roma complaint of police abuse

1. EXECUTIVE SUMMARY

European Roma Rights Centre (ERRC) monitoring of Roma rights in Russia has revealed an alarming pattern of human rights abuse of Roma and other people perceived as “Gypsies”.¹ The magnitude of the abuse is only comparable to that of the perpetrators’ impunity. Violence by state officials, paramilitary and nationalist-extremist groups, and discriminatory treatment of Roma in the exercise of civil, social and economic rights are aggravated by the complete absence of governmental action to address these problems.

¹ The expression “Roma and other people perceived as Gypsies” is used in this report to describe those minorities on the territory of the Russian Federation who are perceived by the surrounding communities as “Gypsies” (Tsygane in Russian). Most of these people are ethnic Roma and speak Romani. Apart from the more established Russka Roma and the other Romani groups scattered across Russia (Kalderary, aka Kotlyary, Lovari, Krymy, Plashchuny, etc.), there are small groups of Sinti who have moved eastward from Germany via Poland in the beginning of the 20th century; Armenian-speaking “Gypsies” called Boshka (aka Lomavtic); Karachi from the Caucasus area; Central Asian Gypsies Lyuli (aka Mugat), who come from Tajikistan and other parts of Central Asian and could be seen in numerous places inside Russia during the last decade, having arrived as permanent or seasonal migrants. The term “Roma” is used in this report as a short hand for the complex mosaic of peoples perceived as “Gypsies” and treated as such, as a result of stereotypes and racial prejudice rampant in the wider society.

Widespread scepticism regarding the rule of law and rampant corruption at various levels of government have created an environment systemically thwarting human rights and fundamental freedoms in Russia. Certain ethnic minority groups, including Roma, find themselves particularly at risk of being targeted for abusive measures, especially in the context of stepped up efforts to fight terrorism, organised crime and drug dealing. Three campaigns dominating Russian internal security policy at present – the “war against terrorism”, the “war against corruption” and the “war against drugs” – are strongly associated with three most stigmatised ethnic and national groups – “persons of Caucasian nationality”, Jews, and “Gypsies”. The “war on drugs” has gradually generated, during the 1990s, the image of the typical drug dealer, namely, the “Gypsy”. Today, the identification of the Roma with drug dealing has reached a point of near synonymous usage in the media.

Anti-Romani racism is widespread in Russia today. Entrenched assumptions that Roma have a natural proclivity to crime lead to systematic denial of fundamental rights to Roma because of their ethnicity. Racial discrimination against Roma is manifested in routinely carried out abusive raids on Romani neighbourhoods by law enforcement organs; unlawful and unprovoked use of violence during detention; disproportionately frequent detention; arbitrary and disproportionate checks of personal documents; extortion of money; arbitrary seizure of property; fabrication of criminal cases. This report presents evidence of persistent racial profiling and abuse of Roma by the organs of the criminal justice system. Arguably the most extensive racial profiling of Roma in Russia has occurred in the framework of the series of police raids targeting Romani communities and officially named “Operation Tabor” – a title which unequivocally relates the action to Roma. Racial profiling of Roma and subsequent detention is often accompanied by fabrication of incriminating evidence against Roma, usually through “planting” of drugs. Individuals on whom drugs were “found” have been found guilty and sentenced to imprisonment or released in exchange of bribes extorted from their families.

Human rights violations against Roma, often motivated by racial animus, persist unchallenged and unremedied. Intimidation and harassment by police, and the perception of the victims that law enforcement officials are immune from sanctions, are a powerful deterrent for many Roma to seek justice. Roma are frequently reluctant or fully unwilling to seek justice for illegal acts by police. In the few known instances in which Roma filed complaints against police officers, the complaints have been rejected or the criminal cases against police officers were eventually terminated for lack of sufficient evidence for the alleged illegal actions. Racism also affects access of Roma to protection against violence

and abuse by private actors. Public authorities have done little to nothing to counteract the wave of anti-Romani racism. In some instances, law enforcement officials knowingly failed to prevent violent assaults on Romani communities. Racial discrimination of Roma in the criminal justice system creates an environment in which both public officials and private actors feel confident that they will be absolved from responsibility for racially-motivated violence and abuse and exposes the victims to further violence and abuse.

Racism also effectively precludes many Roma from accessing education, health care, housing, employment, and public services. Discrimination against Roma in access to social and economic rights takes two broad forms: Many individuals are subjected to direct discrimination and therefore face less favourable treatment on grounds which expressly relate to their ethnicity. Roma also experience indirect discrimination in access to social and economic rights, denied to them on grounds that Roma do not have personal documents, including residence registration. The system of residence registration itself has caught many Roma in Russia in a vicious circle of abuse generating further abuse: Roma are not able to secure residence registration, often as a result of arbitrary refusal of authorities to register them. At the same time, Roma are targeted for disproportionate checks of identity documents by the police and failing to produce them, they are often subjected to detention and ill treatment.

This report has been written on the basis of extensive ERRC research in Russia beginning in July 2000. The facts presented have been documented (i) during ERRC field missions run directly from the ERRC's Budapest office, (ii) by ERRC local monitors based in various regions as well as (iii) reported to the ERRC by local Romani and other human rights activists. During field research missions, the ERRC has obtained first hand information from Romani victims of human rights violations, their relatives, lawyers and other individuals who were engaged in helping the victims. The ERRC has also met public officials to raise ERRC's concerns and urge them to act in order to resolve situations in which violations of fundamental human rights await justice. The views of Russian public officials communicated to the ERRC in official correspondence and during public events are also part of this report. The following patterns of abuse have been revealed in the course of monitoring Roma rights in Russia:

1.1 Racially-Motivated Violence and Abuse of Roma by Law Enforcement Officials

ERRC research has revealed that police violence against Roma in Russia is widespread, though frequently not reported directly to the authorities. While illegal

violence is a general problem of Russian law-enforcement in recent years, Roma along with several other ethnic minorities are particularly vulnerable owing to their stereotyping as “criminals” and “drug dealers” by law enforcement officials. Such stereotyping results in racial profiling of Roma by the police. Police authorities thus often resort to arbitrary criteria such as ethnicity in deciding against whom to open investigations into criminal acts. Racist prejudice opens the gateway to torture and ill treatment of Roma who are seen as targets for such abuses because of their ethnic origin. Romani individuals report indiscriminate violent abuse of men, women and children, destruction of housing and other property, and theft of possessions in the course of police raids. Romani men and women are disproportionately targeted for document checks, arbitrarily detained and often subjected to torture and ill treatment in custody. In some instances, physical abuse of Roma at the hands of the police has resulted in the death of the victims. Fabrication of incriminating evidence and threats of such fabrication have fostered a widespread pattern of extortion of money from Roma by the police.

The egregious effects of anti-Romani racism on the human rights of Roma is aggravated by rampant corruption within the law enforcement bodies in Russia. Corruption facilitates or is directly responsible for human rights abuses, including ill treatment, extortion, fabrication of incriminating evidence, and finally denial of access to remedy for human rights violations.

1.2 Discrimination against Roma in the Criminal Justice System

A weak rule of law culture in Russia allows the suppression of fair trial rights with respect to everyone. In addition to widespread arbitrariness in the conduct of pre-trial and trial procedures which affects many individuals in Russia, Roma and other minorities are also exposed to the interference of racism in the administration of justice. The frequent use by criminal justice officials of offensive language referring to the Romani ethnic background, documented repeatedly in the course of ERRC research in Russia, indicates that the conduct of criminal proceedings against Roma is not free of racial bias. In a number of instances, criminal investigation against Roma and subsequent trial proceedings have been carried out in a manner incompatible with international and domestic human rights standards for fair trial. Roma have been sentenced on the basis of controversial and inconclusive evidence. Courts have admitted evidence obtained in violation of procedural rules, for example

when faced with allegations that evidence has been fabricated. Romani defendants have been denied essential due process rights such as the right to legal defence, the right to use an interpreter, the right to examine witnesses, etc.

Roma who have suffered human rights violations by law enforcement officials as well as by non-state actors do not have access to an effective investigation of their complaints. The overwhelming number of complaints filed against police officers do not result in the opening of criminal investigation. In the very few instances in which criminal investigations have been undertaken, the cases have frequently been closed owing to “lack of evidence”. Where complaints have been processed, investigations usually have found no offence committed against Roma.

1.3 Abuse of Roma Rights by Non-State Actors

In recent years, apart from the police, non-state actors, such as members of nationalist-extremist groups as well as members of civic organisations undertaking vigilante anti-drug-enforcement activities have also increasingly targeted Roma for violent racially motivated attacks. As nationalist-extremist movements have been gaining increasing popularity in Russia, violent attacks on Roma by skinheads, Cossacks and other formal and informal groups have been reported with disturbing frequency. Roma are particularly exposed to such attacks because they often live in compact settlements, which are easy to identify. The Russian Federation is required under international law to provide protection to everyone under its jurisdiction against acts of cruel, inhuman and degrading treatment committed not only by the agents of the state but also by non-state actors. In reality, however, protection provided to Roma by authorities against racially motivated violence is often inadequate or entirely unavailable. The Russian government has done little or nothing to reduce anti-Romani sentiment or to stem the tide of vigilante anti-Romani human rights abuses. Many attacks are not even reported to the police due to reasonable fear of harassment and extortion committed against Roma by the police itself.

1.4 Hate Speech against Roma in the Media

The climate of intolerance towards Roma and several other minorities is particularly reinforced by overwhelming hate-speech in the media, which meets very little

resistance among the public. Public officials do not condemn the dissemination of anti-Romani sentiments through the media and sometimes themselves make statements which feed into the racist discourse against Roma.

The Russian media contributes to the perpetuation of anti-Romani racism by creating a strong association between Roma and crime, and even by encouraging in some instances violence and discrimination against Roma. The media persistently identifies Roma as the main actors in the Russian drug trade, using “drug dealer” and “Gypsy” interchangeably in reporting. Bypassing the presumption of innocence entirely, both mainstream and tabloid media treat all Roma, including young children, as fair game for slander and stereotyping as drug traffickers.

1.5 Access to Personal Documents

Russian law requires obligatory registration of residence and stay by way of notification of the police. The internal registration system has been widely criticised for opening the way to racial discrimination by allowing denial of registration to certain ethnic minority groups as well as increasing the incidence of arbitrary detention and ill treatment by police of ethnic minorities targeted for document checks. Roma are subjected to disproportionate checks of their identity documents by police, often leading to arbitrary detention and other abuse. The routine way to avoid prolonged detention and physical and mental abuse is to pay bribes that are often arrogantly demanded by police. The registration system has implications for access to fundamental rights as well. In practice, a citizen who has no address registration at his or her place of residence has no access to a range of social and economic rights such as the right to work, to possess and use property, to social security, and medical service. Civil and political rights such as the right to marry, to right to privacy, the right of access to justice and participation in elections also tend to be restricted.

Many Roma in the Russian Federation currently live without personal documents, including passports of the Russian Federation or residence permits. An unidentified number of Roma who have immigrated from former Soviet republics are effectively stateless. Discriminatory practices on the part of immigration and other officials, complicated bureaucratic procedures, and the widespread illiteracy of Roma themselves have put Roma and their families in a legal limbo which makes them particularly vulnerable to violence and extortion by police as well as denies them basic rights.

1.6 Discrimination in Access to Social and Economic Rights

ERRC research suggests that large Romani communities throughout Russia live in severe poverty and do not have access to basic social and economic rights. A complex of factors including poverty, humiliating treatment at school, and failure of the authorities to ensure that schools are accessible for Romani children, have contributed to the exclusion of large numbers of Romani children from the education system. Many Roma do not have access to gainful employment or any employment at all. While lack of education or low education plays a significant role for the exclusion of large parts of the Romani minority from the formal labour market, ERRC also heard reports about direct discrimination against Roma in employment. A large number of Roma live in settlements in substandard conditions. Most Romani settlements and neighbourhoods visited by the ERRC and its partner organisations in recent years are located on the outskirts of towns and municipalities, with little access to public transportation and inadequate means of communication with the outside world, such as telephones. Arbitrary refusal of residence registration and legalisation of housing exposes Romani families to forced evictions often resulting in homelessness and life in extremely substandard conditions.

1.7 Abuse of Romani Women's Rights

Romani women occupy a special place in the popular racist perception of Roma in Russia. Romani women are frequently portrayed as possessing magic power used to beguile or otherwise victimise non-Roma. These racist stereotypes often translate into abusive police actions targeting specifically Romani women, regardless of whether they are practicing traditional fortune-telling in the streets or begging or selling goods in the markets. During field research in Russia, the ERRC also heard allegations of domestic violence against Romani women. The issue of domestic violence, however, is largely tolerated by both Romani men and women and in some instances even taken for granted. Romani women are as a rule reluctant to seek legal help. Although this is by no means an issue confined to the Romani community and, indeed, domestic violence is rarely if ever redressed by authorities when occurring against any women, the raw exposure in which Roma find themselves – denied any basic human rights protections – means that Romani women expect that no authority will protect them when attacked by close members

of their own families. Violence and abuse of Romani women, whether committed by law enforcement officials, racist groups or in the family is usually unremedied because victims do not report cases due to fear of reprisals and shame.

1.8 Roma Rights in the Context of the National Cultural Autonomy

The Federal Law on National Cultural Autonomy (NCA) adopted in June 1996 was meant to provide national minorities in the Russian Federation with a mechanism for the protection of cultural rights. Although the term “autonomy” is used, this law does not give exclusive powers or prerogatives to the various National Cultural Autonomies (NCAs) beyond those which can be exercised by regular public associations. The scope within which minorities can participate in public affairs is narrowly defined in the NCA law. National cultural autonomy is exercised by those organisations which are registered as legal entities recognised as national cultural autonomies. In practice, the difference between the NCA and any public association is less about their powers than about status and access to resources that these bodies have. In practice, most NCAs carry out various cultural activities. Recently, some regional NCA of Roma have also become involved in more traditional human rights areas including working with the police on the prevention of discrimination towards ethnic minorities and litigation on discrimination cases. Despite the limitations of the cultural autonomy approach it has also brought with it some important achievements. For Roma, as for other ethnic groups in the Russian Federation, it has allowed ethnic groups to unite so as to work more effectively with governmental structures through the creation of consultative councils at the federal and regional levels.

The ERRC report ends with recommendations to the government of the Russian Federation calling on the authorities to respect their obligations under national and international human rights law as well as to undertake immediate measures to prevent abuses and to ensure effective redress and reparations for violations which have occurred in the past. Such measures include action to:

- Speak out against public expressions of racial antipathy, racial discrimination and human rights violations at the highest political level;
- Develop a comprehensive government program addressing the critical human rights situation of Roma in the Russian Federation. Such program

should be in line with the 2003 OSCE Action Plan on Roma and Sinti and General Recommendation 27 of the UN Committee on the Elimination of Racial Discrimination (“UN CERD”).

- Create a legal framework for combatting discrimination in line with the requirements of international human rights law, as well as with standards in the area of anti-discrimination law in Europe;
- Conduct human rights and anti-racism trainings for the public administration, members of the police force and the judiciary;
- Adopt measures to prevent, identify and, where occurring, punish manifestations of racial bias among law enforcement officials;
- Investigate promptly and impartially incidents of violence and abuse of Roma by law enforcement officials and prosecute the perpetrators of such crimes to the fullest extent of the law;
- Ensure that victims of police violence and abuse who lodge complaints are effectively protected against intimidation and reprisals;
- Ensure that all allegations of torture or ill-treatment by non-state actors are promptly, thoroughly and impartially investigated and the perpetrators of such abuses are brought to justice;
- Undertake review of legislation, regulations and practices at federal, regional and local levels with the aim of removing any elements of the passport and registration process which impose restrictions on freedom of movement in contradiction to the Constitution of the Russian Federation and international human rights law, and/or lead to systematic discrimination against particular minority groups;
- Monitor mainstream electronic and print media at national and regional level and take adequate measures to investigate and prosecute those responsible for promoting hatred and ethnic tension through the print and audiovisual media;
- Ensure that Roma and others are not prevented or otherwise obstructed from exercising fundamental rights on the grounds of lack of personal documents, including residence registration;
- Monitor access of Roma and other ethnic minorities to justice, social and economic rights and establish a mechanism for collecting and publishing disaggregated data in these fields;
- Adopt policy measures ensuring that Roma, and particularly Romani women, are able effectively to realise rights to employment, health care, and access to social welfare payments and to public goods and services.

2. INTRODUCTION: ANTI-ROMANI RACISM

On November 17, 2004, a Romani family celebrated a traditional wedding in restaurant “2000” located in Oktyabrskiy district, Tomsk, Siberia. In the late afternoon about 70-80 guests from different regions of Russia, including many children, had gathered in the restaurant to give final blessing to the married couple. At around 5:30 PM, a number of masked men broke into the restaurant. The officer leading the group ordered everyone to lie face down and announced that Gosnarkokontrol² would conduct a check. A number of law enforcement officers smashed cutlery, food and drinks from the tables. Children were forcibly shut into the restaurant rest rooms, where they reportedly cried in panic. During the check of personal documents, it was established that some of the guests did not have identification documents with them. About 30 people, including the married couple, were forced into buses and taken to the Gosnarkokontrol offices, where they were made to stand against the wall with their hands behind their heads. The officers conducted individual checks of the detained. The Roma were then taken to the local narcological centre for blood tests. They were released in the early hours of November 18.

On the day after the raid, Gosnarkokontrol issued a press release informing that a “routine operation” had been carried out with the purpose of checking a group of Roma for possession of drugs. According to the report, several people had been detained because their blood tests indicated presence of narcotics. In the morning news, a local TV channel informed that there had been a “drug wedding” the night before and officers of Gosnarkokontrol had discovered hashish under the wedding tables.

² The Russian Federal Drug Control Service (abbreviated name: “Gosnarkokontrol”) is a law enforcement agency. According to its Statute, the Service: “[...] 7) carries out operational search action in accordance with the legislation of the Russian Federation; 8) organises and carries out search of persons who are accused of or suspected in having committed crimes which fall under the jurisdiction of the Russian Federal Drug Control Service, and have disappeared from bodies of preliminary investigation or court and whose whereabouts are not known; 9) conducts inquiry and preliminary investigation on criminal cases about the crimes which are under the jurisdiction of the bodies of the Federal Drug Control Service;” (Article 8 of the Statute of the Russian Federal Drug Control Service, signed by the President on July 28, 2004. Presidential Decree No 976, published in Rossiyskaya Gazeta, August 11, 2004, Moscow).

However, no criminal charges were apparently brought against any of the Roma present in the restaurant at the time of the raid.³

In this, as in numerous other similar cases, official sources qualify raids on Romani communities or gatherings as “routine” or “prophylactic” measures aimed at arresting criminal suspects. In March 2002, the Romani non-governmental organisation Romano Kher addressed the Ministry of Interior of the Russian Federation and the Moscow City authorities expressing concern about massive human rights violations in the context of “Operation Tabor” – an extensive series of police raids on Roma launched in March 2002.⁴ In their response to the letter, the Chief Department of the Ministry of Interior of Moscow city qualified “Operation Tabor” as a “prophylactic measure” which had been carried out “in relation to the growing number of citizens’ complaints about criminal activities by citizens of Gypsy origin from cities outside Moscow”.⁵ Compelling evidence, however, suggests that such raids target Romani communities disproportionately, while the violent conduct of law enforcement officials leaves no doubt as to the punitive nature of such operations.

Anti-Romani racism is widespread in Russia today. The law guarantees equal treatment and protection against discrimination of all people in Russia, yet Roma, among several other ethnic minorities, find themselves excluded from the equal protection of the law, or in fact frequently any protection of the law. Indeed, the authorities whose duty is to uphold human rights are often themselves implicated in gross human rights violations or acquiesce in them. Violence and abuse of Roma by law enforcement and judicial authorities, often motivated by racial animus, persists unchallenged and unremedied. Racial prejudice lying behind human rights abuses against Roma often surfaces in comments made in public by police and judicial officials, such as the following:

³ Case summary based on information provided to the ERRC by Mr Vladimir Yurchenko, chair of Romani Duma, Tomsk-based Romani non-governmental organisation, and by Mr Boris Kreyndel, Chair of the Commission on Human Rights of the Tomsk region, November 2004. See also Kreyndel, Boris. “Wedding in Putin’s Russia”, available at: www.control.hro.org/okno/fsb/2004/11/17.php.

⁴ On Operation Tabor, see Chapter 4 of this report.

⁵ See Letter No 2/4-258 dated April 1, 2002, from the Chief Department of the Ministry of Interior of Moscow City to the First Deputy Mayor of Moscow, cc-ed to Ms Nadezhda Demeter, Chair of Romano Kher. Document on file with the ERRC.

The Gypsies are not victims. Our attitude towards them is bad because they are killing our children with drugs. They earn big money. The houses you see are not built on child welfare benefits. There will be no peace here until the Gypsies are all driven out of this town. No Gypsy ever works and they are all criminals.⁶

The entrenched assumptions that Roma are prone to crime lead to systematic racially motivated abuse. Racial discrimination against Roma is manifested in routinely carried out abusive raids on Romani neighbourhoods by law enforcement organs; unlawful and unprovoked use of violence during detention; selective and disproportionately frequent detention; arbitrary and disproportionate checks of personal documents; extortion of money; arbitrary seizure of property; and fabrication of criminal cases. Discrimination against Roma also affects access to justice, education, housing, employment, and public services.

Some public officials openly support anti-Romani actions. In November 2004, during a discussion on measures to combat the drug trade, members of the Yaroslavl City commission for law and order called for the deportation of Roma who sell drugs. Municipal council deputy Sergey Krivnyuk reportedly said:

In my electoral district, there are many Gypsy families, and the police regularly arrest their children and pregnant women for selling drugs. Residents are ready to start setting the Gypsies' houses on fire, and I want to head this process.

During the same meeting, municipal council deputy Evgeniy Urlashov was quoted saying:

In Astrakhan and Leningrad regions, they have come up with initiatives to deport Gypsies who sell drugs. Why hasn't this been done in Yaroslavl? This would be a lot more effective than propaganda or social advertising.⁷

⁶ Conversation between the ERRC and patrolling police officers during field research in the Romani settlement of Kimry, Tver region, on April 13, 2004.

⁷ RFE/RL Newline, November 18, 2004, at: <http://www.hri.org/news/balkans/rferl/2004/04-11-18.rferl.html#09>.

Anti-Romani sentiments are sometimes exploited by politicians in the context of election campaigns. For example, Mr Oleg Gusev, candidate for mayor of Ekaterinburg in the 2003 elections proposed the demolition of the Romani settlement in the city. The suggestion was readily taken up by the local newspaper *Uralskiy karakter*, which conducted an opinion poll asking its readers: “Do you support the initiative put forward by Mr Oleg Gusev concerning the demolition of the Gypsy settlement and building on its place municipal blocks of flats for dwellers of the city?” The answers to the question, published in the edition of the newspaper from November 13, 2003, indicated that 91.3% of the respondents approved the proposal, 2.3% partially approved, 0.9% did not approve, 0.4% did not have an opinion, and 5.2% reportedly stated that they had never heard about the issue. Finally, the newspaper itself endorsed the proposal stating that, “It is hard to disagree with Oleg Gusev’s idea of pulling down of the so-called Gypsy settlement and building instead a modern housing block. Many inhabitants of Ekaterinburg approve this idea, and in particular those living in blocks next door to the Gypsy settlement.”⁸

Romani communities in Russia are also targeted for violent racist attacks by non-state actors. Most recently, on February 14, 2005, an arson attack on Roma by civilians has resulted in destruction of about ten dwellings and the subsequent expulsion of the entirety of the approximately 400-person Romani community of Iskitim, Novosibirsk region.⁹ According to reports, during the whole incident, despite clear and evident awareness that the attacks were ongoing, law enforcement officials and municipal authorities did nothing to prevent them.

One particularly alarming development has been the appearance of groups who, under the banner of “waging a war against drugs”, target minorities for vigilante human rights abuse. As a result of a wave of media action promoting a link between “Gypsies” and drug-related crime, Roma are particularly targeted by such groups for abuses including the invasion of privacy, arbitrary and wholesale destruction of property and physical abuse. In one particularly disturbing case, the Ekaterinburg-based non-governmental organisation City without Drugs has openly advocated killing drug dealers, as well as imprisoning and/or evicting all “Gypsies”. The Roma have been demonised as alien “invaders” having

⁸ Column “Nash dom” in *Uralskiy karakter*, local newspaper, November 13, 2003, No 33, Ekaterinburg.

⁹ ERRC telephone interviews with Mr Boris Kreyndel, Chair of the Tomsk-based Commission on Human Rights of the Tomsk region and with Ms Nadezhda Demeter, Chair of the Moscow-based Romani non-governmental organisation Romano Kher, February 20, 2005, Budapest. See details of the case in Chapter 6.

arrived in Ekaterinburg and the Sverdlovsk region, along with Azerbaijanis and Tajiks, and allegedly distributing drugs deliberately to “kill our children”. On the basis of a broadly advertised use of ordinary citizens as informants and a computerised processing of citizens’ alerts, City without Drugs has undertaken vigilante actions storming Romani homes, violently searching for drugs and delivering suspects to the official law enforcement bodies, dramatically violating the human rights of the persons concerned in the course of their crusade, and leading to a very significant degradation of the rule of law in the area as a result. In one case on December 19, 2000, the group organised the wholesale destruction of a house belonging to a Roma whom they had accused of selling narcotics. The media have publicised broadly and often sympathetically these racist onslaughts, while the group’s Internet website contains overt and explicit insults of Roma.¹⁰

The proliferation of inflammatory speech and images in the Russian media portraying Roma as a nation of criminals and drug dealers is another powerful factor inciting anti-Romani racism in Russian society. The authorities’ failure to discourage or condemn hate speech perpetuates the misconception of Romani criminality, which fuels anti-Romani sentiment in the general population.

There are no reliable current estimates of the number of Roma in the Russian Federation. The results of the 2002 census indicate that there were 182,617 individuals who identified themselves as “Gypsies” (Tsygane).¹¹ Unofficial estimates, however, suggest that the number of Roma in Russia is much higher. Some Romani leaders place the number of Roma in Russia at approximately 1.2 million.¹² For reasons including assimilatory communist policies, continuing migration movements of Roma through-

¹⁰ See the website of City without Drugs: <http://www.nobf.ru/index2.html>. (See, for example, bulletins 13, 14, and 15, 2003)

¹¹ According to a letter by Mr Vladimir Zorin, Minister for Nationalities of the Russian Federation, sent to governmental institutions, Roma inhabited the following regions: Krasnodar kray, Moscow city, Omsk region, Rostov region, Samara region, Smolensk region, Stavropol kray, Sverdlovsk region, Tver region, Tyumen region, Volgograd region. Document No 1016P-P11 1032674. Information on the situation of Roma in Russia. Moscow, February 20, 2004. ERRC research found that large Romani communities also live in the regions of Nizhniy Novgorod, Leningrad, and others.

¹² See, for example, press release distributed by the Federal National Cultural Autonomy of Russian Roma at a press conference on the occasion of the International Day of Roma, Moscow, April 7, 2004. A copy is on file with the ERRC.

out the territory of the former Soviet Union, widespread lack of personal documents,¹³ and deep reluctance among Roma to identify themselves as such, the official number of Roma as provided by the census figure is a dramatic undercount of the real number of Roma in Russia. In comparative terms, the uncertainty regarding Roma-related statistics, which is characteristic of most countries where Roma live, is much higher with regard to Roma in Russia.

Despite the rich ethnic diversity of a country that is home to approximately 160 ethnic groups or nationalities, it is important to single out Roma and assess their human rights situation, because not all minority groups in Russia are the object of egregious racist treatment and hate crime. Several ethnic/national communities are particularly vulnerable on the whole territory of the state, wherever they happen to be. The infamous label “person of Caucasian nationality”¹⁴ applied by the Russian authorities to refer to a range of people such as Chechens, Ingushetians, Ossetians, Dagestanis, Georgians, Azeris, etc. is a construct that serves as a tool for discriminatory treatment on the basis of ethnic identity, perceived as skin colour and other visible – especially physiognomic – features. Apart from “persons of Caucasian nationality”, Jews, “Gypsies”, and more recently Tajiks and some other people of Central Asian origin are also the target of particularly powerful racist attitudes and actions.

Anti-Gypsyism features prominently among the new hate ideologies of Russia today. Several surveys indicated high levels of anti-Romani feeling in Russia. For example, a September 2004 representative survey carried out by the Russian analytical centre Levada,¹⁵ revealed that 24.8% of the respondents categorically disap-

¹³ The lack of personal documents, including passports, birth certificates, address registration and home ownership papers is widespread among Roma in Russia and has a crippling effect on the ability of a person in Russia to exercise rights and access services. See elaboration on the issue of personal documents in Chapter 8 of this report.

¹⁴ The term “person of Caucasian nationality” in this report is a literal translation of the Russian “litso kavkazskoy natsionalnosti”. In the Russian usage, which should not be confused with the English and American usage according to which “Caucasian” is synonymous with “white” when applied to race and skin colour, the expression “person of Caucasian nationality” means a person originating from the area of or around the Caucasus mountains.

¹⁵ The results of the survey were provided to the ERRC by the press service of the Levada Center. ERRC communication with Mr Alexei Grazhdankin, Deputy Director of the Levada Center press service, February 25, 2005, Budapest.

proved of having Roma living in Russia and 19.6% stated they preferred Roma did not live in Russia; 33.4% categorically disapproved of living in one city with Roma and 22.4% stated they preferred they did not live in one city with Roma; and 39.6% categorically disapproved of having Roma as neighbours and 25% stated they preferred not to have Roma as neighbours.¹⁶

The human rights situation of persons belonging to ethnic and national minorities in the Russian Federation or otherwise stigmatised by being regarded as a member of a pariah or despised or suspicious group, including Roma, has been noted by international monitoring bodies. For example, regarding arbitrary identity checks of Roma and “persons of Caucasian nationality”, the United Nations Committee on the Elimination of Racial Discrimination stated in March 2003: “The Committee is concerned at reports of racially selective inspections and identity checks targeting members of specific minorities, including those from the Caucasus and Central Asia and Roma. The Committee recommended that the State party take immediate steps to stop the practice of arbitrary identity checks by law enforcement authorities.”¹⁷

The European Commission against Racism and Intolerance (ECRI), a Council of Europe review body, noted in its 2001 Second Report on the Russian Federation the occurrence of episodes of ethnic violence directed against Roma and negative stereotyping of Roma in the media. ECRI also stated that “Roma population is faced with poor living conditions and lack of access to basic services. This is due to a combination of reasons, including a lack of awareness on the part

¹⁶ The respective percentages for Chechens, “Caucasians”, and persons of African origin were: 34.4%, 22%, and 18% of the respondents categorically disapproved of having the respective nationalities living in Russia and 18.6%, 19%, and 20.2% stated they preferred the respective nationalities did not live in Russia; 39.4%, 22.8%, and 17.8% of the respondents categorically disapproved of living in one city with the respective nationalities and 19.8%, 21.4% and 19.4% preferred they did not live in one city with the respective nationalities; 43%, 25.2%, and 20.4% of the respondents categorically disapproved of having persons of the respective nationalities as neighbours and 18%, 23.2% and 22.4% preferred not to have them as neighbours.

¹⁷ United Nations Committee on the Elimination of Racial Discrimination. Concluding observations of the Committee on the Elimination of Racial Discrimination: Russian Federation. 21/03/2003. CERD/C/62/CO/7. (Concluding Observations/Comments), paragraph 13, at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CERD.C.62.CO.7.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CERD.C.62.CO.7.En?Opendocument).

of the Roma population of their rights, indifference or discriminatory behaviour on the part of the local authorities and, in some cases, lack of registration.”¹⁸

Non-governmental organisations have expressed similar concerns. For example, the 2003 World Report by Human Rights Watch pointed out that “state authorities did little to address racist assaults, and in some areas regional authorities led attacks on ethnic minorities. The government also failed to make any advances in addressing police torture [...]. Police generally did not take adequate steps to investigate such crimes, denying racial motivation unless presented with strong supporting evidence such as video footage of the crime.” Human Rights Watch also noted “an explosion of skinhead attacks on ethnic minorities, and an ugly campaign against them by the authorities in the southern region of Krasnodar. Skinheads killed several members of ethnic minorities and beat dozens of others in Moscow and other Russian cities.”¹⁹

Russian officials, however, have offered controversial responses to concerns about the rising tide of racism in Russia. While President Putin and other high ranking officials have spoken out against racism,²⁰ in October 2004, Lieutenant General Vladimir Gordienko, head of the criminal investigation department of the Ministry of Interior, told a press conference that, “Judging from my experience of speaking with colleagues from other countries, Russia is the most ethnically tolerant country.”²¹

Many of the patterns of abuse identified during ERRC research on the human rights situation of Roma in Russia may be regarded as clues to similar problems re-

¹⁸ European Commission against Racism and Intolerance. Second Report on the Russian Federation. CRI (2001) 41, November 13, 2001, paragraph 49, at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Russian_Federation/Russian_Federation_CBC_2.asp.

¹⁹ Human Rights Watch. World Report 2003 (Events of 2002), available at: <http://www.hrw.org/wr2k3/>.

²⁰ For example, in April 2001, following a skinheads attack on people of the Caucasus at a Moscow market, President Putin addressed ministers at a cabinet meeting to battle against “negative, racially motivated acts”, which he said were “absolutely unacceptable”. See RFE/RL Newsline, April 24, 2001, at: <http://www.rferl.org/newsline/2001/04/240401.asp>.

²¹ Ekaterina Blinova. “Militsiya ne zamechaet vspleska ksenofobskih prestupleniy v Rossii”. In *Nezavisimaya gazeta*, October 18, 2004, Moscow.

lated to other groups. Therefore, international scrutiny of the human rights of Roma in Russia should be seen as a contribution to exposing and combating racism and discrimination in that country generally. At the same time, patterns of abuse and discrimination of Roma can be understood properly only if seen in the specific legal, political and cultural context of today's Russia.

Legal and Institutional Context

Russia is a party to all major international and regional instruments banning discrimination on the grounds of, *inter alia*, race and ethnicity. In particular, under the International Convention on the Elimination of Racial Discrimination (ICERD), the Russian Federation is legally bound to take active measures to prohibit and eliminate discrimination on grounds of race, colour, descent, or national or ethnic origin and to guarantee to everyone equality before the law.²² The Russian Constitution in Article 15 recognises the “universally recognised norms of international law and international treaties and agreements of the Russian Federation” as a “component part of its

²² The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) ratified by the USSR (succeeded by the Russian Federation) on March 6, 1969, stipulates at Article 2: “1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organisations; (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organisation; (e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organisations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division. 2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

legal system”. Furthermore, “[i]f an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international

Other major binding United Nations instruments banning racial discrimination are:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified by the USSR to which the Russian Federation is a successor on January 3, 1976. Article 2(2) ICESCR stipulates: “The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
- The International Covenant on Civil and Political Rights (ICCPR) ratified by the USSR on March 23, 1976. Article 2(1) stipulates: “1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Article 26 ICCPR further declares: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
- The Convention on the Rights of the Child (CRC) ratified by the USSR on September 15, 1990, stipulates at Article 2: “1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parent’s or legal guardian’s race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. 2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members. “
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ratified by the USSR on January 23, 1981, stipulates at Article 2(2): “States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: [...] (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise; [...]”

On February 28, 1996 the Russian Federation became a Member State of the Council of Europe and two years later on May 5, 1998 ratified the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR). According to Article 14 of the ECHR, “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social

agreement shall be applied.”²³ The provisions of ICERD and other international instruments, however, are not adequately transposed into domestic law, are not widely known to law enforcement officials, and their provisions are rarely if ever invoked by public officials in the course of their law enforcement activities.

As of April 2005, the State Duma (the Russian Parliament) had not made public any plans for the drafting or the adoption of anti-discrimination legislation beyond the existing constitutional and several other equality provisions. In the absence of effective comprehensive anti-discrimination legislation, Roma as well as a small number of other ethnic groups in Russia listed above are unprotected from discrimination in nearly all areas of public life. The very few relevant legal provisions found in the national legislation are rudimentary, inadequate and fail to offer effective protection from discrimination in Russia. The Russian legal order at present is utterly unaware of developments in the field of equality law of the last two or three decades. The state of the Russian anti-discrimination legislation is such that it places the country entirely outside these developments.

The legal provisions on fighting discrimination existing in the Russian Federation are anaemic compared with the anti-discrimination *acquis* of the European Union²⁴

origin, association with a national minority, property, birth or other status.” The Russian Federation has signed but not yet ratified Protocol 12 to the ECHR, which states at Article 1: “The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. 2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.”

The Council of Europe’s Framework Convention for the Protection of National Minorities (FCNM), in force for the Russian Federation since December 1, 1998 stipulates at Article 4: “1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited. 2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.”

²³ Constitution of the Russian Federation adopted on December 12, 1993, Article 15. Official translation, available at: <http://www.constitution.ru/en/10003000-02.htm>.

²⁴ The European Union adopted a number of legal measures which have significantly expanded the scope of anti-discrimination law in Europe, notably the following Directives: (i) Directive 2000/43/

– by far the most comprehensively developed body of anti-discrimination legislation in Europe – which, however, is binding only on the Member States of the European Union. They further do not meet the standards defined by the United Nations and the Council of Europe, of which the Russian Federation is a Member State. The UN Committee on the Elimination of Racial Discrimination, for example, noted with concern “the absence of a definition of racial discrimination in domestic legislation” and encouraged the State party to “consider introducing into relevant laws an explicit prohibition of racial discrimination as defined in article 1 of the Convention [on the Elimination of All Forms of Racial Discrimination].”²⁵ Furthermore, the Council of Europe European Commission against Racism and Intolerance (ECRI) noted that, “Although some civil and administrative law provisions relevant in the field of ECRI’s work exist in the Russian Federation there are no comprehensive civil or administrative law provisions against discrimination.” ECRI recommended that Russian authorities “consider the adoption of a body of comprehensive civil and administrative anti-discrimination provisions covering discrimination in different fields of life such as employment, education, housing, access to public and social services and public places and contractual relations between individuals. Such legislation should provide for effective mechanisms of enforcement.”²⁶

EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin” (available at: http://www.era.int/www/gen/f_13049_file_en.pdf); (ii) Directive 2000/78/EC “establishing a general framework for equal treatment in employment and occupation (available at: http://www.era.int/www/gen/f_13061_file_en.pdf); and (iii) Directive 2002/73/EC “on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions” (available at: http://europa.eu.int/eur-lex/pri/en/oj/dat/2002/l_269/l_26920021005en00150020.pdf). In addition to these Directives adopted under Article 13 of the Treaty Establishing the European Community (TEC), a revised Article 29 of the TEC gives police and judicial authorities heightened powers to cooperate on matters related to, among others, “preventing and combatting racism and xenophobia”.

²⁵ See United Nations Committee on the Elimination of Racial Discrimination. Concluding observations of the Committee on the Elimination of Racial Discrimination: Russian Federation. 21/03/2003. CERD/C/62/CO/7. (Concluding Observations/Comments), paragraph 10.

²⁶ See ECRI. Second Report on the Russian Federation, CRI (2001) 41, November 13, 2001, paragraph 11. In its General Policy Recommendation No 7 ECRI recommended that national anti-discrimination legislation should contain at minimum the definitions of “racism”, “direct discrimination” and “indirect discrimination”. With respect to civil law, ECRI recommended that the law should provide, among others: [...] that segregation; discrimination by association; announced intention to discriminate; instructing another to discriminate; inciting another to discriminate; aiding another to discriminate are considered as acts of discrimination (para. 6); that the prohibition of discrimination applies to all public authorities as well as to all natural or legal persons, both in the public and in the

Article 19 of the Constitution of the Russian Federation is apparently intended as an umbrella provision enshrining the principle of equal treatment. It does not, however, provide an explicit ban on discrimination. Article 19 stipulates that “1. All people shall be equal before the law and court” and that “2. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned.”²⁷ The second clause of Article 19 limits its ban on “limitations of human rights” (not defined anywhere in Russian law) to five specific grounds, and only with regard to “citizens”. However, read together with the first clause, the prohibition of restriction of rights on the prohibited bases may be interpreted as covering all individuals under the jurisdiction of the Russian Federation, regardless of citizenship.

The term “discrimination” appears in the Russian Constitution only in the context of equal pay and employment conditions, but no definition is offered. The equal treat-

private sectors, in all areas, notably: employment; membership of professional organisations; education; training; housing; health; social protection; goods and services intended for the public and public places; exercise of economic activity; public services. (para. 7); that public authorities have a duty to promote equality and to prevent discrimination in carrying out their functions. (para. 8); that judicial and/or administrative proceedings, including conciliation procedures, are easily accessible and available to all victims of discrimination. In urgent cases, fast-track procedures, leading to interim decisions, should be available to victims of discrimination (para. 10); that if persons who consider themselves wronged because of a discriminatory act establish before a court or any other competent authority facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no discrimination (para. 11); effective, proportionate and dissuasive sanctions for discrimination cases. Such sanctions should include the payment of compensation for both material and moral damages to the victims (para. 12); the necessary legal tools to review, on an ongoing basis, the conformity with the prohibition of discrimination of all laws, regulations and administrative provisions at the national and local levels. Laws, regulations and administrative provisions found not to be in conformity with the prohibition of discrimination should be amended or abrogated (para. 13); that harassment related to one of the enumerated grounds is prohibited (para. 15). See ECRI General Policy Recommendation No 7 on National Legislation to Combat Racism and Racial Discrimination, adopted by ECRI on 13 December, 2002, available at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%07/3-Recommendation_7.asp#TopOfPage.

²⁷ Constitution of the Russian Federation, Article 19.

ment provisions in the Constitution are elaborated in some Russian sectoral laws, but protections provided by these laws are inadequate. For instance, the term “discrimination” appears in the 2001 Labour Code, again with no definition or guidance as to interpretation. The Federal Law “On Citizenship of the Russian Federation”²⁸ guarantees equal rights to all citizens of the Russian Federation, but not equal access to citizenship regardless of race or ethnicity. A number of sectoral laws do not contain even such meagre equal rights provisions. Such is the case, for example, of the 1983 Housing Code as well as with the new Housing Code which came into force on March 1, 2005; the 1992 Federal Law on the Framework of Federal Housing Policies; and the 1999 Federal Law on the Framework of the Federal Labour Protection Policies.

The Criminal Code establishes at paragraph 1 of Article 136 (“Violation of the Equality of Rights and Liberties of Man and Citizen”) criminal responsibility for “discrimination, i.e. the violation of the rights, freedoms and legitimate interests of man and citizen on the grounds of sex, race, nationality, language, origin, property status and official position, residence, attitude to religion, convictions, membership in public associations or any social group”. This offence envisages penalty ranging from 200 minimum monthly wages to a two-year term of imprisonment. Paragraph 2 of Article 136 deals with the same crime committed by a public official acting in an official capacity and provides for a punishment of up to five years term of imprisonment. According to reports, however, this article has been applied in very few cases.²⁹ Several reasons may explain this situation,

²⁸ Last amended by Federal Law No. 151-FZ from November 11, 2003.

²⁹ For example, in 2001, ECRI noted: “For example, very few cases have been brought under Article 136 and none of these has led to a court’s sentence” suggesting that “this could be connected to the unclear formulation of the criminal offence, which does not contain concrete elements describing the illegal behaviour”. ECRI recommended that the language of Article 136 be clarified. See ECRI. Second Report on the Russian Federation, CRI (2001) 41, November 13, 2001, paragraph 9. In addition, the “Alternative NGO Report on Observance of ICCPR by the Russian Federation” stated that according to data from the Ministry of Internal Affairs, three criminal cases were initiated under Article 136 in 1997, four cases in 1998, five cases in 1999 and one case in 2000. Statistical data about the trials and their results has not been published. See Moscow Helsinki Group. “Alternative NGO Report on Observance of ICCPR by the Russian Federation Submitted to the Attention of the UN Human Rights Committee in Connection with the Upcoming Consideration of the Fifth Periodical Report of the Russian Federation”, 2002, available at: <http://www.mhg.ru/english/1F24FB>. For data on cases registered by the prosecutorial authorities under Article 136 of the Criminal Code for the period 1997-1999, see also Committee on the Elimination of Racial Discrimination. Reports

including i) reluctance on the part of the victims to report incidents to the police; ii) insufficient attention and experience on the part of the police and the public prosecution service in handling cases involving racial discrimination; iii) the difficulties encountered in proving racial discrimination under criminal law; as well as possibly other reasons.³⁰ Anti-discrimination litigation in a number of European countries provides significant evidence to support the argument that, in the absence of a comprehensive body of civil and administrative law, criminal law provisions alone are inadequate to effectively combat racial discrimination.³¹

Russian law does not provide for specific disciplinary measures against public officials for discriminatory behaviour or racist speech. Article 14 of the 1995 framework

submitted by States Parties under Article 9 of the Convention. Seventeenth periodic reports of states parties due in 2001, addendum, Russian Federation, at: [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/dc7278843b2ed801c1256c7600558c91/\\$FILE/G0243789.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/dc7278843b2ed801c1256c7600558c91/$FILE/G0243789.pdf). The government report does not provide information about the number of cases brought before courts and the decisions delivered.

³⁰ There are a number of problems specific to the criminal law: (i) the burden of proof: the criminal law generally requires that the alleged offence be proved beyond reasonable doubt (as opposed to the civil law standard of balance of probabilities). This standard is often prohibitive for victims of discrimination because the evidence often lies exclusively in the hands of the discriminator; (ii) recourse to the criminal law depends on the attitude of the law enforcement authorities. In many instances, ethnic minority communities lack sufficient confidence in the police to make a complaint. Moreover, unless there is legal standing for anti-racism groups, decisions concerning the handling of the case, in particular, whether or not to prosecute, lie with the police; the victim may be left with very little control over the direction of the case; (iii) remedies: the criminal law sanctions may not provide direct compensation to the victim of discrimination, reducing the motivation for the individual to make a complaint in the first place. (See discussion on this issue in “European Union Anti-Discrimination Policy: From Equal Opportunities between Women and Men to Combating Racism”, Chapter 2. Directorate-General for Research Working Document, Public Liberties Series LIBE 102 EN, European Parliament, December 1997, available at: http://www.europarl.eu.int/workingpapers/libe/102/text2_en.htm#N_70_).

³¹ In the Explanatory Memorandum to its General Policy recommendation No 7 on National Legislation to Combat Racism and Racial Discrimination, the ECRI stated: “ECRI believes that appropriate legislation to combat racism and racial discrimination should include provisions in all branches of the law, i.e. constitutional, civil, administrative and criminal law. Only such an integrated approach will enable member States to address these problems in a manner which is as exhaustive, effective and satisfactory from the point of view of the victim as possible. In the field of combating racism and racial discrimination, civil and administrative law often provides for flexible legal means, which may facilitate the victims’ recourse to legal action.” See European Commission against Racism and Intolerance,

Federal Law “On the Basic Principles of Civil Service of the Russian Federation” provides for general disciplinary responsibility of a civil servant for improper exercise of his/her duties and contains a general reference to the “responsibility under federal law”.

Finally, there are no special federal or regional authorities with a mandate to combat and prevent racial discrimination. Theoretically, the Ombudsman institution may consider any complaint about violation of human rights, including the right to equal treatment after all other remedies have been exhausted or in the event of mass and regular violations. Cases of racial and ethnic discrimination dealt with by the Ombudsman, however, are extremely rare.³²

One effect of the vagueness and paucity of anti-discrimination norms in Russian legislation is the reported reluctance of courts to deal with the problem of discrimi-

ECRI general policy recommendation N°7 on national legislation to combat racism and racial discrimination, Adopted by ECRI on 13 December 2002, Explanatory Memorandum to ECRI’s General Policy recommendation No 7 on National Legislation to Combat Racism and racial Discrimination, paragraph 3, at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%B07/3-Recommendation_7.asp#P128_11460.

³² According to information provided to the ERRC/MHG by an official from the Ombudsman’s Office, in 2004 there was only one complaint for discrimination on ethnic grounds, this lodged by Meshkettian Turks. (ERRC/MHG interview, Moscow, February 21, 2005). According to information provided to the ERRC by Mr Georgy Kunadze, deputy chief of staff from the Ombudsman’s office, in 2004 the office did not receive any complaints from Roma. (ERRC interview with Mr Georgy Kunadze, April 4, 2005, Moscow). Furthermore, the 2004 Report of the Ombudsman does not contain any information about cases of ethnic/racial discrimination against Roma. (See “Doklad Upolnomochenovo po pravam cheloveka v Rossiyskoy Federatsii za 2004 god”. Moskva: Jurisprudentsiya 2005)

A number international and European institutions have recommended establishment of specialised bodies with competencies, among others, to provide independent assistance to victims of discrimination; conduct independent surveys on discrimination; publish independent reports and make recommendations on any issues relating to discrimination. See in particular ECRI General Policy Recommendation No. 2 (June 13, 1997) on “Specialised Bodies to Combat Racism, Xenophobia, anti-Semitism and Intolerance at National Level”, available at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/3-General_themes/1-Policy_Recommendations/Recommendation_N%B02/Rec02en.pdf. The UN CERD has also adopted General Recommendation 17, entitled “Establishment of National Institutions to Facilitate Implementation of the Convention”, recommending that “States parties establish national commissions or other appropriate bodies [...] to serve, *inter alia*, the following purposes: (a) To promote respect for the enjoyment of human rights without any discrimination, as expressly set out in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination; (b) To review government policy towards protection against

nation per se. According to human rights organisations, courts allegedly require that the applicants refer to a breach of a definite right, rather than show less favourable treatment on one of the prohibited grounds. In those cases which are admitted and mention discrimination, courts generally avoid any reference to this issue in the judgement. In addition, courts allegedly refuse to address discrimination in civil proceedings under the pretext that this violation is defined in the Criminal Code and thus subject to criminal, rather than civil liability.³³

Political and Ideological Climate

Toward the end of the Yeltsin presidency, Russian society was imbued with a strong feeling of chaos, injustice, rampant crime and corruption. President Putin was elected in March 2000 and then re-elected in March 2004 on a ticket of security, law and order. His popular support rests on the broad expectation that he will stifle corruption and curtail crime. The Russians' longing for "normalcy" has turned into a vehement political resource exploited by powers in building their own legitimacy.

With the quagmire of the war in Chechnya and the series of terrorist attacks in recent years – of which the most serious to date have been the October 2003 hostage taking in a Moscow theatre and the September 2004 school children massacre in Beslan, North Ossetia – an increased preoccupation with security at all levels of public life is demanded by the public. Together with the lack of democratic tradition and the extremely weak rule of law culture, the security and anti-crime agenda in Russia provide justification for the crack down on human rights and civil liberties in the country and for tightening the control over civil society. According to a recent report by the international non-governmental organisation Freedom House, "political

racial discrimination; (c) To monitor legislative compliance with the provisions of the Convention; (d) To educate the public about the obligations of States parties under the Convention; (e) To assist the Government in the preparation of reports submitted to the Committee on the Elimination of Racial Discrimination [...]" , available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/4872085cc3178e3bc12563ee004beb99?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/4872085cc3178e3bc12563ee004beb99?Opendocument).

³³ See Moscow Helsinki Group. "Alternative NGO Report on Observance of the International Covenant on Economic, Social and Cultural Rights Submitted to the Attention of the UN Committee on Economic, Social and Cultural Rights within the framework of its examination of the Russia's Fourth Periodic Report on implementation of ICESCR", October 2003, Article 6, available at: <http://www.mhg.ru/english/2F7A0E0>.

rights and civil liberties have become so restricted in Russia” that the country has been downgraded from “Partly Free” to “Not Free” in the organisation’s survey of global freedom. Freedom House noted that “Russia’s step backwards into the Not Free category is the culmination of a growing trend under President Vladimir Putin to concentrate political authority, harass and intimidate the media, and politicise the country’s law-enforcement system.”³⁴ In 2003 and 2004, international monitors noted regression of the democratic process in Russia after the State Duma elections in December 2003 and the presidential elections in March 2004.³⁵ The government rolled back media freedoms, stepping up measures to control major broadcast media. Intimidation and harassment of journalists have increased self-censorship and left little space for plurality of opinion in the media.³⁶ A series of trials against Russian scientists, journalists and environmentalists on espionage charges further hampered the

³⁴ See Freedom House press release “Russia Downgraded to Not-Free”, December 20, 2004, at: <http://www.freedomhouse.org/media/pressrel/122004.htm>.

³⁵ The Organisation for Security and Cooperation in Europe (OSCE) criticised the State Duma elections for “failing to meet a number of OSCE commitments for democratic elections, most notably those pertaining to: unimpeded access to the media on a non-discriminatory basis, a clear separation between the state and political parties, and guarantees to enable political parties to compete on the basis of equal treatment.” See Organisation for Security and Cooperation in Europe. Russian Federation Elections to the State Duma 7 December 2003 OSCE/ODIHR Election Observation Mission Report. Warsaw, 27 January 2004, p. 1, available at: http://www.osce.org/documents/odihr/2004/01/1947_en.pdf.

With regard to the Presidential elections, the OSCE observed that the “process overall did not adequately reflect principles necessary for a healthy democratic election. The election process failed to meet important commitments concerning treatment of candidates by the State-controlled media on a non-discriminatory basis, equal opportunities for all candidates and secrecy of the ballot.” See Organisation for Security and Cooperation in Europe. Russian Federation Presidential Elections. OSCE/ODIHR Election Observation Mission Report. Warsaw, June 2, 2004, p. 1, available at: http://www.osce.org/documents/odihr/2004/06/3033_en.pdf?PHPSESSID=7ed5e19c080672c1bf76b60133160.

³⁶ Government crack down on independent media was also noted by the UN Human Rights Committee which expressed concern over “the closure in recent years of a number of independent media companies and an increase in State control of major media outlets (TV channels, radio stations and newspapers), either directly or indirectly through state-owned corporations, such as the state-run company Gazprom, which took over the independent nation-wide television network NTV in 2001.” The Committee further recommended that the State party “protect media pluralism and avoid state monopolisation of mass media, which would undermine the principle of freedom of expression enshrined in article 19 of the Covenant.” See Human Rights Committee. Concluding observations

freedom to seek, receive and impart information and ideas.³⁷ In addition, such trials seriously questioned the independence of the judiciary from political interference.

The administrative and legal obstacles to the operation of civil society organisations additionally reduce the prospects for human rights and freedoms. In 2004, President Putin himself triggered an offensive against human rights organisations in particular when, in a presidential speech on May 26, 2004, he used language reminiscent of an earlier era. Mr Putin said that foreign “political, economic and media pressure” was being used in an attempt to weaken Russia’s chances of competing globally. Rather than defending “the real interests of the people”, the priority of some independent groups is, according to Mr Putin, “getting financing from influential foreign and domestic foundations, while others serve dubious group and commercial interests”.³⁸ Finally, in December 2004, the Russian Duma gave an initial backing to a visa bill that could lead to a ban on foreign nationals showing “disrespect” to the country. The move was met with concerns from human rights organisations fearing that the law may be used to restrict independent human rights monitoring in the country.³⁹ Most abhorrently, the attack on civil society is manifested in the persecution, by Russian security forces

of the Human Rights Committee: Russian Federation. 06/11/2003CCPR/CO/79/RUS. (Concluding Observations/Comments), paragraph 18, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/622c5ddc8c476dc4c1256e0c003c9758?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/622c5ddc8c476dc4c1256e0c003c9758?Opendocument).

³⁷ In its Concluding Observations on the Russian Federation, the UN Human Rights Committee noted: “The Committee is concerned that journalists, researchers and environmental activists have been tried and convicted on treason charges, essentially for having disseminated information of legitimate public interest, and that in some cases where the charges were not proven, the courts have referred the matter back to prosecutors instead of dismissing the charges.” See Concluding observations of the Human Rights Committee: Russian Federation, 06/11/2003CCPR/CO/79/RUS. (Concluding Observations/Comments), paragraph 21.

Most recently, in April 2004, the Russian scientist, Mr Igor Sutyagin, a researcher from the U.S. and Canada Institute in Moscow was sentenced to 15 years in hard labour for treason and espionage. Amnesty International recognised Mr Sutyagin as prisoner of conscience. The sentence raised international concern about gross violations of the right to fair trial. See more information on the case at: <http://web.amnesty.org/library/Index/ENGEUR460042004?open&of=ENG-RUS>.

³⁸ President Putin’s speech is available at: <http://www.ln.mid.ru/bl.nsf/new/443F83C84B28C5AAC3256EA1002835EC>.

³⁹ For more information see a BBC report available at: <http://news.bbc.co.uk/2/hi/europe/4168701.stm>.

and law enforcement officials, of human rights defenders, especially the ones who investigate the situation in Chechnya and adjacent areas and seek accountability for the human rights violations committed there.⁴⁰ A number of human rights defenders have been subjected to threats, some of them have been killed, and others abducted or persistently harassed.⁴¹

Russian internal security policy at present rests on three ideological sacred cows: the “war against terrorism”, the “war against corruption” and the “war against drugs”. These three rhetorical wars are waged against amorphous and evasive enemies. However, among a public shaped by the hate-speaking media, the enemy images are strongly associated with the three respective most stigmatised ethnic and national groups singled out above: “persons of Caucasian nationality”, Jews, and “Gypsies”. Each of the three interior policy priorities is effectively translated into a policy of discriminatory treatment against these three groups, respectively. The militant rhetoric of the ideological campaigns in today’s Russia strengthens the existing negative stereotypes about these three nationalities. In the first case, in addition to dealing with occasional disaster caused by

⁴⁰ Such treatment contravenes Article 1 of the UN Declaration on Human Rights Defenders which proclaims: “Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels.” Article 12(2) of the Declaration requires states “to take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.” See Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted by resolution 53/144 of the General Assembly of the United Nations, available at: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.RES.53.144.En?OpenDocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.RES.53.144.En?OpenDocument).

⁴¹ In a recent incident the office of the Russian-Chechen Friendship Society was raided by Russian security forces, who seized the organisation’s documentation containing contact details of the organisation’s staff. According to Amnesty International, members of the group have been in danger of being arbitrarily arrested, tortured and “disappeared”. See for more information, Amnesty International press release “Russian Federation: Human rights group threatened by security forces”, at: http://www.amnestyusa.org/countries/russian_federation/document.do?id=80256DD400782B8480256F8F00676B84.

The wave of repressions has also targeted Makhmut Magomadov, a prominent Chechen human rights defender and lawyer, who had been reportedly abducted by armed men on 20 January, 2005 in Grozny, Chechnya, and had not been seen until February 14, 2005. See for details, International Helsinki Federation for Human Rights Press Release “Abducted Chechen Human Rights Lawyer Makhmut

real terrorist attacks, security enforcement under the banner of the “war against terrorism” has a disturbing everyday manifestation: harassment of those perceived as “persons of Caucasian nationality” – an increasingly blurry category standing for a range of assorted non-Russians.⁴² In the second case, the “war against corruption” has been anchored in a recent series of high profile prosecutions of wealthy Jewish Russian businessmen, from Berezovskiy to Khodorkovskiy, for alleged violations of commercial and tax law. Finally, the “war on drugs” has gradually generated, during the 1990s, the image of the typical illegal drug dealer, namely, the “Gypsy”. Today, the identification of the Roma with drug dealing has reached a point of near synonymous usage in the media.⁴³

In view of this latter case of racist stereotyping, the majority of the examples presented in this report make more sense when seen in the context of the fight against drug dealing.

Magomadov Reappears”, 14 February, 2005, at: http://www.ihf-hr.org/viewbinary/viewhtml.php?doc_id=6225 and Amnesty International “Russian Federation: Further information on Fear for safety/torture/”disappearance”: Makhmut Magomadov (m) (note amended spelling)”, February 4, 2005, at: <http://web.amnesty.org/library/Index/ENGEUR460052005?open&of=ENG-RUS>.

⁴² The link between counter-terrorist propaganda and the racial profiling of “persons of Caucasian nationality” was demonstrated in the words of a young serviceman in the uniform of the special purpose units (OMON) who stopped the ERRC team for an identity check in the street in Krasnodar, southern Russia, in July 2004. When asked what kind of people he was expected to stop for checks, he replied he had been instructed to single out those who look like “persons of Caucasian nationality” (one of the ERRC researchers, who is Romani, was perceived as falling into this category). When asked further who are in fact these “persons of Caucasian nationality”, the soldier said, “Well, for example, Arabs, Chechens, and so on”. In ethnic or national terms, Arabs have nothing in common with the peoples inhabiting the area of the Caucasus Mountains except that both are easily blended together into the image of the potential terrorist in the average Russian mind.

⁴³ When pressed and upon further reflection, authorities and members of the public often agree that the “Gypsies” are not the only and indeed not the most dangerous drug dealers, and that perhaps others, such as ethnic Russians and Tajiks should be implicated. But this does not change the fact that on the surface in the public sphere the link between drug dealing and the Roma is taken for granted and acted upon. For example, during interview with the ERRC, Mr Gavrilov, Deputy chief of the Department for fighting drug trafficking of Novokuybishevsk, admitted that Roma comprise a negligible proportion of those charged and sentenced for drug dealing. According to Mr Gavrilov, in 2004, his department had launched investigation in 19 cases of drug trafficking. In five cases the suspects were Romani individuals. Of them, three were found guilty in court. The Romani population in Novokuybishevsk numbers over 2000 people. According to Mr Gavrilov, if there was any prejudice against Roma and belief that they are responsible for the spread of drugs, it was likely due to the activity of a Novokuybishevsk-based non-governmental organisation named City against Drugs. This NGO’s members are mostly parents of young drug

There are widespread allegations by Roma with whom ERRC spoke that police “plant”, or threaten to “plant” drugs on Roma. The practice of “planting” drugs and threatening to plant drugs is made possible by the atmosphere of almost full impunity for crimes against Roma and by the seemingly insurmountable levels of corruption in the Russian criminal justice system. There are two routine outcomes, both favourable to the representative of the authority “planting” or threatening to “plant” drugs. The first is receiving a bribe, which would complement the public servant for the very low salary offered by the state. The second is scoring a “victory” in the combat against drug dealing – an important achievement in view of the intense public pressure on police to show success in catching and prosecuting drug dealers. The latter outcome gives the law enforcement officer the additional satisfaction of punishing a harmful or just useless “Gypsy”.

The findings presented in this report are the result of an extensive monitoring of Roma rights in Russia conducted by the ERRC since July 2000 through own field missions, regular reporting by local monitors, and cooperation with Russian human rights and Romani non-governmental organisations. The geography of the ERRC research allows a degree of generalisation on the status of the Roma in the country, although further research is necessary to achieve full coverage. In the last three years (2002-2004), the ERRC has conducted field research in (i) Northwest Russia: Leningrad region, Novgorod region, Pskov region; (ii) Central Russia: the Chuvash Republic, Ivanovo region, Moscow city, Moscow region, Nizhniy Novgorod region, Ryazan region, Samara region, Saratov region, the Republic of Tatarstan, Tver region, Vladimir region, Volgograd region, Ulyanovsk region, Yaroslavl region; (iii) Southern Russia: Adygey Republic, Krasnodar region (*kray*), Rostov region; (iv) Siberia: Novosibirsk region, Omsk region, Tomsk region; and (v) the Ural area: Chelyabinsk region, Sverdlovsk region.⁴⁴

addicts and victims of drug addiction. (ERRC interview with Mr Gavrilov, August 24, 2004, Novokuybishevsk)

On another occasion, at a roundtable discussion between Roma and police in Samara in April 2004, a police colonel, responsible for fighting organised crime, provided participants with figures indicating a decreasing number of cases in which Roma from the Samara region had been indicted for drug dealing: in 2002, there had been 77 cases, in 2003 – 30, and for the first quarter of 2004 – only 3. (Videotape of Roundtable discussion “Roma rights and the police”, held by the ERRC, Samara, April 3, 2004)

⁴⁴ English versions of Russian geographic names are given according to Russian Federation Political-Administrative Map. Moscow: DMB Ltd., 2003. “Region” stands for the Russian “oblast”, unless stated otherwise. The Russian Federation consists of 89 “subjects of the Federation” – including regions, *kray*, and republics, as well as the City of Moscow.

Russian officials have been invited to provide comments on the draft of the ERRC report but have not responded as of the date the report went to press.⁴⁵

The report is structured as follows: The next chapter gives an overview of the situation of Roma in the Russian Empire, the Soviet Union and the Russian Federation after 1991. Chapter 4 presents ERRC documentation on police violence and discrimination against Roma, including racial profiling, arbitrary detention, torture and ill-treatment in custody, fabrication of incriminating evidence, police raids and arbitrary house searches, extortion of money and intimidation of victims who want to file complaints. Denial of fair trial to Romani suspects of crimes and denial of access justice to Roma who have been victims of human rights violations are the topics of Chapter 5. Cases of racially motivated violence against Roma by non-state actors and failure of police to adequately protect Roma from violence and abuse are described in Chapter 6. Chapter 7 presents documentation revealing the disturbing levels of anti-Romani speech in Russian media. Discriminatory denial of residence registration as well as obstacles in obtaining Russian citizenship and their impact on a range of social and economic rights of Roma are dealt with in Chapter 8. Chapter 9 focuses on discrimination of Roma in access to social and economic rights such as education, housing and health care. Chapter 10 presents instances of abuse of Romani womens' rights. Unlike other countries, Russia has introduced a unique mechanism of minority rights protection and advancement – the National Cultural Autonomies. Roma, like other national minorities, have tried to draw benefits from this arrangement. Chapter 11 provides an assessment of their success. The report concludes with recommendations addressed to the government of the Russian Federation for ensuring that Roma exercise their rights as guaranteed by law, and on an equal footing with all other persons under its jurisdiction.

⁴⁵ On March 11, 2005 the ERRC sent the report draft for comments to the following institutions of the Russian Federation: the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Justice, the Ministry of Education and Science, the Ministry of Health and Social Development, and the Ministry of Culture and Mass Communications.

3. A SHORT HISTORY OF ROMA IN RUSSIA

Roma (Tsygane) were included in the Russian Empire⁴⁶ at different points of time in the course of the empire's expansion between 17th-19th century.⁴⁷ The first official known record mentioning "Gypsies" in Russia is the decree issued by Empress Anna Ioannovna in 1733 ordering Roma to pay taxes to help establish a new military unit.⁴⁸ Arrival of Roma in the lands that were to become part of the Empire, however, has been traced back to earlier times. Roma from the Balkans migrated to Ukraine in the 15th century.⁴⁹ Documents of the Lithuanian kingdom from the beginning of the 16th century also mention the presence of Roma.⁵⁰ In the late 18th and early 19th century, with the acquisition of Poland and Bessarabia by the Russian Empire, more Roma were included in its boundaries.⁵¹

Towards the end of the 19th century, the Russian Empire was home of a number of different groups of Roma.⁵² The most numerous group was Russka Roma, de-

⁴⁶ Russia became formally an Empire under Peter I the Great in 1721. By the end of the 19th century Russia possessed territories from the mouths of the Danube and Visla in the west, reached the Pacific Ocean in the east, began in the Euroasian tundra in the north and had borders with Turkey, Iran, Afghanistan and China in the south.

⁴⁷ Crowe, David. *A History of the Gypsies of Eastern Europe and Russia*. New York: St Martin's Griffin, 1994, p. 153.

⁴⁸ Bessonov, Nikolay. "Istoriya tsyganskoy diaspory Peterburga." In: *Mnogonatsionalny Peterburg: Istoriya, religii, narody*. St. Petersburg: Iskusstvo SPB, 2002, available at: <http://www.zigane.pp.ru/history/09.htm>.

⁴⁹ At that time Ukraine was part of the union of Poland and Lithuania. In 1654, after the decision of the Pereyaslavskaya Rada (the Council of the town of Pereyaslav), Ukraine joined the Russian Empire. (see Crowe, p.151)

⁵⁰ Demeter, Nadezhda, Nikolay Bessonov, Vladimir Kutenkov. *Isstoriya tsygan: Novy vzglyad*. Voronezh: Rossiyskaya akademiya nauk 2000, p.186.

⁵¹ Crowe, pp. 158-159. In 1812, after the Bucharest Treaty, which ended the Russian -Turkish war, Bessarabia ceded to the Russian Empire. Three years later in 1815, Russia took control over the Polish kingdom.

⁵² Marushiakova, Elena and Veselin Popov. "Ethnic identities and economic strategies of the Gypsies in the countries of the former USSR". In: *Mitteilungen des SFB "Differenz und Integration"*. 4/1:

scendants of the Roma who fled into the Russian Empire from Germany in the 16th-17th century. Nowadays they have settled in different countries of the former Soviet Union – Russia, Ukraine, Belarus and the Baltics. The second biggest group was composed of the Ukrainian Roma (self-appellation Servi). Nowadays they are settled in Ukraine, Southern Russia, Volga region, and Kazakhstan. So-called “Vlachi” who apparently began arriving from Wallachia and Moldavia in mid-18th century also live in Ukraine and Southern Russia. Roma who migrated to the Russian Empire from the Balkans at different periods of time are another sizeable group. Concentrated in Crimea in the past, nowadays they live also in Ukraine, in Southern Russia, Moscow and the areas along the river Volga. In the second half of the 19th century and the beginning of the 20th century Roma of the Kalderara group migrated from the territories of today’s Romania, and formed a big diaspora all over the world. The last wave of this migration in the beginning of the 20th century brought Kalderara and Lovara to Russia and Ukraine. Smaller Romani groups are Plashtuni from Bessarabia; Ungritka Roma from Transcarpathian Ukraine, which became part of the Soviet Union in 1945; and Ursari from Moldavia.

With the inclusion of the Caucasus and Central Asia, the Russian Empire acquired groups belonging to the larger “Gypsy” community⁵³ such as Lyuli (self-appellation Mugat) from Uzbekistan and Tajikistan, the Armenian-speaking Bosha (self-appellation Lom) and Karachi from Azerbaijan.

The life and civil status of Roma in the Russian Empire presents a complex picture reflecting the diversity of the Empire.⁵⁴ Russian rulers had made more or less systematic efforts to include Roma into the social organism of the Empire by giving them civil status, including them into the military, and registering their residence. Under Catherine II the Great, in 1783 Roma were included in the category of the state peasants and taxes were levied on them. State peasants had higher status than the serfs and were allowed some

Nomaden und Sesshafte - Fragen, Methoden, Ergebnisse. Halle-Wittenberg: Orientwissenschaftliches Zentrum der Martin-Luther-Universität, 9, 2003, S. 289-310.

⁵³ The term “Gypsy” is used to denote the various groups of Indian origin, which migrated, from India to different parts of the world at different times, starting towards the 5th century. (On Gypsy migrations see Fraser, Angus. *The Gypsies*. Oxford Blackwell Publishers, 1992, pp.33-60). According to Fraser, one of the earliest migrations was to Persia and Lyuli or Luri are the Persian names for “Gypsy”.

⁵⁴ Crowe, pp. 155-161.

freedom of movement. In the beginning of 19th century, some Roma from the North Caucasus were exempt from taxes and military service as a compensation for crime committed against them. The situation of Roma in Bessarabia was quite different from the rest of the Empire. Before Bessarabia was included in the Russian Empire, many Roma had the status of slaves (slaves of the crown and slaves owned by monasteries and the nobility) in the Principality of Moldavia, of which Bessarabia was a part. In the Russian Empire, the slaves of the crown became state peasants while the slaves owned by the monasteries and the nobility retained for some time their slave status and at a later stage became serfs of Bessarabian and Russian landlords. During the Crimean war in 1855, Muslim Roma from the Crimea were exempted from their obligations as state peasants and obliged to have the same military duties as the Crimean Tatar population.

Roma in the Russian Empire were nomadic and semi-nomadic. In 18th-19th century there were several attempts at their sedentarisation dictated by the effort to collect taxes from them.⁵⁵ The sedentarisation policies, however, were apparently not applied in any harsh or systematic manner. Roma were still allowed to choose whether to remain permanently settled or continue to travel. Regardless of certain restrictive measures applied towards Roma in the Russian Empire, these measures never amounted to persecution comparable to that which Roma experienced in Western Europe.⁵⁶

⁵⁵ For example, in 1766 the Senate enacted legislation imposing taxes on Roma and ordering their restriction in several provinces around Moscow, Kharkov, Voronezh and other towns. In 1800, a Senate decree by Paul, Catherine the Great's son, noting the difficulties of collecting taxes from Roma in different parts of the country, ordered the registration of all Roma wherever they were located. Paul's successor Alexander I (1801-1825) followed this up by a Senate decree in 1803 ordering that the Roma be gathered in groups and settled in government villages. Once settled they should be deprived of their passports to prevent them from leaving the area. (See Crowe, p. 158).

⁵⁶ The Roma in the Polish kingdom, however, which fell under Russian control in 1815, were subjected to persecution and anti-Gypsy laws similar to those in Western European countries. Polish authorities systematically applied measures to expel Roma from the territory of the kingdom and threatened with sanctions people who helped them. After the annexation of the Polish kingdom to the Russian Empire, the repressive measures against Roma continued. Polish authorities decreed their settlement and proceeded with massive arrests of Roma for vagabondage. (See Crowe, pp. 151-160). According to some historians, the lack of anti-Gypsy laws in the Russian Empire is explained by the fact that Roma appeared at a relatively late stage and by the time the authorities of the Empire became aware of their existence, the anti-Gypsy laws in Europe started to be abolished under the influence of the humanistic ideas of the Enlightenment. The Russian rulers were cautious about criticism of "Asian barbarianism" from Europe and took every opportunity to demonstrate their respect for European values. This point is made in Demeter, Bessonov, Kutenkov, p. 186.

During Catherine the Great's rule (1762-1796) the first chapel Romani choir was created from Romani serfs in Count Alexey Orlov's estate in Pushkino, near Moscow in 1775. The Romani choral tradition then spread to Moscow, St. Petersburg and other parts of the empire to become in time an indispensable attribute of the life of the Russian aristocracy. Russian Romani musicians acquired high social status. In Moscow they were allowed to elect their own representative (*burmister*) who was responsible before the municipal administration for the collection of taxes.⁵⁷ Romani musicians inspired great literary works of Russian authors,⁵⁸ thus intertwining the distinct Romani culture into the Russian literature, music and theatre. The fascination of Russian artists with Roma created a highly romanticised image of Roma, which was to persist in the imagination of several generations of Russians.

By the beginning of the 20th century, Roma had already acquired a specific place in the life of the Russian Empire. The largest group – Russka Roma who lived mainly in the northern and central regions of the European part of the Russian Empire had as their chief occupation horse trade and travelled to village and town markets. Some parts of Russka Roma were settled and formed the Romani musical elite, mainly in Moscow and St. Petersburg.⁵⁹ In the southern parts of Russia and Ukraine Vlachi were nomads whose lifestyle featured crafts (mainly blacksmithing), while the women did fortune-telling. The Servi in Ukraine however were more or less settled blacksmiths. In the Crimea, nomadic and semi-nomadic Roma were also blacksmiths.

The October Revolution and the subsequent civil war of 1918-1920 which put an end to the Romanov dynasty⁶⁰ and brought to power the Bolsheviks in Russia, had a profound impact on the position of Roma in the new social structure in Russia.⁶¹ The situation of Roma rapidly deteriorated as a result of the collapse of the economic and social order. The new order severely limited many of the traditional means of livelihood for Roma such as trade, musical performances and fortune telling. The choral

⁵⁷ Demeter, Bessonov, Kutenkov, p. 196.

⁵⁸ Most notably Aleksandr Pushkin and his poem "Gypsies" (1832).

⁵⁹ Demeter, Bessonov, Kutenkov, pp. 190-196.

⁶⁰ The Romanov dynasty had ruled Russia since 1613. The last Romanov tsar, Nicolas II, was assassinated with his family in July 1918 by the Bolsheviks.

⁶¹ Demeter, Bessonov, Kutenkov, pp. 197-199.

tradition had hard times surviving without the social basis for its existence – the Russian nobility, eliminated in 1917. With the prohibition of horse trade and the closing of the famous horse market in Moscow, horse dealers experienced a serious economic blow. Nomadic Roma in particular found themselves in a situation of rapid impoverishment.

The early Communist policies towards the national minorities within the Soviet Union were guided by Lenin's concept of the rights of nationalities, which conflated culture, language, and territory.⁶² The so-called policy of indigenisation (*korenizatsiya*) adopted in 1923, translated into a massive campaign of promoting political participation, self-government and cultural development of nationalities.⁶³ For Roma, this period was marked by measures to fight illiteracy; Romani language schools were opened; literature was published in Romani. The All-Russian Union of Gypsies was established in 1926 with the goals to unite Roma, protect their interests and raise their cultural level.⁶⁴ The opening of the Romani theatre *Romen* in 1931 in Moscow

⁶² See, for example, Lenin, V.I. *O natsionalno-kolonialnom voprose*. Moskva: Partynoe izdatelstvo, 1933; and *Kriticheskie zametki po natsionalnomu voprosu*, Moskva: Gosudarstvenoe izdatelstvo politicheskoi literatury, 1956.

When the Bolsheviks came into power after the October Revolution in 1917, they inherited a multiethnic state with strong nationalist movements. The support for the development of the non-Russian territories, languages, elites, etc. was aimed at diffusing nationalism and allowing the Soviet authorities to build a centralised state. (See Ronald G. Suny and Terry D. Martin (eds.), *A State of Nations: Empire and Nation-Building in the Age of Lenin and Stalin*. New York: Oxford University Press, 2001, Introduction)

⁶³ The policy emphasised two elements: (i) the learning and use of local languages in government, education, literature, political propaganda, and other social communication; and (ii) the active recruitment and training of non-Russians to work in the government, Communist Party, and local Soviet organs. From 1917 to 1923 some 17 autonomous regions and republics were established within the Russian federation, and five independent republics outside it. The success of autonomy depended on placing authority in the hands of representatives of native peoples. In its Declaration of Rights the new Communist government invited each nation in Russia "to decide independently at its own plenipotentiary Soviet Congress whether and on what basis to participate" in federal government. The constitution adopted in July 1918 clarified that district soviets 'distinguished by a particular way of life and national composition' could come together and choose whether to enter the Russian Soviet Federative Socialist Republic (RSFSR). Native language schools were created and huge literature in minority languages published. (For more information on the early Bolshevik nationality policies see Smith, Jeremy. *The Bolsheviks and the National Question, 1917-1923*. Macmillan Press Ltd., 1999, especially pp. 19-34 and 108-171).

⁶⁴ Demeter, Bessonov, Kutenkov, pp. 205.

had a great impact on the development of Romani culture.⁶⁵ Measures for the preservation of the ethnic culture were accompanied by sedentarisation policies, which reflected the authorities' view that nomadism was the chief cause for the impoverished status of Roma. In 1926, the Soviet Communist Party's Central Committee issued a Decree aimed at assisting Roma in their transition from nomadic to settled way of life. The Decree obliged local authorities to provide lands to settled Roma.⁶⁶ The implementation of the Decree was obviously unsuccessful, which prompted a new decree in 1928, entitled "On the Allotment of Land to Gypsies for the Transition to a Working and Settled Way of Life". Several Romani co-operatives (*kolkhozy*) were created also with the purpose to encourage settled life among Roma. The proactive sedentarisation measures worked in the same direction as large-scale economic and social transformations, resulting in the transition of many Roma to settled life in the post civil war period.⁶⁷

By the mid-1930s the policy of ethnic particularism and non-Russian nation building of the 1920s gave way to massive repressions against ethnic minorities. Under Stalin (1924-1952), the Soviet regime engaged in the destruction of whole nations through forced collectivisation, *dekulakisation*,⁶⁸ and mass deportations. Whole ethnic minority groups were cleansed through deportations and others specifically targeted by repressive policies.⁶⁹ While Roma were not singled out for repressive measures, they were neverthe-

⁶⁵ *Ibid.*, p. 206.

⁶⁶ *Ibid.*, p. 203.

⁶⁷ The industrialisation after the October Revolution had a serious impact on the nomadic way of life of Roma. Some were involved in the building of the new economy of the country and gradually settled. See Marushiakova and Popov. "Ethnic Identities and Economic Strategies of the Gypsies in the Countries of the Former USSR".

⁶⁸ The process of expropriation of prosperous Russian peasants (*kulaks*) carried out as part of the collectivisation of Soviet agriculture. *Kulaks* rebelled against their inclusion in the collective farms (*kolkhozy*) which prompted a crackdown by Stalin.

⁶⁹ Soviet ethnic cleansing began in the late-1930s, especially in the Far East and in the western territories occupied by Soviet troops in 1939 and 1940 under the terms of the Nazi-Soviet Pact. In the western borderlands, Poles, Germans, and Finns were the main victims; in the Far Eastern *kray* virtually all Koreans, numbering some 171,000 people, had been resettled in Kazakhstan and Uzbekistan by October 1937. Within months of the Nazi invasion in 1941, at least 400,000 citizens of German descent living along the Volga were transported eastwards to Central Asia and Siberia. In Ukraine up to four million people died in 1932-1934 in a famine created by Stalin's effort to crush the peasantry

less subjected to cruel and arbitrary treatment along with other nations in the Soviet Union. The first wave of the repressions started in 1932 with the introduction of the internal passport system and the system of *propiska*.⁷⁰ Immediately after that, the Soviet authorities started cleansing the big cities from “unwanted and dangerous elements”, especially Moscow, Leningrad, Kiev, Odessa, and Minsk.⁷¹ These and others were called “closed cities” where it was more difficult to register but where the earning opportunities were bigger. Due to their visibly different looks Roma were among the first victims of this type of cleansing, followed by deportation. According to some historians, at least 10,000 Roma were deported to Siberia and hundreds who tried to escape were shot dead.⁷² A second campaign of repression (The Great Purge)⁷³ was carried out towards the end of the 1930s. Many Roma were subjected to the extra-judicial

which opposed collectivisation. Up to a million people in Kazakhstan and another million in southern Russia also died from the famine. During World War II, Stalin diverted hundreds of thousands of troops to carry out wholesale deportations of nationalities whom he accused of having collaborated with the Nazis. Entire nations were removed from their homelands and were not permitted to return until many years or even decades later. The Soviet government targeted the Muslim nationalities of the Caucasus and Crimea for deportation in their entirety. The Soviet political police, NKVD (Peoples Commissariat of Internal Affairs) exiled the Karachays, Chechens, Ingush, Balkars, Crimean Tatars, and Meskhetian Turks from their homelands in the North Caucasus and the Crimea to Kazakhstan, Central Asia, Siberia, and other remote areas of the USSR in 1943 and 1944. These brutal forced relocations to desolate areas with poor material conditions resulted in hundreds of thousands of deaths. (On Stalin’s policies of ethnic cleansing see Alieva, Svetlana (ed.). *Tak eto bylo: Natsionalnye repressii v SSSR, 1919-1952 gody*. Moskva: Insan, 1993).

⁷⁰ System of residence permits, which granted housing and employment to individuals only in the place where they were officially registered.

⁷¹ Bessonov, Nikolay. “Tsygane: gody ssylok i pobegov”. In 30-ogo oktyabrya, newspaper of the Memorial Society, № 26/2002.

⁷² According to some sources, only from Moscow, about 5,470 Roma were deported to Siberia in 1933. In the same year massive arrests and deportations were carried out in Leningrad, Kiev and other big cities. The impact of the repressions is indicated by the drastic decrease in the number of Roma who declared their Romani identity in the 1937 census. In the 1926 census, the official number of Roma was 61,000 and in 1937 it dropped to 2,211. (See Bessonov, “Tsygane: gody ssylok i pobegov.”)

⁷³ The Great Purge was motivated by the desire on the part of the Communist Party leadership to remove dissident elements from the Party and consolidate the authority of Joseph Stalin. The repressive measures consisted of prosecution of people recognised as “counter-revolutionaries” and “enemies of the people”. Additional campaigns of repression were carried on against social groups, which allegedly opposed the Soviet State and the politics of the Communist Party. Many of the accusations

NKVD tribunals (the so-called *troika*). Roma were often charged with “speculation with currency”, probably because many Romani families kept golden coins which had been handed down from generation to generation or otherwise kept savings in the form of jewelry on their person. Roma from the Kalderari group were charged with espionage on the grounds that they held foreign passports.⁷⁴ The repressions against Roma continued throughout the period preceding World War II. Along with suffering from the terror of the time, Roma, along with other minorities, were deprived of the support of the Soviet state for the development of their culture.⁷⁵ In 1938 a secret decree mandated the closing down of the minority schools which were defined as “harmful, separating children from Soviet life”.⁷⁶ The Romani language schools were closed, and publication of literature in Romani language discontinued. The All-Russian Romani Union was liquidated.

Shortly after the Stalinist terror, following the German attack on the Soviet Union in 1941, began the extermination of Roma by the Nazis. It is estimated that about 30,000 Roma from Russia, Belarus and Ukraine died at the hands of the Nazis.⁷⁷

were based on forced confessions and on arbitrary interpretations of the Penal Code. Due legal deliberation was largely replaced with summary proceedings by NKVD “troikas”. Hundreds of thousands were executed and millions were forcibly resettled or sent to labour camps.

⁷⁴ Demeter, Bessonov, Kutenkov, pp. 200-202 and Marushiakova and Popov “Roma/Gypsies in the Soviet Union before the Second World War”. In: History of the Roma. Strasbourg: Council of Europe, (forthcoming). Roma from the Kalderari group had moved to Russia from the territory of today’s Romania, which had been part of the Austro-Hungarian Empire at the time, towards the end of the 19th and the beginning of the 20th century.

⁷⁵ According to some scholars, Stalin did not entirely cease the nation-building process from the 1920s and his policies present a more sophisticated type of assimilationism. Soviet policy continued to involve support for autonomous units with non-Russian populations, although their number was radically reduced. Although Stalin rehabilitated the concept of voluntary assimilation, the Soviet Union was perceived as a multinational composite. A common propaganda metaphor of the time portrayed the Russian nation as the glue that held together the great Soviet Friendship of the Peoples. (On the Stalinist policies with respect to nationalities see, for example, Martin, Terry. “An Affirmative Action Empire. The Soviet Union as the Highest Form of Imperialism” and Blitstein, Peter. “Nation-Building or Russification? Obligatory Russian Instruction in the Soviet Non-Russian School, 1938-1953”. In: Ronald G. Suny and Terry D. Martin (eds.), *A State of Nations: Empire and Nation-Building in the Age of Lenin and Stalin*. See also Marushiakova and Popov. “Roma/Gypsies in the Soviet Union before the Second World War”)

⁷⁶ Demeter, Bessonov, Kutenkov, p. 207.

⁷⁷ Kenrick, D., Puxon, G. *Hitlerizmat i tsiganite*. Sofia: Litavra, 1998, p. 98.

The Germans almost totally annihilated the Roma from the occupied territories of Estonia and Lithuania, numbering about 1,000 in each country, and killed at least 1,500 out of 3,800 Roma from Latvia.⁷⁸ Four Einsatzgruppen (Task forces) operating on the territory of the Soviet Union targeted for extermination Roma together with the Jews and the Communist Party officials. With regard to Roma, the same rules applied as against Jews: Gypsy children had to be killed together with their parents as the killing was intended to be a permanent solution.⁷⁹ Justification for the killings of Roma ranged from the stereotype for Roma as spies or partisans to their perception as antisocial and racially unworthy. In the Crimean peninsular, occupied by the Nazis, in the late autumn of 1941 a special order of the General Commander of the Rear Army Area North regarding Roma mandated that the settled Roma should be left in their place of residence, while the “wandering Gypsies” should be handed to the Security Police. In the beginning of 1942, in the Crimean peninsular, Roma were killed together with mentally ill, saboteurs and antisocials. In the summer of 1942, a draft circular letter to the Minister for the Occupied Eastern Territories indicated that no distinction should be made between nomadic and settled Roma.⁸⁰

In the post-war period, the Soviet authorities proceeded with measures for forced sedentarisation of Roma. The 1956 decree “On Reconciling Vagrant Gypsies to Labour” outlawed the nomadic way of life of Roma.⁸¹ Many Roma settled under the threat of criminal punishment. In addition, travelling had become increasingly difficult not only due to the decree but also due to numerous other restrictive measures

⁷⁸ Zimmermann, M. “The Soviet Union and the Baltic States 1941-1944: The Massacre of the Gypsies”. In *In the Shadow of the Swastika. The Gypsies During the Second World War*. Donald Kenrick (ed.). Center de recherches tsiganes, University of Hertfordshire Press, 1999, p. 148.

⁷⁹ *Ibid.*, p. 133. On August 14-15, 1941 in Minsk, Himmler announced the decision to murder the whole Jewish population of the Soviet Union. The order apparently extended to Roma as well because the first Roma in Soviet Union were killed later that August. (See Zimmerman).

⁸⁰ *Ibid.*, pp. 131-147.

⁸¹ The Decree of the Presidium of the Supreme Council of the USSR “On Reconciling Vagrant Gypsies to Labour” stated: “As a result of the measures taken by the Soviet State related to the employment of nomad Roma, the improvement of the living conditions, the raise of their cultural level, the majority of them changed over to the labour settled way of life. However a certain part of the Roma population till present keeps the nomad tradition, have a parasitic way of life and often involved in crimes. In order to reconcile vagrant Roma to community work the Presidium of the Supreme Council of the USSR orders:

not necessarily targeted on Roma (for example the *propiska* system). The decree itself was reportedly not strictly enforced and some Roma remained nomadic or semi-nomadic.⁸² In the late 1950s, records indicated incidents of profiling of Roma as suspects of crime by the Soviet militia.⁸³

The economic condition of Roma significantly improved in the decades following Stalin's death in 1953. The central planning economy during the Brezhnev period (1964-1982) was plagued by regular shortages of basic goods at certain places, while the same goods were over-supplied in other places. This defect of the communist central planning and the State monopoly on trade provided an opportunity for the more mobile Roma to make good profit as dealers outside the official economy. Roma supplied the population in the Soviet Union with all kinds of goods, which were not available on the local market. They also performed various services as construction workers, blacksmiths, handymen, mainly for the cooperatives. As a result, in the Brezhnev era, large sections of the Romani community enjoyed a better economic status and their living standards were often higher than the Soviet average.

Then, in the decade after the disintegration of the Soviet Union in 1991, the profound social and economic transformations in Russia pushed Roma towards the

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- To prohibit vagrancy and propose to Roma to change over to settled way of life;
 - To oblige Councils of Ministers of the Soviet Republics to ensure that all Roma who are vagrant should be provided with a permanent residence, place of work and access to public and cultural services.
 - To punish the adult Roma who avoid community work and have vagrant way of life and sentence them by a People's court to up to 5 years internment combined with correctional labour.

Investigation of these cases should be made by the organs of the militia in accordance with the criminal procedure codes of each union republic." October 5, 1956. Moscow. (Unofficial translation by the ERRC)

⁸² Crowe, p.188. There are not concrete estimates of the number of Roma who have settled following the issuance of the decree. Roma interviewed by the ERRC in the course of field research in Russia had differing views on the impact of the decree on the Romani community. Some of those who had respected the prohibition on nomadism, told the ERRC that the measures had negative impact on their tradition and values. The forced sedentarisation resulted in separation of the traditional big families and alienation of the family members. Other Roma contended that settled life was far better because they had access to better living conditions and their children could go to school.

⁸³ Demeter, Bessonov, Kutenkov, pp. 211-212.

margins of social and economic life. The booming domestic market quickly developed previously non-existent services. The need for commercial mediation between money-holders and commodities gradually disappeared. Many previously wealthy Roma rapidly sank to the bottom, unable to compete with the “new Russian” class of the suddenly rich. The image of Roma also suffered, and anti-Romani racism grew in both intensity and scope. At the same time, nationalism, racism, xenophobia and other forms of intolerance, specific to post-communist Russia, had a strong anti-Romani element and played a role in further economic marginalisation of the Roma.⁸⁴

⁸⁴ See Petrova, Dimitrina. “The Roma Between a Myth and the Future”. In *Social Research*, Vol.70, No.1 (Spring 2003), p. 144.

4. RACIALLY-MOTIVATED VIOLENCE AND ABUSE OF ROMA BY LAW ENFORCEMENT OFFICIALS

Anti-Romani sentiment in Russia has given rise to a wave of violence against and abusive treatment of Roma. Deepening social and economic disadvantage of Roma in Russia and the absence of Roma from the political arena have made this minority particularly vulnerable to illegal acts by the law enforcement apparatus of the state.

ERRC research has revealed that police violence against Roma in Russia is widespread, though rarely reported to the authorities. Romani settlements are raided by both regular police and special units mandated to fight illegal drug dealing⁸⁵ at any time of the day and the night. Romani individuals report indiscriminate violent abuse of men, women and children, destruction of housing and other property, and theft of possessions in the course of raids. Romani men and women are disproportionately targeted for document checks, arbitrarily detained and often subjected to torture and ill treatment in custody. In some instances physical abuse of Roma at the hands of the police has resulted in the death of the victims. Fabrication of incriminating evidence and threats of such fabrication have nurtured a widespread pattern of extortion of money from Roma by the police.

While police brutality is a general problem in Russian law-enforcement in recent years, and has been a primary concern of international and Russian human rights organisations,⁸⁶ Roma along with several other ethnic minorities are

⁸⁵ See Footnote 2 *supra* on the mandate of the Gosnarkokontrol.

⁸⁶ Vladimir Lukin, Human Rights Commissioner of the Russian Federation, noticed in an interview that 44 percent of the complaints that his office has received [as of the date of the interview] were directed against Interior Ministry personnel. (“Lukin ne hochet nachinat s ‘uzhastikov’.” In *Nezavisimaya Gazeta*, Moscow, April 9, 2004) In August 2004, several Russian human rights organisations announced they would form an Association for the Humanisation of the Law Enforcement Agencies to combat human rights violations by police. According to Mr Gabisov, Secretary of the Moscow-based non-governmental organisation Committee for Human Rights, the new association plans to publish quarterly reports and hold news conferences regarding human rights violations involving the police. On 16 August, the Committee for Human Rights presented a report entitled “Torture And Other Gross Violations of Human Rights in the Moscow Region,” which lists more than 500 complaints over the last two years. (See RFE/RL NEWSLINE Vol. 8, No 156, Part I, August 17, 2004)

particularly vulnerable due to their stereotyping as “criminals” and “drug dealers” by law enforcement officials.⁸⁷ Many Roma testified to the ERRC that law enforcement officials often make generalising comments about the criminal proclivity of Roma. In one example, an investigator from the police station of Volzhskiy, Volgograd region, reportedly told Ms Elena Konstantinova, chairperson of the Volzhskiy branch of the Romani non-governmental organisation Assotsiatsia Tsygan, that “All Roma are drug dealers and bad and dishonest people.”⁸⁸ In another instance, a police officer from the town of Lyubertsy, in the Moscow area, stated before representatives of the Romani organisation Romano Kher with regard to two Romani individuals, Mr V.O. and Ms N.O., who were in detention, that he was “100 percent certain that the two would end up in prison”. When Romano Kher inquired about the reasons for which the two would be imprisoned, the police officer reportedly said that he hated Roma, adding that he had never met good Roma and that all Roma should be shot dead or left to rot in prison. When the representatives of Romano Kher argued that courts should decide on the guilt or innocence of individuals, in accordance with Article 19 of the Constitution of the Russian Federation, which guarantees equality before the law, the police officer reportedly said that he “did not give a shit about the Con-

⁸⁷ The Council of Europe European Commission against Racism and Intolerance (ECRI) expressed concern in 2001 that members of “visible minorities”, particularly in big cities and some southern regions, appeared to be “disproportionately affected by the way the police (militia) enforce the system of registration of residence and temporary stay”. It added that “the police can stop people and check their personal documents, search their homes, detain them and impose sanctions, which are reported to be often arbitrary and to result in request for bribes and extortion of money”. It also noted that in this context members of “visible minorities” appeared to be disproportionately subject to arbitrary arrest and detention, and that there had been reports of torture and ill treatment by police of those detained. See ECRI. Second Report on the Russian Federation of the European Commission against Racism and Intolerance, adopted March 2001; CRI (2001) 41, para. 79, at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Russian_Federation/Russian_Federation_CBC_2.asp.

⁸⁸ Ms Konstantinova testified to the ERRC that she went to the police station in Volzhskiy city on February 14, 2004 to submit a written statement from her organisation, pursuant to Article 103 of the Criminal Procedure Code of the Russian Federation, regarding the case of two Romani women accused of murder. On February 17, 2004 Ms Konstantinova submitted a complaint to the district prosecutor against the offensive anti-Romani statements made by investigator D. Dolgin. The complaint was left without consideration. Complaint on file with the ERRC. (ERRC interview with Ms Elena Konstantinova, April 2, 2004, Samara)

stitution”, and that, as long as he would work at that police station, “no Gypsy will live free”.⁸⁹

Such stereotyping results in racial profiling of Roma by the police, i.e. police resorts to arbitrary criteria such as ethnicity in deciding whom to place under suspicion. Racist prejudice opens the gateway to torture and ill-treatment of Roma who are seen as legitimate targets for such abuses because of their racial or ethnic origin. On the other hand, public pressure on the law enforcement bodies to fight endemic crime, had encouraged illegal practices such as torture and ill treatment for extortion of confessions from suspects and fabrication of evidence against suspects as a means to boost up the rate of crime disclosed by the police.

The egregious effect of anti-Romani racism on the human rights of Roma is aggravated by rampant corruption within the law enforcement bodies in Russia. Corruption facilitates or is directly responsible for human rights abuses, including ill-treatment, extortion, fabrication of incriminating evidence and finally denial of access to remedies for human rights violations.⁹⁰

4.1 Racial Profiling

Arguably the most extensive racial profiling of Roma in Russia to date has occurred in the framework of the series of police raids targeting Romani communities and officially named “Operation Tabor”.⁹¹ This anti-crime campaign was launched

⁸⁹ Information provided to the ERRC by Romano Kher based on Romano Kher interviews with police officials, June-July 2001, Lyubertsy. Full names on file with Romano Kher. See details on the case of Mr V.O. and Ms N.O. in this chapter.

⁹⁰ In a statement on January 21, 2005 in Moscow, Prosecutor General of the Russian Federation Vladimir Ustinov admitted that crime in the ranks of the Russian law enforcement bodies has substantially increased. The Russian electronic edition lenta.ru. quoted Ustinov saying that citizens are reporting that police officers are “stuffing their pockets with money and bottles [of vodka]” taken from businesses and citizens. Meanwhile, on the same day, Interior Minister Rashid Nurgaliev said that in 2004 some 2,000 officials in the Interior Ministry had been arrested for corruption and other crimes. See RFE/RL NEWSLINE, Vol. 9, No 14, Part I, 24 January 2005.

⁹¹ On February 24, 2005 the ERRC wrote to the Minister of the Interior of the Russian Federation, Mr Rashid Nurgaliev, requesting official information about Operation Tabor, including such details as

nation-wide in the first weeks of March 2002 as part of a stepped-up effort against drug-related crime and subsequently re-launched by St. Petersburg police in April 2004. The use of the term “tabor”, meaning a “Gypsy settlement or encampment”, unequivocally implies that the targets of the operation are the Roma. Russian authorities have thus undertaken official actions based on racial profiling and resulting in human rights abuses, during which they have not even attempted to mask the explicitly anti-Romani character of these actions.

In the course of “Operation Tabor”, police targeted Roma at public places for document checks. Persons without proper documents have been fingerprinted and deported. According to Russian media, several hundred Romani individuals were expelled from different regions of Russia. In July 2002, three hundred and fifteen Roma, reportedly immigrants from Uzbekistan, without residence registration, were deported from Surgut, Hanty-Mansiyskiy autonomous region.⁹² In November 2002, forty-two Roma from Tajikistan were deported from Cherkessk, capital of Karachay-Cherkess Republic, Stavropol kray.⁹³

Law enforcement officials also reportedly raided Romani settlements throughout Russia allegedly searching for drugs and weapons. The ERRC received numerous reports of abusive, often violent, raids and invidious investigations against Roma living in segregated or mixed settlements throughout “Operation Tabor”. For instance, according to testimony given to the ERRC by Ms Tamara Vasilieva and Ms Galina Dmitrieva⁹⁴, both Romani women from Pskov in north-western Russia, Roma from the neighbourhood had not been allowed to invite independent witnesses to the searches conducted by police in the early weeks of March 2002, but the police brought along their own “witnesses”. According to Ms Tamara Vasilieva and Ms Galina Dmitrieva, during the searches, police officers “planted” in their houses marked money and drugs, which were subsequently “found” and confiscated, with a

the legal basis of the operation, its timeframe, geographic scope, and results. As of the date this report went to press, there has been no response from the Minister of the Interior.

⁹² See “Tyumenskaya linya” Information Agency, 19/07/2002.

⁹³ Zaitseva, S. “Iz Cherkesska deportirovali tadzhikskikh tsygan”. In *Komersant*, No 214, 2002.

⁹⁴ Full names on file at the ERRC. In some instances throughout this report the ERRC has withheld the names of victims and/or witnesses. The ERRC is prepared to release names if the interests of justice so require and if it is satisfied that the safety and privacy of persons concerned would be respected.

purpose to extort bribes in exchange for non-prosecution, or to prosecute Roma and thus score a “victory” in the fight against drugs.⁹⁵

According to Russian media, the police also singled out for checks non-Romani landlords who housed Romani tenants. Information thus collected on Roma was reported to have been included in a special database kept by law enforcement authorities.

Two years later, on April 20, 2004, the St. Petersburg police launched “Operation Tabor” once again. The measure was allegedly introduced in order to ensure the security of foreign tourists and protect them from possible robberies by “marginal elements”. According to information by the St. Petersburg-based Northwest Centre for Social and Legal Protection of Roma, on May 21, 2004, Roma from Beregovo, a town in the Transcarpathian region of Ukraine, who as of that date lived in self-made huts in the Obukhovo District in St. Petersburg, were attacked by individuals in uniforms who were shooting firearms in the air. Officers reportedly demanded that the Roma leave the site immediately. Police chased and reportedly shot at persons as they were trying to run away. Officers also reportedly burnt two small shanties where Roma, including pregnant women and children, were living. Officers allegedly warned the inhabitants that on the following day police would return, and all Roma would be expelled. In the morning hours of May 26, the same officers (from Militia Department No.29, according to the victims) detained Romani women and their children in the vicinity of Obukhovo and once again threatened them with expulsion and burning of their houses.

In 2004 raids allegedly under “Operation Tabor” continued in other cities. For example, 36-years-old Romani man from Algueshevo district of Cheboksary, the Chuvash Republic, who introduced himself as “Miron”, told the ERRC that in February 2004 there had been a raid on the Romani neighbourhood.⁹⁶ According to “Miron”, approximately 50 police officers arrived on four buses and several cars. Some were in masks – those were armed forces of the Special Purpose Police Unit (OMON), others were in regular police uniforms. “Miron” believed that the raid had been carried out in the framework of “Operation Tabor”. Such raids according

⁹⁵ ERRC interview with Ms Tamara Vasilieva and Ms Galina Dmitrieva, March, 2002, Pskov.

⁹⁶ ERRC interview with Miron, August 19, 2004, Cheboksary.

to “Miron” happen once or twice a year and can also be part of trainings for the police force. During such raids, according to “Miron”’s testimony to the ERRC, police would take television and video sets if the owners could not produce documents proving ownership or the fact of purchase, and return the items to the Roma in one or two weeks’ time provided that no complaints of theft of such items had been filed with the police department.

Human rights organisations have repeatedly raised concerns about the discriminatory character of “Operation Tabor”. Following the 2002 operation, representatives of the Moscow-based NGO Romano Kher met with Mr. V.A. Vasilyev, Deputy Minister of Interior, and Mr. E.N. Sidorenko, Deputy Minister of Justice, who promised that such operations would not be repeated in the future.⁹⁷

When challenged by international treaty bodies and human rights organisations, the Russian authorities adopted an official position consisting in denial that Roma had been the specific target of “Operation Tabor”. Mr Yuri Dzhibladze, president of the Center for the Development of Democracy and Human Rights told the ERRC:⁹⁸

This operation presents a case of systematic discrimination against Roma on the part of the Russian law-enforcement officials. Undoubtedly, the operation has been one of the cruelest forms of racism – in some instances it was directed to entire Romani settlements, with law enforcement officials using unlawful means. High-ranking officials, however, have tried to deny the racist character of the operation. In particular, during the CERD review of the Russian Federation in March 2003, when the initial report on Russia was being discussed, Mr Voronin, representative of the Prosecutor’s office insisted that the title “Tabor” is just working title and nothing more.

⁹⁷ However, in its written response to Romano Kher’s letter of concern about human rights violations in the context of “Operation Tabor” the Chief Department of the Ministry of Interior of Moscow City indirectly denied illegal action by the police stating that the police had not received any complaints about illegal action. (See Letter No 2/4-258 dated April 1, 2002, sent by the Chief Department of the Ministry of Interior of Moscow City to the First Deputy Mayor of Moscow, copied to Ms Nadezhda Demeter, Chair of Romano Kher. Document on file with the ERRC)

⁹⁸ ERRC interview with Mr Yuri Dzhibladze, February 25, 2005, Budapest.

Following the resumption of “Operation Tabor” in April 2004, on May 27, 2004, the ERRC sent a letter of concern, urging the St. Petersburg authorities to terminate the policy. Mr Bogdanov, Head of the Administrative Committee of St. Petersburg’s Governor’s Office replied that “information submitted by the ERRC about persecution of the Roma on the basis of nationality has not been objectively confirmed”.⁹⁹

However, the ERRC has learned, during its interviews as well as during open sessions of training seminars it has conducted in Russia, that many representatives of the authorities including those of the Ministry of Interior, disapprove of the “Operation Tabor” and acknowledge its discriminatory nature.

4.2 Arbitrary Detention

Apart from massive police operations explicitly targeting Romani communities throughout Russia, police officers often stop Romani individuals in the street and take them into custody without offering any explanation for the reasons for their detention. Roma with whom the ERRC spoke reported that they had been subjected to identity checks, photographing and fingerprint taking – operations which police officers had expressly related to their Romani ethnicity. According to ERRC research, police officers regularly detain Romani individuals and keep them in custody for sustained periods of time without initiating any formal procedure, in the (frequently justified) hope that the worried relatives of detained Roma would offer bribes in exchange for the release without charges of the person in question.¹⁰⁰

⁹⁹ Pravitelstvo Sankt-Peterburga. Komitet po voprosam zakonnosti, pravoporyadka i bezopasnosti, Letter dated 19.07.2004, No 46-1387/04-0-2. (Letter on file with the ERRC)

¹⁰⁰ When the Russian Federation ratified the ICCPR and the ECHR it bound itself by the standards for legal detention set out in these treaties. Arbitrary arrest or detention is prohibited by Article 9 of the ICCPR. Article 9 specifically requires that detainees be immediately informed of the reasons for their arrest and promptly be told of any charges against them, and that they be brought promptly before a judge empowered to rule upon the lawfulness of the detention. Article 5 of the ECHR contains similar guarantees. It foresees the possibility of detaining suspects only as an exceptional measure that is permissible only in certain expressly and narrowly defined circumstances. This list of circumstances is exhaustive; other justifications for detention would be impermissible.

Article 22.1 of the RF Constitution stipulates that “everyone shall have the right to freedom and personal immunity.” Constitution of the Russian Federation adopted on December 12, 1993. (Official

According to information provided to the ERRC by Mr Pavel Limanskiy, Vice-president of the Rostov-based Romani organisation Amala, on May 30, 2004, Ms Lidia Ogly, a Romani woman from Rostov, was stopped in the street by police officers of the Oktyabrskiy department of the Ministry of Interior and taken to the police station without any explanation. At the police station, she was photographed and fingerprinted. The Ogly relatives turned for help to Mr Pavel Limanskiy, who telephoned the police station in which the woman was being held. Mr Aleksandr Dudarev, the officer on duty at the Oktyabrskiy District Department of the Ministry of Interior, told Mr Limanskiy that Ms Ogly had been detained because “she is a Roma and therefore a criminal”. Ms Ogly spent six hours in custody supposedly under suspicion for having committed an unspecified offence, of which no one provided her with any details, before Mr Limanskiy called the officer on duty at the City Department of the Ministry of Interior. He urged that Ms Ogly be either released or immediately presented with the charge against her, and he threatened that he would file complaints. As a result, Ms Ogly was released.

In another instance, Ms N.N., a Romani woman from Oktyabrsk, Samara region, testified to the ERRC about an incident apparently involving racial profiling and extortion by law enforcement officers.¹⁰¹ At around 10 PM on an unspecified date in February 2004, Ms N.N., had an argument with her husband, following which she left home to spend the night at a friend of hers. According to Ms N.N.’s testimony to the ERRC, on the way she was stopped by police officers who wanted to check her documents. They also reportedly asked: “What is your nationality?” “I am Gypsy”, she replied. “Then let’s go to the police station”, said the officers. At the police station Ms N.N. was kept in detention without any explanation. At some point while she was detained, police officers brought in an elderly non-Romani woman for a suspect identification. The officers asked the woman, “Was it her?”, to which she allegedly responded, “Not really”. Then the police officers allegedly said to the woman:

translation) Pursuant to Article 92(1) of the Criminal Procedure Code, “after the suspect is brought to the organ of the inquiry, to the investigator or to the public prosecutor, a detention report shall be produced within three hours”; according to Article 92(2) “the report shall specify the time, date and place of detention as well as the grounds for detention” and be signed by both the suspect and the law enforcement official. (Criminal Procedure Code of the Russian Federation, last amended December 2004. Available at: <http://law.rambler.ru/library/norubs/10979/>. (Unofficial translation by the ERRC)

¹⁰¹ ERRC interview with Ms N.N, August 24, 2004, Oktyabrsk.

“Then you will never see your money back.” The elderly woman then stated, “Maybe it was her”. Ms N.N. remained in custody for approximately one and a half months. According to her testimony to the ERRC, she had been pressured by the police to pay for her release. The police officers reportedly told her to put into a box on their table 50,000 roubles (approximately EUR 1,390). While N.N. was placing the box with the required sum on the table as she had been told, a prosecutor entered the room and immediately charged her with attempting to bribe a public official. Following her lawyer intervention, however, Ms N.N. received her money back and the charges against her were dropped.

On February 29, 2004 Aleksandr Molchanov, a Romani lawyer based in Yaroslavl, central Russia, was stopped by police officers for an identity check at the railway station of Syzran, Samara region.¹⁰² Mr Molchanov presented them with his bar association membership card, since he did not carry his passport with him. The officers asked him to follow them to the police station. At the police station, Mr Molchanov requested to speak with the officer on duty at Syzran railway station or someone from the police headquarters. Shortly thereafter, Colonel Dektarev, deputy chief of the police office at Syzran railway station, arrived. Colonel Dektarev allegedly took Mr Molchanov’s bar membership card and said, “I will check and see what kind of a lawyer a Gypsy could possibly be”. Then the colonel asked to see Mr Molchanov’s passport. Mr Molchanov explained that he did not carry his passport with him because his identity could be established on the basis of his bar membership card, which indicated his place of residence and work.

Mr Molchanov asked the colonel to give him an opportunity to make a phone call in order to warn the clients who were waiting to meet with him in Syzran that he would be late. The colonel declined this request and ordered his subordinates to take several photos of Mr Molchanov. To Mr Molchanov’s question regarding the reason for photographing him, Colonel Dektarev responded, “it is needed for operative purposes”. Mr Molchanov was then told that his Romani nationality was sufficient reason for photographing him. Apart from Mr Molchanov, two other men had entered the police office. These men were asked by the police to serve as witnesses. In the presence of the two individuals, whose identities were not known to Mr Molchanov, police officers were ordered to conduct a search of Mr Molchanov’s belongings.

¹⁰² ERRC interview with Mr Aleksandr Molchanov, April 4, 2004, Samara.

Mr Molchanov's request for an official registration of his detention was declined. Upon his release from the police later the same day, Mr Molchanov submitted a complaint about the illegal actions of the police to the Samara Regional Court, the Samara Regional Prosecutor's Office, and other relevant institutions. As of the date this report went into print, Mr Molchanov had received no reply.

Romani activists testified to the ERRC that often when the police had indications that a theft or other criminal act had taken place, Roma are subjected to indiscriminate checks and harassment. According to Ms Elena Konstantinova, on April 7, 2003, four police officers detained 20 Roma including small children on the market in Volzhskiy and took them on a bus to the police station. The alleged justification for the action had been the testimony of a non-Romani woman who claimed that dark-skinned fortune-tellers stole 150,000 roubles (approximately EUR 4,170) from her. The Roma were reportedly held in detention for about three and a half hours and then released. No charges were reportedly brought against them.¹⁰³

4.3 Torture and Ill Treatment of Roma by Police

Roma in police custody face serious risks of being subjected to physical abuse by law enforcement officials. The ERRC has documented several dozens of cases in which police officers severely beat and humiliated Romani detainees, most often with the purpose of extracting confession of a crime.¹⁰⁴ Physical abuse against Roma in police custody has also resulted in the death of detainees

¹⁰³ ERRC interview with Ms Elena Konstantinova, August 26, 2004, Volzhskiy.

¹⁰⁴ Torture is prohibited under international and Russian law. Article 1 of the UN Convention against Torture defines torture as: "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions." See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, at: http://www.unhchr.ch/html/menu3/b/h_cat39.htm. The Convention was ratified by the Russian Federation on March 3, 1987.

in some cases.¹⁰⁵ Torture and ill-treatment of Roma at the hands of the police appears to be on the rise, both in terms of frequency and severity, yet law enforcement officials are rarely prosecuted or even disciplined when abuses are plausibly alleged. As of February 1, 2005, the ERRC was aware of only one single case in which Russian police officers were sentenced for crimes related to the abuse of a Romani individual and in this case – which resulted in the death of the victim – the sentence was suspended and the perpetrators walked free. The examples following below illustrate the practice of violent abuse by law enforcement officials documented by the ERRC and partner organisations.

Mr Ivan Spiridonov, a 54-year-old Romani man, was found dead in his home in the village of Trubichino, Novgorod region, shortly after he had been beaten and abused by police officers. According to ERRC field investigation, in the evening

Torture, inhuman and degrading treatment is also prohibited under Article 3 of the ECHR and Article 7 of the ICCPR.

The prohibition of torture is set out in the Constitution of the Russian Federation. Article 21(2) states: “[N]o one shall be subjected to torture, violence or other cruel or degrading treatment or punishment. No one may be subjected to medical, scientific or other experiments without voluntary consent.” However, the Russian criminal law contains no definition as such of the concept of torture. In May 2002, the UN Committee against Torture recommended that the Russian authorities “promptly incorporate into domestic law the definition of torture as contained in Article 1 of the Convention and characterise torture and other cruel, inhuman and degrading treatment as specific crimes with appropriate penalties in domestic law”. (UN doc. CAT/C/CR/28/4, para. 8(a), May 2002, at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/4894f60be8af9fbec1256dc1004a3c14?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/4894f60be8af9fbec1256dc1004a3c14?Opendocument)) The Criminal Code does not criminalise certain acts of torture and ill treatment set out in Article 1 of the UN Convention against Torture. Article 117 of the Criminal Code that prohibits subjecting an individual to physical or psychological suffering through physical violence does not criminalise the infliction of physical or psychological suffering by non-violent means. (See Criminal Code of the Russian Federation, last amended June 2004, at: <http://law.rambler.ru/library/norubs/9577/>. Unofficial translation by the ERRC) The State Duma of the Russian Federation at its 17 December 2004 session rejected the proposal to introduce amendments to the Criminal Code defining torture as a criminal offence. The draft amendments, if passed, would have made torture, defined as “infliction of physical or mental suffering on a person for the purpose of obtaining testimony or of coercing him or her, when such suffering is inflicted by or with a consent or acquiescence of a public official,” punishable by imprisonment for a term of up to 20 years. (Rossiyskoe Informatsionnoe Agentstvo Novosti, available at: <http://www.legislationline.org/index.php?sc=4>).

¹⁰⁵ Article 6 ICCPR, Article 2 ECHR and Article 20 of the Constitution of the Russian Federation protect the right to life.

hours on an unspecified date in January 2003, Mr Spiridonov was at home in Trubichino with two Romani friends when three or four police officers suddenly broke into the flat, allegedly searching for a suspected thief they called “Andrey”. According to the testimony of Mr Spiridonov’s relatives, the police officers demanded that the Romani men inform them about the suspect’s location. When Mr Spiridonov and his friends responded that they did not know the suspect, the police officers reportedly began to beat them. In order to end the beating, one of the Romani men reportedly lied and told the police to look for “Andrey” at a certain location. Before they left, the police officers threatened the men that, should the address turn out to be false, they would return and “things would become worse”. Fearing retaliation, Mr Spiridonov’s friends left. Mr Spiridonov stayed, reportedly because he believed he did not have anything to fear. Some hours later, one of the friends, fearing for Mr Spiridonov’s safety, phoned Mr Spiridonov’s cousin and asked him to check on Mr Spiridonov. When the cousin did so, he reportedly found Mr Spiridonov dead on a chair in his flat, the floor covered with blood. Relatives of the victim complained that they were not allowed to see Mr Spiridonov’s body in the morgue before it was prepared for burial. However, according to witnesses who attended the funeral, Mr Spiridonov’s face was swollen and covered with bruises. Mr Spiridonov’s sister, Ms Yevgenia Ivanova, asked the local prosecutor for information about her brother’s unexpected death. Ms Ivanova was told that, according to the official medical examination, her brother had died of alcohol poisoning. One of the two witnesses who had been present in Mr Spiridonov’s flat on the evening in question reportedly has been threatened by the police officers involved that he would “suffer consequences” if he does not remain silent about the incident. No one has been brought to justice for the death of Mr Ivan Spiridonov.¹⁰⁶

On May 24, 2002, at approximately 4 AM, Ms Fatima Aleksandrovich, a 23-year-old Romani woman, died in the hospital in Pskov, north-western Russia, apparently after having been physically abused by police officers in the local police station.¹⁰⁷ According to ERRC research, on May 20, 2002, at approximately 8:30

¹⁰⁶ Case summary based on ERRC interviews with relatives of Mr Ivan Spiridonov, June 2003, Trubichino.

¹⁰⁷ Case summary based on ERRC /Moscow Helsinki Group interview with Mr Alexander Klein, June 2002, Pskov; ERRC /Moscow Helsinki Group communications with Mr Alexander Molchanov, June 2002 -June 2003; and ERRC/Moscow Helsinki Group interview with police officer Dmitriy Ivanov, May 21, 2002, Pskov.

AM, Ms Aleksandrovich had been taken to a police station in Pskov on suspicion of having committed larceny. Allegedly, Ms Aleksandrovich had been trying to steal a purse from a female employee of the Ministry of Interior on a city bus in Pskov. Mr Ravshan Mamedov, a police officer who also happened to be on the same bus, detained Ms Aleksandrovich and took her to the local police station. At approximately 4 PM the same day, the police informed Mr Aleksandr Klein, Ms Aleksandrovich's common-law husband, that his wife had attempted to commit suicide by jumping out of a third floor window at the police station and that she was in coma in the hospital. She died four days later. Ms Aleksandrovich's corpse had numerous bruises on her arms, inner thighs and neck. According to Mr Molchanov, a lawyer involved in the initial investigation of Ms Aleksandrovich's death, the bruises on Ms Aleksandrovich's body did not fit the injury pattern of a fall victim. The family of the victim filed a criminal complaint urging the Pskov Prosecutor's Office to begin a criminal investigation into the death of Ms Aleksandrovich. However, no official investigation was initiated. The failure to launch criminal investigation was appealed twice, without success. On January 19, 2004, the Pskov City court acted on the complaint submitted by the local lawyer in cooperation with ERRC against the decision of the Pskov's Prosecutor's Office not to open criminal investigation. The court cancelled the decision as ungrounded and ordered the Prosecutor's Office to eliminate the breaches of the law which had occurred in the rejection of Mr Klein's complaint. However, on February 9, 2004, the Pskov's Prosecutor's Office issued a new decision refusing to open criminal investigation. The decision was appealed again on February 13, 2004 and upheld by the Prosecutor of Pskov on March 12, 2004.¹⁰⁸

In another case, in the morning hours of August 3, 2001, according to research conducted by ERRC and the Moscow-based non-governmental organisation Romano Kher, 37-year-old Mr V.V. Yeryomenko was taken to the police station in Khimki, a town in the Moscow region, and beaten to death after being stopped in the street for a routine identity check. Mr Yeryomenko and his non-Romani neighbour, Mr D.A. Kuznetsov, were walking home together, when two

¹⁰⁸ Being unable to obtain justice in his country, Mr Aleksandr Klein turned to the ERRC with a request to submit an application to the European Court of Human Rights. As of the date this report went to press, the ERRC in co-operation with local counsel, have prepared for submission to the ECHR an application claiming the following violations of the ECHR: Right to life (Article 2); Prohibition of torture, inhuman and degrading treatment (Article 3); Right to legal remedy (Article 13); and Prohibition of discrimination (Article 14).

police officers, Vasiliy Kobelkov and Dmitriy Teterov, stopped them and asked to see their identity documents. Mr Yeryomenko and Mr Kuznetsov did not have their identity documents with them, but told the police that they lived only a five-minute walk from the place and could go and get the documents. The police officers declined and instead took Mr Yeryomenko and his neighbour to the police station in Khimki. There, the two officers reportedly started beating Mr Yeryomenko with truncheons and fists all over his body, while calling him “Gypsy”. Approximately three hours after he had been brought to the police station, Mr Yeryomenko died in one of the detention cells. The cause of his death was later determined to be a torn spleen and other grave bodily injuries. Ms Nikolayenko, Mr Yeryomenko’s wife, went to the police station on the afternoon of the same day, seeking an explanation for her husband’s death. She was reportedly offered an implausible explanation of the circumstances surrounding her husband’s death, and was allegedly told that “police officers could not, in any case, be prosecuted for killing.” In this case, the perpetrators were prosecuted and in April 2004 they were sentenced to seven years imprisonment. However, the sentences were suspended.¹⁰⁹

Ill treatment of Roma in detention has resulted also in grave bodily injuries. On June 19, 2002, Mr Nikolay Bogdanov, a 42-year-old Romani man, testified to the ERRC/Memorial that he had been beaten by two police officers while in detention in Pskov, north-west Russia.¹¹⁰ Mr Bogdanov reported that on May 14, 2002, he was arrested in Pskov because he did not have a police registration document for former inmates released from prison. Mr Bogdanov was subsequently held in detention for ten days. According to Mr Bogdanov, while in detention, he was severely beaten by two police officers who appeared to be about 30-35 years old. Mr Bogdanov reportedly sustained three broken ribs as a result of the police abuse. The officers inflicted further physical abuse on him in order to force him to sign a written statement saying that he had broken his ribs falling down a staircase while drunk. Mr Bogdanov did not file a complaint against the officers.

¹⁰⁹ Case summary based on ERRC/Romano Kher interviews with Ms Nikolayenko and Khimki police officials, August 2001, Khimki; and ERRC communications with Mr A. Molchanov, September 2003-April 2004.

¹¹⁰ ERRC/Memorial interview with Mr Nikolay Bogdanov, June 19, 2002, Pskov. (The reference ERRC/Memorial indicates joint research by the two organisations)

In another instance, Mr Yuzik Nikolaevich Gaich, 23, Roma from the town of Vyshniy Volochok, Tver region, suffered cerebral contusion and underwent cranial trepanation reportedly as a result of physical abuse in police custody. According to the testimony of his mother Ms Olga Grahovska to the ERRC,¹¹¹ on July 18, 2001 Mr Gaich was detained in the local police station on suspicion of theft of a tape recorder. In her written statements to the District Prosecutor's Office of Vyshniy Volochok, dated July 23, 2001, and to the Regional Prosecutor's Office of Tver, dated October 1, 2001, and November 5, 2001, on July 20, 2001,¹¹² Ms Grahovska stated that she went to the police station where her son was detained. Mr Krishnev, investigator on the case, informed her that he would release her son from custody on condition that Mr Gaich registered his presence with the police department every day. However, later the same day, an officer from the police told Ms Grahovska that her son would not be released before he confessed the theft of three other tape recorders. According to Ms Grahovska's testimony to the ERRC, in the police department she asked her son whether he had committed the theft of the three tape recorders. Her son allegedly denied the theft and said that police officers had beaten him in order to extort confession.

On July 21, 2001, according to Mr Gaich's written statement to the Regional Prosecutor's Office, dated November 5, 2001,¹¹³ two police officers took him to a room on the third floor of the police building and started beating him on the head with a chair. Then one of the officers hit him with a solid object and Mr Gaich fell on the ground. The two officers started kicking him all over the body, demanding that he told them to whom he had sold the tape recorders. In his complaint to the Prosecutor's Office of Tver Mr Gaich declared that he did not know anything about these thefts. Later on that day, Mr Gaich was taken to a police cell on the ground floor of the police station. One officer called emergency aid but Mr Gaich was not allowed to go to the hospital.

Mr Gaich was released from police custody on July 21, after his lawyer arrived at the police station. According to Ms Grahovska, the lawyer took Mr Gaich in her car and on the way to his home she had to call emergency aid because Mr Gaich was

¹¹¹ ERRC interview with Ms Olga Grahovska, August 16, 2004, Vyshniy Volochok.

¹¹² Copies of the statements are on file with the ERRC.

¹¹³ Copy of the statement on file with the ERRC.

in critical health condition. On July 23, 2001, Mr Gaich's condition reportedly worsened and he was accepted in hospital in Vyshniy Valachok. According to the certificate issued on August 3, 2001 by the Vyshniy Valachok State hospital, Mr Gaich was diagnosed with cerebral contusion and underwent cranial trepanation.

On October 30, 2001 the District Prosecutor's office terminated the criminal investigation on the alleged ill-treatment of Mr Gaich by police officers on grounds that no criminal act had been committed by police officers. After Ms Grahovska's appeal before the Regional Prosecutor's Office dated November 5, 2001 the latter quashed the order of the District Prosecutor's Office and ordered new investigation into the alleged ill-treatment by police officers.

According to Ms Grahovska's testimony to the ERRC, after the filing of her complaint with the prosecutor's office, she had been approached several times by police officers who had offered her money to cover the costs of Mr Gaich's medical treatment. The police officers also allegedly promised Ms Grahovska to terminate the criminal case for theft against her son if she withdrew her complaint. Ms Grahovska told the ERRC that she refused to take money from the police and to withdraw her complaint. As of the date of the ERRC visit, Ms Grahovska had not received any official statement from the prosecution regarding the outcome of the investigation into the allegations of ill treatment of her son. She told the ERRC that it was orally communicated to her that the officers responsible for the ill treatment of her son had been identified and punished. Ms Grahovska told the ERRC that she did not believe that the police officers had been punished and she thought that the case had been abandoned. The criminal case against Mr Gaich was reportedly terminated and was not sued for the alleged theft of tape recorders.

In many cases law enforcement officials resort to violence with the purpose of extracting confession or other incriminating evidence from suspects which can be used in criminal proceedings.¹¹⁴ Many Roma cannot afford a defence lawyer at all,

¹¹⁴ Evidence obtained by means of torture and ill treatment is invalid under international and Russian law. Article 15 of the UN Convention against Torture states: "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." Article 50(2) of the Russian Constitution and Article 302 of the Criminal Code specifically prohibit coercion, including the use of threats, humiliation or torture, to extract a confession.

and many do not have access to a lawyer during the initial questioning by the police, a fact which also allows for abuse of Roma in custody. Sometimes, in violation of both Russian and international law, law enforcement officers deny Roma access to a lawyer or deny lawyers access to their clients.¹¹⁵ On June 19, 2002, Mr. Graf Ivanovich Pavlov, a middle-aged Romani man, testified to the ERRC and the St. Petersburg branch of the non-governmental organisation Memorial that on June 7 or 8, 2002, following the death of a Special Purpose Police Unit (OMON) officer, he was beaten by police officers while in detention in Pskov, north-western Russia, in an apparent attempt to coerce him to admit responsibility for the death of the OMON officer. Mr Pavlov reported that police officials – two of whom he identified as Officer A.Y. and Officer S. – from Pskov and neighbouring Porkhov respectively – arrested him while he was waiting with his wife, Ms N.S., at a bus stop in the village of Polovnoe near Pskov. Mr Pavlov was handcuffed and pushed into a police vehicle. Mr Pavlov stated that Officer A.Y. and Officer S. began to beat him immediately after he got into the car, accusing him of having murdered the OMON officer. The policemen drove Mr Pavlov to a police station in Porkhov, where they continued to beat him while still

Article 51.1 of the Constitution stipulates: “No one shall be obliged to give evidence incriminating themselves, a husband or wife or close relatives the range of whom is determined by federal law.” Article 9(2) of the Russian Criminal Procedure Code bans violence or other cruel or humiliating treatment against the participants in the criminal procedure. Article 75(1) of the Criminal Procedure Code provides that testimony obtained in violation of the Code do not have juridical force. Paragraph 2 of the same article specifies that testimony is not be deemed admissible if it had been given by a suspect or defendant in the absence of an attorney in the course of preliminary investigation or interrogation and was not confirmed by the suspect, defendant in a court of law.

The UN Committee Against Torture recommended that the Russian Government ensure in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture and review cases of convictions based solely on confessions, recognising that many of them may have been obtained through torture or ill treatment, and, as appropriate, provide compensation and release persons presenting credible evidence of having been tortured or ill treated. “Conclusions and Recommendations of the Committee against Torture: Russian Federation. 28/05/2002. CAT/C/CR/28/4.” Twenty-eight session, 29 April-17 May 2002, available at: <http://www.hri.ca/fortherecord2002/documentation/tbodies/cat-c-cr-28-4.htm>.

¹¹⁵ Article 48(2) of the Constitution of the Russian Federation guarantees that: “Any person detained, taken into custody or accused of committing a crime shall have the right to receive the assistance of a lawyer (counsel for the defence) from the moment of detention, confinement in custody or facing charges accordingly.” Article 16. 1 of the Criminal Procedure Code guarantees for the suspect and for the accused “the right to the defence, which they may exercise themselves or with the assistance of a counsel for the defence and (or) of their legal representative.”

handcuffed and with his legs tied. When Mr Pavlov refused to confess to the murder, the officers reportedly offered him alcohol and drugs, saying that if he gave a written confession they would help him secure a lighter sentence. Mr Pavlov refused to answer the questions of the officers without a defence attorney present. When Ms N.S. finally managed to retain one, the attorney was reportedly not permitted to enter the police station to meet with his client. Mr Pavlov explained that, on the basis of a resolution of the local prosecutor Sergey Gubin, he was held in detention until June 18, 2002, because he could not produce his identification documents, which however had been confiscated earlier by the same police officers who had arrested him. According to Mr Pavlov, throughout the ten days in detention, he was repeatedly beaten and threatened by police officers who called him “Gypsy snout”. During one interrogation session officer V.I. reportedly threatened to rape Mr Pavlov in the presence of other officers including one whom Mr Pavlov recognised and named. Mr Pavlov told the ERRC/Memorial that he would not lodge a complaint against the officers.¹¹⁶

4.4 Fabrication of Incriminating Evidence against Roma

Russian police authorities are under intense public pressure to fight crime and especially drug trafficking. It is also alleged that police are promoted on the basis of the number of cases they solve. Such factors appear to influence illegal practices of fabrication of incriminating evidence against suspects. Lack of accountability for law enforcement officials compounded by systematic disrespect for due process rights by judicial officials allows for the prosecution and sentencing of individuals on the basis of evidence fabricated by the police. As in other cases of human rights violations, Roma and some other ethnic minorities are at particular risk to be subjected to such abuses.¹¹⁷ According to testimony of Roma to the ERRC during field research

¹¹⁶ Case summary based on ERRC/Memorial interview with Mr. Graf Ivanovich Pavlov, June 2002, Pskov.

¹¹⁷ Russian human rights organisations noticed that since the beginning of 2000, fabrication of criminal accusations against Chechens, Azeris, Tajiks, Armenians and Roma has escalated in Moscow, as well as the Moscow, Tver and some other regions. Human rights organisations, including Memorial, possess information about several dozens of people (concrete estimates are varying) who were arrested for allegedly fabricated accusations under Article 222 (establishing criminal liability for illegal acquisition, transfer, sale, storage, transportation, or bearing of firearms, its basic parts, ammunition, explosives, and explosive devices) and Article 228 (establishing criminal liability for illegal acquisition,

on June 29, 2004 in Novocherkask, Rostov region, on several occasions police officers had detained members of the ten Romani families living on the communal dump and issued them protocols of offences which the Roma had reportedly not committed. According to the Roma, police officers told them that the police needed to detain somebody in order to report cases to their superiors and “the Roma suited better than others for such a role”.

Many Roma throughout Russia testified to the ERRC that when the police cannot find incriminating evidence against Roma, they often resort to “planting” drugs on them and then “discovering” the drugs on the person or among his/her belongings. Following the “discovery”, Roma are either prosecuted and imprisoned, or put under pressure to provide high-price bribes.

Romani activists from Nizhniy Novgorod as well as local human rights activists reported to the ERRC during field research on August 19, 2004, that “planting” drugs or threats of “planting” drugs on Roma is a major problem in their region.¹¹⁸ They noticed that frequently police target Romani homes where the police believe drug dealers live. When the police fail to find drugs, they “plant” drugs. During field research in Novokuybishevsk, Samara region, on August 24, 2004, the ERRC interviewed Mr Gavrilov, deputy chief of the Department for fighting drug trafficking of Novokuybishevsk. Mr Gavrilov assured the ERRC that there was no discrimination against Roma in Novokuybishevsk, and that a police officer would not stop a Romani person more readily than a non-Romani person. He also said that their department never conducted unsanctioned house searches, as they would be brought to responsibility. However, during the same mission, Roma from Novokuybishevsk, home to about 50 Romani families, testified to the ERRC that police enter Romani homes at least once a month and demand money. If Roma refuse to pay, police officers threaten to “plant” drugs. If Roma fail to pay in time, they are detained by the police and released only when the police receive money.

storage, transportation, making or processing of narcotic drugs, psychotropic substances or analogues thereof) of the Criminal Code. As a rule, most of the arrested were found guilty in court. See “Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination. An NGO report to the UN Committee on Elimination of Racial Discrimination, 62nd session, March 2003”, available at: http://www.ilhr.org/ilhr/reports/CERD_Russia_2003.htm.

¹¹⁸ ERRC interview with activists from the Nizhniy Novgorod-based non-governmental organisation Society of Human Rights, August 19, 2004, Nizhniy Novgorod.

Ms L.R., a 51-year-old Romani woman from the town of Balashikha, Moscow region, testified to the ERRC and Romano Kher that at around 9 AM on March 24, 2002, police attempted to frame her and Ms M.N. on drug-related charges at the Leningrad railway station in Moscow. According to Ms L.R., she and Ms M.N. were walking along the train platform when two police officers approached them and asked the women to open their bags. When the Romani women opened their bags, one of the police officers dropped a handkerchief into Ms M.N.'s bag. According to Ms L.R., Ms M.N. immediately realised that the handkerchief contained drugs, so she began to shout and threw the handkerchief out of her bag. One of the police officers reportedly then hit Ms M.N. hard in her chest with the butt of his gun. Ms L.R. stated that the officer placed the handkerchief back in Ms M.N.'s bag. The officers then drove both women to the nearest police station in a police vehicle. Ms L.R. told ERRC/Romano Kher researchers that at the police station, one of the police officers ordered her to open her bag, using abusive language, and placed a small package of drugs into it, explaining that they were going to search the women in front of witnesses. Another officer reportedly said that Ms L.R. could go home if she paid the officers USD 15,000 (approximately EUR 11,500). Ms L.R., who had reportedly recently undergone a heart surgery, told the ERRC/Romano Kher that she had feared she would be beaten and had agreed to pay the bribe. After some negotiations, Ms L.R. succeeded in having the cost of the bribe reduced to USD 6,000 (approximately EUR 4,600). Ms L.R. was reportedly released at about 5 PM after her husband provided the money from family savings and loans from relatives. Ms M.N. was then charged for drug trafficking under Article 228 (4) of the Russian Criminal Code. Her case went to trial on May 17, 2002. Ms M.N.'s case was reportedly decided out-of-court, however, with the help of a bribe paid to an officer of the court who promised to deliver the money to the judge.¹¹⁹

While many police raids on Romani neighbourhoods are conducted apparently on grounds of efforts to detain suspects of crimes other than drug dealing, it appears that the most frequent and most dangerous type of house raids which Roma throughout Russia fear at all times are raids aiming to secure evidence of drug-dealing and to arrest drug-dealers. During these operations, usually carried out by special anti-drug law enforcement officers, drugs may be “planted” with Roma and then “discovered” as evidence for incriminating them. For example, according to the testimony provided

¹¹⁹ Case summary based on ERRC/Romano Kher interview with Ms L.R., June 2002, Moscow.

to the ERRC/Romano Kher by several Roma who wished to remain anonymous, on April 2, 2002, seven police officers in two cars abusively raided a neighbourhood densely populated by Roma in St. Petersburg. According to the Roma with whom the ERRC/Romano Kher spoke, police apparently had been planning to detain two Roma, despite having not found any drugs in their possession, but ended up not making any arrests, reportedly because bribes were paid on the spot. According to Roma interviewed by the ERRC/Romano Kher, police officers openly demanded bribes in the amount of USD 5,000 (approximately EUR 3,850), threatening to “plant” heroin in the pocket of each suspect if they were not paid in full. The Roma also testified that police officers used racist language during the raid. The operation reportedly continued for nearly twenty-four hours. The Roma told the ERRC/Romano Kher that around twenty Roma living in the neighbourhood hid on the day in question in order to avoid police harassment.¹²⁰

Russian law requires the presence of witnesses to the investigative procedures conducted by the police. This provision, however, is often flouted by the police who fail to provide witnesses altogether, or bring witnesses, who as a rule are individuals closely linked to the police and acting in complicity with them.¹²¹

On August 17, 2004, a 38-year-old Romani woman, Ms Nadezhda Romaschenko, was stopped by police officers at one of the main streets in Rostov.¹²² The police officers checked Ms Romaschenko’s passport and did not give it back to her. She was pushed into a police car where she saw two other Romani women. All women were taken to a house in which a theft had allegedly been committed.

When they arrived in the house, the police officers announced to the owners of the house that they had caught the thieves and asked the owners to identify the Romani

¹²⁰ ERRC/Romano Kher interview with local Roma, April 2002, St. Petersburg.

¹²¹ Pursuant to Article 60 of the Criminal Procedure Code of the Russian Federation “attesting witness or the witness of an investigative action, shall be a person, not interested in the outcome of the criminal case, who is invited by the police, the investigator or the prosecutor to certify the fact of an investigative action having been conducted, as well as the content, the process and the results of an investigative action.”

¹²² Case summary based on ERRC interview with Pavel Limanskiy, July 1, 2004, Rostov and Amala, Rostov-based Romani non-governmental organisation, interview with Ms Romaschenko’s lawyer, December 29, 2004, Rostov.

women. The owners were reportedly unable to identify the thieves among the Romani women shown to them. Then the police officers demanded that Ms Romaschenko show them where she lived as well as show them houses of other Roma. Afterwards, Ms Romaschenko was taken to the local police station and placed in a cell. At about 12 noon the same day, she was taken to an office within the police where a police-woman performed a body search on her. After that two witnesses were called, two women who reportedly worked in the police department. The police officers showed them Ms Romaschenko's passport, which had been taken from her during the arrest. Inside the passport, they found a document. The police officers then stated that this document accompanies a medal, which had been stolen. Ms Romaschenko denied to have seen the document before and claimed that it had been placed in her passport by the police officers themselves when they took the passport upon her detention.

The police officers then drafted a protocol of theft, which was signed by the witnesses, and Ms Romaschenko was sent back to the cell. She was accused under Article 158(3) of the Criminal Code of the Russian Federation facing up to 6 years term of imprisonment. On August 19, 2004, 10 AM, she was handcuffed and brought to the Proletarskiy District Court for a hearing. During the hearing no witnesses were interrogated. The judge ordered that Ms Romaschenko be remanded in custody pending trial.

On August 20, 2004 Ms Romaschenko filed a complaint against the actions of the police officers with the Proletarskiy District's Prosecutor's Office. In the complaint she stated that she was not guilty and did not have anything to do with the alleged crime. She stated that during her detention the policemen had shouted and insulted her. They had not given her any food or taken her to the bathroom. Ms Romaschenko is a widow with four children. While she had been in detention, one of her children, 18-months old, contracted tuberculosis apparently at least in part as a result of the harsh conditions in which Ms Romaschenko's children lived in her absence – without electricity, in a premise with a wet ceiling and damp walls.

About four months after Ms Romaschenko's remanding into custody, on December 17, 2004, her measure of restraint was changed and she was released. On December 24, 2004 the case against Ms Romaschenko was terminated for lack of evidence that she had perpetrated an offense.

Fabrication of confession of a crime under coercion is another method used by police in order to compel Roma suspects to incriminate themselves. In some instances police

officers forced Roma to sign blank sheets of paper which were then reportedly filled in by law enforcement officials themselves and used against Roma. In the beginning of July 2004, 18-year-old Romani man N.N. was taken to the police department of Bolokhna district in Nizhniy Novgorod. He was kept in detention for three days and was physically abused by police officers. He was not provided with a lawyer and his family did not know anything about him for three days. He was forced to sign a blank sheet of paper. Subsequently, this sheet was reportedly filled in with a statement on behalf of the Romani man confessing to drug trafficking. The man was allowed to leave after he allegedly signed a document obliging him not to leave the town. He was subsequently several times summoned to the police department where he was reportedly questioned about his involvement in drug dealing. On each occasion he repeated that he was not involved in any drug dealing and that he did not confess involvement in drug dealing in writing but only signed a blank paper. The parents of the young man filed a complaint. On November 5, 2004 Mr N.N. was sentenced to eight and a half-year term of imprisonment by the Bolokhna district court of Nizhniy Novgorod. This sentence was upheld by a decision of the Regional Court of Nizhniy Novgorod from December 26, 2004. At a court hearing the deputy prosecutor, Ms Kosareva, allegedly said: “I hate all Gypsies except Budulay”.¹²³

In another case, in 2002, Ms N.B., 30-year-old Romani woman from Tula, central Russia, was arrested at a market place without any explanations.¹²⁴ According to the testimony provided by Ms N.B. to Mr Vasiliy Kutenkov, a local Romani leader, at the police department two police officers allegedly showed her two folders containing a criminal case each. One, as the police officer reportedly explained to the woman, was a case of murder and the other of drug trafficking. The police officer allegedly told Ms N.B. to choose one of the two cases and admit to having committed it. Ms N.B. was reportedly held in custody for about one day, during which time she had been subjected to physical abuse by police officers – she had been hit with a chair in the head – in order to coerce her to confess to the alleged crimes. Upon her release from the police station, Ms N.B. had reportedly been hardly able to move. The police officers then allegedly agreed to leave her on a bench in the neighbourhood where she lived. After the incident, Ms N.B. reportedly spent two months in hospital. According to Mr Kutenkov, Ms N.B. refused to file a complaint against the police.

¹²³ Budulay is the main Romani character of the 1983 Soviet film *Tsygan*.

¹²⁴ The case was communicated to the ERRC by Mr Vasiliy Kutenkov, Romani activist from Samara. ERRC interview with Mr Kutenkov, August 23, 2004, Samara.

It is also reported that Roma are accused on the basis of fabricated witness testimony. In one case reported by the Romani organisation Romano Kher, on June 29, 2001, police officers in the town of Lyubertsi, in the Moscow area, placed Mr V.O. and Ms N.O. under arrest for having used foul language in a public place. At the first court hearing, which took place on July 1, 2001, Mr V.O. and Ms N.O. were sentenced to three days in prison for using foul language in public. When the two were not released three days later, Romano Kher made inquiries with the Deputy Chief of the Lyubertsi police department, Mr Rozanov. Mr Rozanov reportedly told Romano Kher that some Roma had stolen about USD 1,200 (EUR 920) worth of jewellery from an 18-year-old woman whose mother and grandfather worked with the police department, and that the young woman had reportedly identified Ms N.O. as one of the suspects. Mr Rozanov also reportedly added: “Gypsies are all the same, and I don’t give a damn who did it, I will not investigate anything, but, should N.O. refuse to return the money to the victim, I will not only send her to prison, but I will also make life for Gypsies in this town miserable.” Ms N.O. consulted her relatives, and decided that it was better to pay the money demanded by the police officers on behalf of the robbery victim than to go to prison. Ms N.O. was released immediately after paying police officers the USD 1,200 dollars for which the victim had reportedly asked.¹²⁵

4.5 Abusive Police Raids

Abusive police raids on Romani settlements occur routinely throughout the country. According to testimonies given to the ERRC by Roma during 2004, in a number of communities in Central Russia, including in Kimry, Nizhniy Novgorod and Ryazan, police raids have been carried out several times per month. The raids are usually justified on the grounds of searching for criminal suspects and drugs.

In many cases the police allegedly never show any warrants or even identification documents.¹²⁶ Numerous Romani individuals are beaten and/or otherwise

¹²⁵ Case summary based on Romano Kher interviews with Mr V. O. and Ms N. O., June-July 2001, Lyubertsi; and Romano Kher interviews with Deputy Chief of the Lyubertsi police department, Mr Rozanov, and other police officials, June-July 2001, Lyubertsi. Full names on file with Romano Kher.

¹²⁶ The Constitution of the Russian Federation provides at Article 25, “Nobody has the right to enter a home against the will of those living in this home, except in cases foreseen by law or on the basis of

abused, and household items and money stolen by the attackers.¹²⁷ ERRC researchers heard from many witnesses divided by long distances throughout the country similar descriptions of raids. In many cases, family members present during such raids had the impression that the attackers actually were terrorists or armed bandits engaged in burglary, and only later found that their assailants had in fact been law enforcement officials apparently acting in their official capacities. During such raids, law-enforcement officials often reportedly use disproportionate force, including firearms, causing injury to Roma.¹²⁸

In early September 2004, according to information provided to the ERRC by local monitors, law enforcement officials conducted a sustained campaign of sur-

a court warrant". According to Article 12(1) of the Criminal Procedure Code, "An examination of the living quarters shall be carried out only with the consent of the persons residing in them, or on the ground of a court decision, with the exception of the cases, stipulated in the fifth part of Article 165 of the present Code"

According to Article 165(5) of the Criminal Procedure Code, "In exceptional cases, when the examination of the living quarters, the search and the seizure in the living quarters, as well as the personal search cannot be delayed, the above-mentioned investigative actions may be performed on the ground of the investigator's resolution, without obtaining judicial decision. In this case, the investigator shall be obliged, within 24 hours from the beginning of the investigative action, to notify the judge and the public prosecutor about the performance of the investigative action. Copies of the decision to perform the investigative action and of the protocol drawn after the investigative action shall be enclosed to the notification to allow the verification of the legality of the decision on the performance of the investigative action. Having received this notification, the judge shall be obliged to verify the legality of the performed investigative action within the term stipulated by the second part of this Article and pass resolution on its legality or illegality. If the judge recognises the performed investigative action as illegal, all evidence obtained in the course of such investigative action shall be deemed inadmissible in conformity with Article 75 of the present Code."

¹²⁷ Abusive raids arguably violate the prohibition of cruel and degrading treatment or punishment and arbitrary and unlawful interference with privacy, family, and home, contained in Article 7 and Article 17 of the International Covenant on Civil and Political Rights as well as Article 3 and Article 8 of the European Convention on Human Rights, respectively.

¹²⁸ Principle 5 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states: "Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall: (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (b) Minimise damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment; (d) Ensure that relatives or close friends of the injured or

veillance and intrusion in several Romani communities in Rostov without regard to fundamental rights and civil liberties. Police officers allegedly searched anyone who left their houses and arbitrarily took Roma to the police station. The operations were allegedly carried out in the context of fighting terrorism, in the wake of the September 1-3, 2004 school hostage bloodshed in Beslan, North Ossetia. During that period, Roma lived in terror and did not dare to leave their homes. Several Romani families have called local Romani leaders and human rights activists to ask for their help in providing them with essentials such as food. Unidentified police officers allegedly stated that the reason for the police presence in the Romani communities is intelligence information that terrorists disguised as “Gypsies” had been hiding inside Romani settlements.

It should be noted that some raids are apparently aimed at arresting offenders. However, unlike in cases in which police undertake arrests in non-Romani quarters, when raiding Romani settlements, police raid all houses of the neighbourhood indiscriminately, and approach the whole Romani community as if it were one household, thus violating a number of individual rights.

According to information provided to the ERRC by the Ekaterinburg-based organisation Roma Ural, on August 26 and 27, 2004, police and Special Purpose Police Units (OMON) carried out two successive raids on the Romani community in the city of Revda, Sverdlovsk region.

At around 11 PM on August 26, armed men in civilian clothes stormed into all of the houses in the Romani neighbourhood, breaking doors and windows and using foul language. The attackers pointed automatic rifles at the residents, struck them with the butts of their rifles and forced everyone – men, women and children – to lie face down on the floor. The attackers did not identify themselves, nor did they present any search warrants. Roma who asked about the identity of the attackers who raided their homes were allegedly beaten and verbally abused in response. One Romani man was shot in the leg when he attempted to defend his family, by threatening the attackers with a toy-gun. Several attackers then forced the man to the floor and beat

affected person are notified at the earliest possible moment.” The Basic Principles adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, available at: http://www.unhchr.ch/html/menu3/b/h_comp43.htm.

him with the butts of their rifles. The man's disabled mother was also hit when she approached the attackers and pleaded with them to stop beating her son.

Without asking any questions, the attackers rushed around the houses and detained an unidentified number of Romani men. After the attackers left the Romani settlement, Romani women – the wives and sisters of the detained – went to the local police to look for their relatives. They were not provided with any information about the whereabouts of their relatives. Romani women interviewed by Roma Ural testified that while waiting in front of the police, they could hear people crying out from inside, apparently as a result of being abused physically. They also witnessed police officers entering the building of the police station with bottles of vodka and beer. At around 4 AM, all detained Roma were released.

When the raid on the Romani houses began on August 26, some Roma thought that the attackers were gangsters and called the police. The police allegedly refused their requests for help. After the raid, Roma claimed that valuables including mobile telephones, as well as personal and other documents were missing from their houses. On August 27, some Roma attempted to seek help from the local hospital. When doctors understood that the Roma had been beaten by the police and security forces, they allegedly refused to treat them.

On the following night – August 27 – the police conducted a second raid in the same Romani quarter. Between 11 PM and midnight, police officers arrived in the Romani neighbourhood. Many Roma, fearing another night of sustained violence, had left their doors open to prevent the police from breaking them again. The officers, again in plain clothes, stormed the houses and forced people to lie face down on the floor, but this time they did not beat anyone. No one was detained and the police left shortly afterwards.

According to the testimony of Roma from Revda, several days after the raids, they learned that the police had been looking for a young Romani man suspected of the murder of one Russian woman and an 8-year-old Russian girl. Witnesses to the murders had allegedly testified that the perpetrators were a Russian man and a Romani youth. Inhabitants of the neighbourhood said that during the previous year there had been a similar raid, following the murder of a Russian man. Later, it was found that the perpetrator was of Russian ethnicity.¹²⁹

¹²⁹ Case summary based on Roma/Ural interviews with Romani victims and witnesses, August-September, 2004, Revda.

In another case, according to ERRC research, in February 2003 at approximately 11 AM a police raid was conducted in Zubchaninovka, a district of Samara. Local people described the event as involving approximately 150 armed police officers in masks. According to Mr Vasiliy Kutenkov, a Romani activist from Samara, police officers entered some of the homes through the windows, and in one case set the door of a house on fire in order to enter the house. During the raid, Mr Kutenkov's brother, Oleg Kutenkov, whose home was also stormed, requested that officers clarify the reason for the raid. The police officers allegedly stated that they had been ordered to conduct house searches. Mr Oleg Kutenkov said that they could search his home only in the presence of his lawyer. The police officers agreed to wait for the lawyer and also reportedly sent one of their colleagues to the neighbouring house of another member of the Kutenkov family to warn police officers there that a lawyer would be coming, so they should act in accordance with the law. In most homes, however, the police officers reportedly caused significant damage to the household and stole valuables. Then the police left. On the following day, Mr Aleksandr Molchanov, an attorney, offered to file a complaint on behalf of those Roma who had been raided. The Roma in question refused however, indicating that they feared retaliation from the police were they to undertake such an action.¹³⁰

In another case, on March 29, 2001, between fifteen and twenty masked members of the Fast Reaction Group (SOBR), a police unit operating under the Ministry of Interior, raided a community of more than seventy Romani families in the village of Dorozhny, in the Kaliningrad region, and assaulted a number of residents. According to research by the Moscow-based Romani organisation Romano Kher, SOBR members armed with machine guns broke into several Romani households in the village, forcing everyone to the floor and beating them with the butts of their guns and with wooden sticks taken from a fence outside. The SOBR officers then allegedly ordered several Roma to crawl into the yard, where they forced them to lean on cars and submit to body searches. Mr L.P., a young Romani man, was allegedly severely beaten by police officers. The youth's father, Mr M.P., was reportedly hit in the area of his kidneys when he attempted to help his son. Officers reportedly told him to "stand still or he would have his brains sprinkled on the asphalt". An unnamed 9-year-old Romani girl told Romano Kher that she was at home with her father, who had had heart surgery a few days earlier, when several masked men broke into the house. She related that when her father asked

¹³⁰ Case summary based on ERRC interview with Mr Vasiliy Kutenkov, August 21, 2004, Samara.

to call for an ambulance because he felt pain in his heart, the masked men laughed at him and beat him. They then reportedly took food from the refrigerator and left. Afterwards, according to Romano Kher research, members of SOBR allegedly drove around the village and stopped to assault several Roma. The SOBR officers also confiscated personal items they found on the Roma. The raid reportedly lasted for approximately two or three hours. Several Roma were taken to the hospital for injuries of various levels of seriousness. Others were taken to the local police station for identity checks and released shortly afterwards without charges. In an interview with Romano Kher, Mr A. Mikhailov, the head of SOBR, stated that the raid had been part of a police search for a Romani man suspected of having committed a crime, and that, though “the Gypsies” had resisted the raid, no abuse of power had taken place. According to Romano Kher, although the Kaliningrad district prosecutor promised them to make an inquiry, no one was subsequently charged with any offence in the context of the raid.¹³¹

4.6 Arbitrary House Search

Many Romani individuals testified to the ERRC that police arbitrarily target them for house search claiming that they search for drugs. In most of the cases, house search warrants are not presented. For example, in June 2004, approximately thirteen police officers entered the home of a Romani person in Sormovskiy district of Nizhniy Novgorod. Without identifying themselves, they ordered everybody in the house, among them three children and elderly people, to lie on the ground. The police said that they were searching for drugs. Failing to find drugs, the police officers reportedly broke the windows and physically abused several people in the house. When the police officers were leaving, the Romani man asked them: “Who will pay for the broken windows?” The police officers reportedly replied: “You want us to pay for your windows? We will take your whole house to pieces!”¹³²

In another case, on June 25, 2002, Ms Raisa Ivanovna Polikova, a 54-year-old Romani woman, testified to the ERRC/Memorial that on May 25 or 26, 2002, police officers conducted an abusive raid on her house in Saint Petersburg. Ms Polikova

¹³¹ Case summary based on Romano Kher interviews with Romani witnesses and Mr A. Mikhailov, April 2001, Dorozhny.

¹³² ERRC interview with local Romani activist, August 18, 2004, Nizhniy Novgorod.

told the ERRC/Memorial that she asked the officers to show her a search warrant, but they did not. The officers proceeded to take her television and her family's passports and birth certificates, according to Ms Polikova. Ms Polikova stated that the officers took the television because she was unable to produce the receipt for it, even though she had purchased it in a store. Ms Polikova stated that she did not know where to go to secure the return of her family's possessions.

A case of arbitrary targeting of a Romani house and an attempt at unwarranted house search by police was also described to the ERRC by Mr Vasiliy Kutenkov, chairman of the Samara-based Romani non-governmental organisation Romani Duma. During ERRC research in August 2004, Mr Kutenkov told the ERRC, that in July 2002 at approximately 6 PM, four men approached his house in the village of Zubchani-novka, in the outskirts of Samara.¹³³ The men reportedly attempted to force the front door, which was locked. Mr Kutenkov walked out and inquired who they were. The men identified themselves as police officers and said that they had to search the house. They did not have a search warrant, however. Mr Kutenkov let them inside his house. He was then asked to produce his identity documents. At some point Mr Kutenkov's wife entered the room. She was dressed in traditional Romani clothes. On request by the police officers she identified herself as "Rufina", a typical Romani name. The police officers claimed that "Drugs were sold from this house" and pointed to Mr Kutenkov's wife as the suspected dealer. Mr Kutenkov asked them how they knew about it and when it happened. The officers replied, "This happened at about 3 PM today." Mr Kutenkov then stated that he and his wife had been to the city hall in the afternoon and had returned home shortly before the police arrived. The police did not make further inquiries and left the house.

4.7 Extortion of Money by Police and Other Officials

Most Roma with whom the ERRC spoke during field missions in Russia in 2003 and 2004 had either been victims of extortion of money by police themselves or had friends and acquaintances who had been subjected to similar corruption practices. The habit of the police to coerce Roma into paying bribes appears ubiquitous. Roma are often threatened with incrimination and violent treatment if they failed to pay to

¹³³ ERRC interview with Mr Vasiliy Kutenkov, August 22, 2004, Samara.

the police. Money is also extorted from Roma in exchange for release from custody or dropping of criminal charges. Finally, and very often, police simply go to Romani neighbourhoods and collect money from everyone without explanation. Russian officials are apparently aware of this pattern. Some of them, however, take for granted that the money extorted by the police from Roma had been previously stolen by the Roma, and therefore consider this a legitimate means of restoring justice. During a meeting with Mr Novikov, deputy prosecutor of Novokuybishevsk, Samara region, the ERRC inquired about his opinion regarding the widespread allegations by Roma that police officers extort money from them. Mr Novikov told the ERRC that, “Even if this happens, police officers take away money from Roma, which they earned in an illegal way.”¹³⁴

In some cases Roma who refused to pay were severely beaten by police officers. For instance, during the field research in Adygey Republic, ERRC met Mr Ogly, Romani man from Yablonovskiy village who told the ERRC that on February 23, 2004, he and his wife, Russian by ethnicity, went to the local store. A police car stopped in front of Mr Ogly, and three policemen got off the car; one policeman wore uniform and two were in civilian clothes. The policemen did not show any identity documents and demanded money. Mr Ogly did not want to give money and told to the police that they acted illegally. The police started beating Mr Ogly. His wife wanted to defend him and at that moment one of the policemen took a knife and stabbed Ms Ogly two times in the hip causing her to bleed. Mr Ogly had to give to the policemen 200 roubles (approximately EUR 6), then they got into the car and left. They also warned Mr Ogly and his wife that if they reported the case, “things would be even worse”. Mr Ogly did not file a complaint. During the interview, the wife of Mr Ogly told the ERRC that she “feels ashamed for the Russians, ashamed that she is Russian, due to the way Russians treat the Roma”. The Ogly family noted that the police officers often demand money from Roma for no apparent reason.¹³⁵

According to testimony given to the ERRC on August 24, 2004 in the Dya-grevo Romani settlement in Ryazan by a Romani man who did not want to reveal his identity, local police officers had been coming at least once a week to the settlement

¹³⁴ ERRC interview with Mr Novikov, August 24, 2004, Novokuybishevsk.

¹³⁵ ERRC interview with Ogly’s family, July 2, 2004, Yablonovsky village.

and forcing Roma to give them money. If the Roma refused, the police would often take Roma hostage. On August 22, 2004, in the late afternoon hours, the settlement was raided by six masked police officers who were allegedly under the influence of alcohol. The officers broke into houses and demanded that Roma give them money. Several people, including women, were beaten. The officers left the settlement taking at least ten Romani individuals hostage. Allegedly, the police demanded 60,000 roubles (approximately EUR 1,660) for their release. The Roma were released the same evening after the families collected the money and gave it to the police.

Incidents of abduction of Roma and extortion were also reported by the Russian media. On June 10, 2004, the Moscow-based Russian daily newspaper *Kommersant* reported that four police officers, including a major, two senior lieutenants and a lieutenant, were arrested in Novosibirsk, Novosibirsk region, on suspicion of extortion, group robbery and abuse of power. According to the daily, the arrest followed an incident in March 2004 during which at least eight police officers abducted a three-member Romani family and, during the course of one night, tortured the young couple in front of their 8-year-old daughter in the forest close to the nearby town of Krasny Yar. The officers reportedly beat the child as well. During the physical abuse, the officers stole the family's gold jewellery and demanded 30 million Russian roubles (approximately EUR 835,000), according to the daily. The following morning, the officers finally ceased torturing the couple when they agreed to pay 1 million Russian roubles (approximately EUR 27,700). At this time, while the husband and the child were held hostage, one of the officers accompanied the Romani woman to the family's house and reportedly was given the money. Following the family's release, the couple filed a complaint with the local police. With a delay of several months, after a search of their homes and offices on the morning of June 9, 2004, the four officers were arrested. *Kommersant* reported that the local investigator was going to recommend to the local court that the four officers be charged for the above offences. *Kommersant* also reported that the same officers had been involved in a similar incident in November 2003, during which a relative of the couple victimised in the March 2004 incident had been abducted from a street in Novosibirsk and taken to a forest. There he had been beaten for seven hours while the officers demanded money. Following this assault, the Romani man moved away from the town because the officers had threatened to burn his "Gypsy" family after he refused to give them money.

In response to a letter of concern sent by the ERRC,¹³⁶ Mr Afanasyev, the Deputy Regional Prosecutor, wrote that during the criminal investigation against the four police officers charged with extortion and robbery of the Roma concerned, all measures had been taken to clarify the circumstances of the case. In its letter, ERRC had drawn attention to the apparent racial animus of the offence and insisted that if confirmed it should be considered as an aggravating factor in sentencing the perpetrators. Mr. Afanasyev however contended in his letter that the investigation had not established a motivation related in any way to ethnic or national hatred.

Extortion of money from Roma is indiscriminate, even in cases when the victims live in abject poverty. On June 29, 2004 the ERRC and the Rostov-based Romani non-governmental organisation Amala interviewed approximately ten Roma families living on the dumpsite in Novochoerkassk, Rostov region. The families earned money for food and medicines by gathering from the garbage beer and coca-cola tin cans. In return of 1kg scrap metal they reportedly received one rouble (approximately EUR 0.026). Roma reported that they had been visited several times by police in the last year and that officers extorted money from them. The usual justification for the extortion was that the Roma were not registered according to their place of residence. In the beginning of June 2004 two police officers from the nearest police station reportedly arrived on a car (VAZ 2107) and demanded 500 roubles (approximately EUR 14) in total, or 10 roubles per person irrespective of age. This money was extorted as unofficial fine for living without a proper registration. Police officers reportedly threatened the Roma that they would burn their cardboard shacks if the Roma did not pay to them.

A sixty-year old Romani man, Mr Alexey Ivaschenko, living at the dump site, told ERRC that every time when he saw a car approaching, he would glide down a rope fixed on the ground near his shack into a hole at the foot of the steep rock on which the Romani shacks stood. Showing the ERRC researchers the rope, he explained that he would dig himself into rubbish and lay still to avoid being asked to pay money. In July 2004, after the ERRC visit, when Mr Ivaschenko was again descending to the hole, he was caught in the flames of the fire burning in the hole, and got burns all over the body. Doctors reportedly refused to go to the dumpsite alleging that the injured did not have medical insurance.

¹³⁶ See “ERRC: Russian Police Arrested in Connection with Extortion and Torture of Roma”, press release of the ERRC, available at <http://www.errc.org/cikk.php?cikk=1928>.

Alexey could not go to hospital because he could not afford to pay in the absence of medical insurance and remained on the dump in critical condition for several days.

In the aftermath of the ERRC visit to the Roma on the dumpsite, according to a local Romani activist, local police arrived to the dump and destroyed and burned some of the shacks. The police also allegedly threatened the Roma that if they said anything to foreigners they would be burnt together with their houses.¹³⁷

In some cases Roma sell their houses and other property in order to be able to pay bribes to the police. Mr Shilin, Romani activist from Nizhniy Novgorod, told the ERRC that on February 2003, an 18-year-old Romani woman, from the village of Be-shentsevo, near Nizhniy Novgorod, was stopped by three police officers on the street of the village and accused of dealing in drugs.¹³⁸ The Romani woman's mother went to the police station where her daughter was kept in detention, but was allegedly told that if she started talking about her daughter's detention, they would kill her. At the same time she was reportedly offered to pay a bribe of a considerable amount to the investigator to secure that charges against her daughter be dropped. The woman subsequently sold her house and paid the requested bribe. However, her daughter was not released from detention, as in the meantime the case had reportedly been passed over to a different police department. The 18-year old woman was sentenced to six years of imprisonment and has been serving her sentence. Her mother died in the beginning of 2004. Mr Shilin also told the ERRC that Roma often sell their homes under their market value to pay bribes and thus become homeless. An amount that is often asked from Roma for a release of a relative is reportedly 1,000,000 roubles (approximately EUR 27,700).

When Roma do not have money to give, police officers may take away various objects from them. Mr M.G, a Romani man, arrived from Kazakhstan in Chapayevsk, Samara region, in 1993.¹³⁹ Several times he himself and the members of his family applied for residence permits in Russia. Only in 2002 the family received passports of

¹³⁷ ERRC communication with Mr Pavel Limanskiy, July 30, 2004, Budapest.

¹³⁸ The case was communicated to the ERRC by Mr Shilin, local Romani activist. ERRC interview, August 18, 2004, Nizhniy Novgorod.

¹³⁹ ERRC interview with the family of M.G., April 5, 2004, Chapayevsk. Many Roma moved from Kazakhstan to the central part of Russia and Southern Russia in the beginning of the 1990s and had numerous problems legalising their residence in Russia.

stateless persons valid for three years and they were able to access some social aid and look for jobs. In the period 1998-2002, while Mr M.G. and his family did not yet have residence permits, local police repeatedly entered the house asking the family members to produce their personal documents. Each time the police extorted money from the family in a sort of illegal “fine” for the lack of valid passports. Once when the family had no money to pay, the police took an old TV set, which cost 1,500 roubles (approximately EUR 42). The police explained that this was some sort of compensation for the “fine” that should have been paid for lack of residence permits.

Roma are subjected to discriminatory extortion of money by other public officials as well. During field research in Novoshakhtinsk, Rostov region, where about 150 Romani families live, ERRC met Mr N.N., a Romani businessman. Mr N.N. stated that some local Roma were engaged in trade; in particular, they travelled across the boarder to Ukraine, bought clothes and shoes and sold the goods in Novoshakhtinsk. Mr N.N. noted that there was a high level of unemployment in the city and many people lived off this type of trade. According to Mr N.N., Russian customs officers have been forcing Roma to pay additional amounts of money on top of the customs duty. As a rule, they would not issue any financial document or certificate for money paid. When Roma have asked them “what is the reason that we have to pay this additional amounts”, the standard answer was: “Because you are Gypsy”. According to Mr N.N. the customs officers call this acquisition a “nationality tax”.¹⁴⁰

The endless cycle of bribes leads to further economic marginalisation of Roma. When a family has spent all its money and jewellery to pay bribes, as a next step, they sell their car if they have one. Next, they sell their home. For some time, it is possible to live with relatives in crowded rooms. And in the end, the victims find themselves in the street or at the communal dumpsite.

4.8 Conclusion: Suppression of Justice

In almost all cases researched by the ERRC, violence and other illegal acts perpetrated against Roma by law enforcement officials remain without legal remedy.¹⁴¹

¹⁴⁰ ERRC interview with Mr N.N., June 29, 2004, Novoshahtinsk.

¹⁴¹ After its 2001 periodic visit to the Russian Federation, the European Committee for the Prevention of Torture (CPT), noted that while “the Committee delegation received a disturbing number of

Intimidation and harassment by police and the perception of the victims that law enforcement officials are immune from sanctions are a powerful deterrent for many Roma: they are frequently reluctant or fully unwilling to seek justice for illegal acts by police officials.¹⁴² Filing an official complaint is deemed by the overwhelming majority

allegations of physical ill-treatment by members of the Militia” and “a number of allegations [...] of the disproportionate use of force at the time of arrest”, “only a limited number of allegations were received of ill-treatment by investigating officers. However, it was claimed on many occasions that investigating officers were fully aware of the ill-treatment inflicted by operational staff and acquiesced in it. Identical allegations were made in the three regions of the Russian Federation visited by the delegation, according to which operational Militia staff physically ill-treat detainees during the initial questioning (the so-called “collection of explanations”) until they indicate that they will confess. The suspects are then taken to an investigator who enquires if they are ready to confess. If the suspects state that they are not willing to confess, they are returned to the custody of operational staff for further “softening up”. See Council of Europe, Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Report to the Russian Government on the visit to the Russian Federation carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 17 December 2001, paragraph 15, available at: http://www.cpt.coe.int/documents/rus/2003-30-inf-eng.htm#_Toc18909690.

¹⁴² The protection of victims of human rights violations who seek legal remedy is guaranteed under international and Russian legislation. Article 13 of the UN Convention against Torture obliges state parties to “ensure that any individual who alleges that he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities” and to take steps “to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” The Constitution of the Russian Federation states at Article 52: “The rights of persons who have sustained harm from crimes and abuses of power shall be protected by the law. The state shall guarantee the victims access to justice and compensation for damage.”

United Nations General Assembly Resolution 55/89 “Torture and other cruel, inhuman or degrading treatment or punishment” calls on States to ensure that “Alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation. Those potentially implicated in torture or ill-treatment shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as those conducting the investigation.” See General Assembly Fifty-fifth session, Resolution adopted by the General Assembly [on the report of the Third Committee (A/55/602/Add.1)], 55/89 Torture and other cruel, inhuman or degrading treatment or punishment, Annex “Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, 3(b), available at: [http://www.unhcr.ch/Huridocda/Huridocda.nsf/0/694d7fd5f11b70cc1256a0f0031bdce/\\$FILE/N0056473.pdf](http://www.unhcr.ch/Huridocda/Huridocda.nsf/0/694d7fd5f11b70cc1256a0f0031bdce/$FILE/N0056473.pdf).

of Romani victims as a dangerous and irresponsible adventure that may incur harm and hardship on the entire family or community. At best, such actions are seen as a useless waste of time. During ERRC field research in Russia, many Roma even refused to talk about concrete instances of police brutality involving them as victims or witnesses, while they readily stated that they had experienced or witnessed violent treatment. Some spoke under conditions of confidentiality. ERRC researchers became aware of cases of complaints against law enforcement authorities that had been filed but later retracted, following threats and other pressure. Even legal counsel has sometimes been forced, through a mixture of intimidating phone calls and conversations behind closed doors, to discontinue proceedings and abandon Romani clients.

On June 20, 2002, Mr Vasilij Bogdanov, a 44-year-old Romani man, testified to the ERRC/Memorial that on May 15 or 16, 2002, he was violently assaulted by three police officers in the town of OPOCHKA, in Pskov region. According to Mr Bogdanov, he was walking home from the house of his relatives when he was arrested by three police officers, apparently on suspicion of hiding drugs with his relatives. Mr Bogdanov reported that he was pushed into a police vehicle and driven to a quarry. At the quarry, the officers reportedly demanded that Mr. Bogdanov work as an informant for them, and threatened to torture him if he refused to do so. The officers then began to beat Mr Bogdanov until he agreed to work for them. Mr Bogdanov reported that one of the officers took a can of gasoline from the police vehicle and threatened to pour it on him and set him on fire, stating: "Nobody will be able to recognise you. Only by your teeth will you be recognised." Mr Bogdanov stated that, on May 25, 2002, he promised under duress to give information to the officers; when he failed to come forth with any information, he was again arrested by the same three officers on May 29, 2002, and taken to the local police station. Mr Bogdanov testified that at the police station he was held in a cell, where the officers kicked him to the ground and then beat him with truncheons. The officers reportedly accused Mr Bogdanov of not having kept his promise to help them and told him that they had a tape recording of the promise he had made during their previous encounter. When Mr Bogdanov asked to hear the tape, one of the officers brought over a book, placed it on his head and hit the book hard with a baseball bat. The officers continued to beat Mr Bogdanov until he agreed to help them, after which he was released. The following day, Mr Bogdanov went to a hospital and had his injuries documented. Mr Bogdanov then filed a complaint against the officers with the local prosecutor, Mr Aleksandr Pashkov. According to Mr Bogdanov, soon thereafter, the police officers who had attacked him came to him and asked him to withdraw his complaint, suggesting that he would



Dumpsite in the suburbs of Novocherkassk, Rostov oblast, southern Russia, June 29, 2004. Local Roma, who live in utter poverty, earn money for food and medicines by collecting empty cans to support themselves.

PHOTO: ERRC



Housing conditions of Roma living at the dumpsite in the suburbs of Novocherkassk, Rostov oblast, southern Russia, June 29, 2004.

PHOTO: ERRC



Roma in Cheboksary, central Russia, August 19, 2004. Approximately 30 Romani families live in the Algeshevo district of Cheboksary. According to the Roma, police raids happen once or twice a year and are also sometimes part of trainings for the police force. During such raids, police reportedly take television sets and video players if the owners cannot produce documents.

PHOTO: ERRC



Romani girl who lived at the dump site with the Romani flag belonging to a local Romani organisation “Amala”, Rostov oblast, June 29, 2004.

PHOTO: ERRC

suffer negative consequences otherwise. Mr Bogdanov withdrew his complaint, reportedly out of fear. Soon thereafter, Mr Bogdanov told the ERRC/Memorial that he had been visited by Romani activists from St. Petersburg who convinced him to file another complaint. Mr Bogdanov reported that, soon after the second complaint was filed, he received a threatening telephone call. Mr Bogdanov subsequently withdrew his second complaint as well.¹⁴³

In another case, in the beginning of June 1998 in the area of Odintsovo, Moscow region, around 40-50 Roma of the Solntsevo district of Moscow were celebrating the Trinity holiday in *Mechta* restaurant. They had rented the restaurant for the whole night. About an hour into the celebration, a group of OMON broke in. The police officers made everybody lie face down on the ground and started beating indiscriminately the Roma. Mr Arthur Bogdanov, born in 1948, got serious head injuries as a result of the beating. He had an eye sickness, and due to the injury, his condition worsened. Mr Bogdanov was reportedly threatened by OMON officers that if he complained, they would plant drugs with him and send him to prison. Other Roma were also intimidated in order to be discouraged from complaining about the raid. Finally, neither Mr Bogdanov nor other victims of the police abuse filed complaints. Three years later, Mr Bogdanov lost his job because of his eye condition. As of June 12, 2004 as he was expecting surgery to remove his eye, he met ERRC, discussed briefly his case, but refused to file any complaint that might bring him at least some compensation as personal injury damages.¹⁴⁴ The almost complete lack of trust of the Roma in the Russian legal order and their overwhelming fear of sticking their heads out, unmatched by Romani attitudes in any other country, is perhaps the most discouraging aspect of promoting Roma human rights in Russia.

¹⁴³ Case summary based on ERRC/Memorial interview with Mr. Vasily Bogdanov, June 2002, Opochnka.

¹⁴⁴ ERRC interview with Mr Bogdanov, April 14, 2004, Moscow.

5. DISCRIMINATION AGAINST ROMA IN THE CRIMINAL JUSTICE SYSTEM

The ERRC has documented cases revealing a plethora of gross violations of fundamental rights of Roma by organs of the criminal justice system in Russia. This chapter describes denial of justice to Roma in the capacity of defendants and as victims of crime.¹⁴⁵ In a number of instances, anti-Romani comments made by prosecutorial and court officials rendered obvious the racial bias in the conduct of trial procedures against Roma.¹⁴⁶ Repeated failure of the criminal justice officials to investigate allegations of crime committed against Roma is also indicative of discriminatory treatment.

¹⁴⁵ The right to fair trial is protected under Article 6 ECHR and Article 9 ICCPR. Pursuant to Article 6 ECHR, “1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgement shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice. 2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law. 3. Everyone charged with a criminal offence has the following minimum rights:

1. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
2. to have adequate time and facilities for the preparation of his defence;
3. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
4. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
5. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.”

Similar protections are contained in the ICCPR. Fair trial rights are also guaranteed by the Russian Criminal Procedure Code, Articles 14 -19, Article 47 and Article 53, among others.

¹⁴⁶ Article 5 ICERD calls on governments “to prohibit and eliminate racial discrimination in all its forms and guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law” in the enjoyment, among others of:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; [...].”

5.1 Denial of Fair Trial

Violation of fair trial standards is a general problem for the Russian Federation. Mr Vladimir Lukin, Human Rights Commissioner of the Russian Federation, has recently made a public comment that courts should make more often fair decisions and the work of the human rights activists would then be easier.¹⁴⁷ In addition to widespread arbitrary conduct of pre-trial and trial procedures which affects many individuals in Russia, Roma and other minorities are also exposed to the degrading impact of racism on the administration of criminal justice. The frequent use by criminal justice officials of offensive language referring to the Romani ethnic background, which the ERRC has documented in the course of its monitoring in Russia, indicates that the conduct of criminal proceedings against Roma is not free from racial bias. Moreover, certain statements by judicial and law enforcement officials undermine the fundamental principle of the presumption of innocence with respect to Romani defendants. For example, the court verdict of Natalia Pachkovskaya, who was found guilty of theft by the Kuntsevskiy district court of Moscow on October 20, 2003,

Also, more recently racial discrimination in the administration of justice has been denounced by participants in the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001. The Declaration of the World Conference included the following passage: “We express our profound repudiation of the racism, racial discrimination, xenophobia and related intolerance that persist in some States in the functioning of the penal systems and in the application of the law, as well as in the actions and attitudes of institutions and individuals responsible for law enforcement, especially where this has contributed to certain groups being over-represented among persons under detention or imprisoned.” See Durban Declaration against Racism, Racial Discrimination, Xenophobia and Related Intolerance, September 8, 2001, para. 25, <http://www.unhcr.ch/pdf/Durban.pdf>.

Widespread practices of discrimination in the administration of justice have also drawn the attention of the Sub-Commission on the Promotion and Protection of Human Rights, which appointed a Special Rapporteur on discrimination in the criminal justice system. See UN Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, “Administration of Justice, Rule of Law and Democracy: Discrimination in the Criminal Justice System, Preliminary Paper by Leïla Zerrougui, Special Rapporteur appointed to conduct a detailed study of discrimination in the criminal justice system in implementation of Sub-Commission Resolution 2002/3,” June 26, 2003, E/CN.4/Sub.2/2003/3, <http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/33c77aaba6b81932c1256d790025293c?Opendocument>.

¹⁴⁷ Interview with Mr Vladimir Lukin, broadcast by the Russian public television channel ORT, Evening News, December 14, 2004.

reads: “Natalia Pachkovskaya has been able to commit this crime, and she committed the crime.”¹⁴⁸

In a number of instances, criminal investigation against Roma and subsequent trial proceedings have been carried out in a manner incompatible with international and domestic human rights standards of fair trial. Roma have been sentenced on the basis of controversial and inconclusive evidence. Courts have admitted evidence obtained in violation of procedural rules. Courts have ignored defence’s requests for verification of evidence where allegations existed that evidence had been fabricated. Romani defendants have been denied essential due process rights such as the right to legal defence, the right to use an interpreter, the right to examine witnesses, etc. Romani defendants have been subjected to pre-trial detention more often and for longer periods of time than non-Roma, and received disproportionately severe sentences.

On March 4, 2004, the district court of Promyshlenniy district of Smolensk sentenced Mr Roman Kozlov, 26, Romani man from Smolensk, to 14 years imprisonment for murder.¹⁴⁹ The decision of the court was appealed on March 4, 2004 by the attorney, Mr Suhih, before the regional court of Smolensk. On May 25, the regional court of Smolensk repealed the decision of the first instance court and ordered the first instance court to try the case again with a new jury.

The case related to a killing in 2002 in Smolensk. On April 30, 2002, an unknown person stabbed Ms Galina Polyakova to death and seriously injured her son, Mr Igor Polyakov, as well as Mr Mikhail Tarnavskiy, in the house of the Polyakovs in Smolensk. On September 28, 2002, Mr Tarnavskiy identified Mr Roman Kozlov as the perpetrator of the murder. In the courtroom, Mr Tarnavskiy stated that prior to the identification procedure he had been given Mr Kozlov’s photograph by the police and this fact had influenced him to identify Mr Kozlov. At a later stage of the investigation, Mr Tarnavskiy retracted his initial testimonies and declared that he had made a mistake when he identified Mr Kozlov as the perpetrator of the murder. In written statements submitted to the Prosecutor

¹⁴⁸ This case is presented in detail *infra*.

¹⁴⁹ ERRC summary of the case prepared on the basis of the documents from the legal file of the case and the statements of Mr Kozlov’s lawyer and relatives given to the ERRC on August 26 and 27, 2004, during ERRC field mission to Smolensk.

General of the Russian Federation, the President of the Russian Federation, the Human Rights Commissioner of the Russian Federation, and the media Mr Tarnavskiy declared that Mr Kozlov had not committed the murder. In a letter to Mr Lukianov, Russian MP, Mr Tarnavskiy stated that he had been subjected to psychological pressure and harassment by the police and the prosecution organs once he had decided to state that he had made a mistake when he identified Mr Kozlov as the perpetrator of the murder. He filed complaints to the district and regional prosecutors' offices of Smolensk pertaining to his victimisation by police and prosecutors.

Furthermore, Mr Igor Polyakov, the second witness – who himself subsequently died of his wounds inflicted by the perpetrator – in his testimony provided on May 1, 2002, shortly before his death, did not identify Mr Kozlov as the offender. According to the description provided by Mr Polyakov, the offender's name was "Sasha" and the offender was well known to Mr Polyakov. According to Mr Polyakov, the perpetrator was between 30 and 40 years old, while Mr Roman Kozlov was 26 at the time of the killing.

In addition, an eyewitness confirmed that on the day of the murder, he and Mr Roman Kozlov had been fishing in a nearby village. The prosecution could not refute Mr Kozlov's alibi.

From the case file, it is evident that Mr Kozlov's fingerprints were found on a glass jug in the house approximately one year after the murder, following an order from the prosecution dated April 7, 2003. According to an expert invited by the defence, fingerprints cannot be discovered one year after they have been left on an object, unless the object is examined in a special laboratory test. No such test had been undertaken during the instant case.

In addition to the controversial evidence presented by the prosecution as purportedly attesting to the guilt of Mr Kozlov, the criminal investigation was thwarted by numerous procedural violations, but the defence lawyer's complaints about these violations were ignored. For example, on June 16, 2003, prior to the court hearing scheduled on that date, Mr Tarnavskiy, who had been subpoenaed to testify before the court, was abducted on the day when he had to be present in the courtroom. Furthermore, the two attesting witnesses assisting the police during the identification procedure in which Mr Kozlov had been picked were not independ-

ent from the police as they should have been according to Article 60 of Russian Criminal Procedure Code. One of them had been an intern in the police department and was being appointed in the department on the very day of the identification, and the other one was a plaintiff in a case being investigated by the same police department. The identification procedure itself had allegedly been biased. Mr Tarnavskiy, who had to identify the perpetrator, was first shown a photo of Mr Kozlov and then presented in the police line-up with three persons – Mr Roman Kozlov and two individuals of Azeri origin whose physical appearance sharply contrasted that of Mr Kozlov. In this way Mr Kozlov was easily recognised by Mr Tarnavskiy.

Both the lawyer and the family of Mr Kozlov believed that Mr Kozlov was innocent and that the police, the prosecution and the court had collaborated to fabricate a case against him. According to Mr Kozlov's family, the police had picked Mr Kozlov because of his Romani ethnicity. The ERRC also learned that Mr Kozlov's first defence lawyer had been forced to abandon the case following threats he had received by telephone.

On August 26, 2004, during a meeting between the ERRC and Mr Kozlov's lawyer, the mother of Mr Tarnavskiy called to say that her son had been found unconscious on the staircase in front of his home with an injury on the back of his head. Mr Tarnavskiy was in emergency care in the hospital and still unconscious when the ERRC left Smolensk. He died of his head injury on September 8, 2004. Subsequently, the district prosecutor's office of Smolensk refused to open criminal investigation into Mr Tarnavskiy's death.¹⁵⁰

On November 26, 2004 the district court of Promyshlenny district of Smolensk with a new jury eventually acquitted Mr Roman Kozlov. This decision was upheld by the cassation instance on February 15, 2005.

In another case, on December 25, 2003, the Sovetskiy district court of Volgograd found Mr. Fyodor Gomonov, 21, a Romani man from Volgograd, guilty of murder under Article 105.1 of the Criminal Code, and sentenced him to an 18-year

¹⁵⁰ According to the forensic experts who examined the body of Mr Tarnavskiy, his injuries could have been the result of hitting his head against the staircase but also could have been caused by a blow in the head with a solid object. ERRC telephone interview with Mr Kozlov's lawyer, March 1, 2005, Budapest.

term of imprisonment.¹⁵¹ Mr. Gomonov also had to pay a fine of 100,000 roubles (approximately EUR 2,770) to the victim's relatives. The verdict of the Sovetskiy district court of Volgograd was appealed before the regional court of Volgograd. On March 9, 2004, the Regional Court upheld the verdict. A second complaint was filed with the Presidium of the regional court of Volgograd on March 25, 2004. As of November 2004, the complaint was pending before the Presidium of the Regional Court of Volgograd.

The sentence is based on the testimonies of four witnesses, according to which on January 7, 2001, Mr Gomonov, in a state of alcohol intoxication, stabbed Mr A. Pozhidaev during a street fight in Volgograd, causing the death of the latter. In the course of the criminal investigation, the defence lawyer of Mr Gomonov presented two documents issued by the hospital of Promyshlenny district of Samara, dated September 9, 2003, stating that after a high blood pressure crisis on January 6, 2001, Mr Gomonov had been taken to hospital, where he remained in the period January 7-9, 2001. Samara is located approximately 1000 km away from Volgograd where the alleged murder had been committed.

According to Mr Gomonov's lawyer, despite this serious alibi, the court did not conduct an objective assessment of all evidence. He also told the ERRC that numerous procedural violations were committed both during the pre-trial investigation and the trial phase. The defence's protests were ignored. For example, in his complaint before the Presidium of the regional court of Volgograd, dated March 25, 2004, the defence lawyer stated that during the criminal investigation and the trial, Mr Gomonov declared that his native language was Romani and he did not understand and could not express himself in the Russian language. Mr Gomonov's poor command of Russian language was noted in the district court's judgement as "Gomonov's choice to speak an incomprehensible language". Mr Gomonov's capacity to understand the investigation and court procedures was further limited due to his moderate mental retardation. The defence's requests that the defendant be provided with an interpreter, as stipulated by Article 18 (2)(3) and Article 169 (1) of the Criminal Procedure Code of the Russian Federation, were declined by both the organs of the pre-trial investigation and

¹⁵¹ ERRC summary of the case based on the documents of the legal file of the case and the statements of Mr Gomonov's lawyer presented to ERRC.

the court.¹⁵² According to the defence, the fact of Mr Gomonov's poor command of Russian was abused by the investigation and the judiciary. In the courtroom, district judge Ms Perepilitsina asked Mr Gomonov questions and then proceeded to answer these questions herself. She also allegedly forbade the defence lawyer to ask questions of his client. Finally, on December 23, 2003, district judge Perepilitsina allowed the defendant to make his last statement. On that particular date, Mr Gomonov's defence lawyer was unable to attend the court hearing, a fact of which he had notified the court earlier and requested re-scheduling of the hearing. His request was not granted. Mr Gomonov's request in the courtroom to make his final statement in the presence of his lawyer was also refused.

According to the lawyer, at least seven witnesses specified by the defence were not admitted to testify in the pre-trial investigation or during the court trial. The district court allegedly refused a number of requests and submissions by the defence. Nor did the court respect the defence's request to disregard invalid evidence. For example, according to one investigation protocol, Investigator Dyakov took part in investigative procedures on January 17, 2001. Investigator Dyakov, however, received the criminal case only on January 20, 2001.

¹⁵² Article 18. Language of the Criminal Court Proceedings:

[...]

2. Participants in the criminal court proceedings, who have no command or only a poor command of the language in which the proceedings on the criminal case are conducted, shall be informed and guaranteed the right to make statements, to give explanations and testimony, to lodge petitions and complaints, to get acquainted with the materials of the criminal case and to take speak in the court using their native tongue or another language, of which they have a good command, and to make use free of charge of an interpreter's services in accordance with the procedure established by the present Code.
3. If, in conformity with the present Code, the investigation and the trial documents are subject to an obligatory presentation to the suspect and to the accused, as well as to other participants in the criminal court proceedings, the said documents shall be translated into the native tongue of the corresponding participant in the criminal court proceedings or into the language of which he has a good command.

Article 169. Participation of an Interpreter:

1. In the cases envisaged by the second paragraph of Article 18 of the present Code, the investigator shall include in the investigative action an interpreter, in conformity with the requirements of the fifth part of Article 164 of the present Code [obliging the investigator to inform all participants in the investigative actions about their rights and obligations in the criminal procedure].

The defence's requests for an open trial were also overruled by the judge. The trial was held behind closed doors, preventing journalists and a representative of the local human rights organisation Committee on the Rights and Freedoms of Russian Citizens from attending.

In another case involving serious procedural violations, on November 3, 2003, at around 6:30 PM, two Romani women, Ms Oksana Povpa and Ms Olga Povpa, engaged in a fight with Ms Chakova, a non-Romani woman, in a grocery store in the city of Volzhskiy, Volgograd region.¹⁵³ On November 5, Ms Chakova was assaulted in an unrelated incident by unknown persons and died in hospital of her injuries six days later. Ms Oksana Povpa and Ms Olga Povpa were detained on November 15 and accused of assaulting and inflicting bodily injuries to Ms Chakova, causing the death of the latter. Ms Olga Povpa is a widow and has five children under 18 years of age. Ms Oksana Povpa has three children and a disabled husband. According to the defence lawyer, the criminal investigation was not conducted objectively. The lawyer stated that the evidence of their guilt was inconclusive. In the course of the criminal investigation, witnesses had allegedly changed their testimonies, and the testimonies presented were inconsistent. In addition, a number of violations of the Criminal Procedure Code of the Russian Federation had allegedly been committed in the course of the pre-trial investigation. In particular, on November 15, Ms Oksana Povpa and Ms Olga Povpa had been subjected to an excessively long interrogation session, which continued until the early morning hours of November 16.¹⁵⁴ Proceedings in the framework of the investigation had been performed absent prior notification of the defendants.

Ms Olga Povpa and Ms Oksana Povpa had been in detention pending trial for about one year, since November 15, 2003. In the course of the criminal investigation, their indictments were re-qualified such that they could be kept longer in custody, despite habeas corpus requests for release on bail filed by their lawyer. As a result of her detention, Ms Oksana Povpa was prevented from breast-feeding her 5-month-old

¹⁵³ ERRC summary of the case on the basis of documents from the case file presented by lawyer Ms Tatyana Pavlova.

¹⁵⁴ Article 164(3) of the Criminal Procedure Code "General Rules for Conducting Investigative Actions" states: "Conducting an investigative action during the night shall be inadmissible, with the exception of urgent cases. (4) The use of violence, threats and other illegal actions in the course of the investigative actions, as well as making threats to the life and health of those participating in them shall be prohibited."

child. On November 5, 2004 the court of the City of Volzhskiy sentenced Olga Povpa and Oksana Povpa to two-year term of imprisonment.

In another case, on October 20, 2003, the Kuntsevskiy district court of Moscow found Ms Natalia Pachkovskaya, Romani woman from Pokrov, Vladimir region, guilty of theft of property by fraud on a large scale.¹⁵⁵ The court sentenced her to a six-year term of imprisonment and property confiscation under Article 159(3) of the Criminal Code of the Russian Federation. According to the court verdict, on March 27, 2003 at about 3 PM Ms Natalia Pachkovskaya came up to Ms Lunyak, an under-age girl on Kuntsevskaya street in Moscow and told her that she was under a spell and would not be able to bear children. Ms Pachkovskaya said about herself that she was five months pregnant. She offered to disperse the spell on Ms Lunyak in exchange for her mother's jewellery (which was later evaluated by the court to be worth 1,494,000 Russian roubles (approximately EUR 41,500)). The girl brought out golden and other jewellery from her home and gave it to Ms Pachkovskaya. Half an hour later, Ms Lunyak went to the Kuntsevo police department where she identified Ms Pachkovskaya among the photographs presented to her by the officer on duty. On April 3, 2003, the police searched the house of Ms Pachkovskaya and found among her belongings two golden rings allegedly belonging to Ms Lunyak's mother. Ms Pachkovskaya was taken into custody.

During the trial, Ms Pachkovskaya pleaded not guilty. She stated before the court that on March 27, 2003 at about 12:30 PM she had an appointment with her gynaecologist at the clinic in Pokrov, Vladimir region. Her visit has been registered in the clinic's records. After the appointment she had returned home and spent the rest of the day there. She denied having travelled to Moscow during those days. Ms Pachkovskaya insisted that the two golden rings found among her belongings had been "planted" there by the police.

On October 29, 2003 a lawyer hired by Ms Pachkovskaya appealed the sentence before a higher instance court. In the appeal, the defendant stated that the court had accepted as proven that she had been in Pokrov at 12:30. However, it would have been impossible for someone to cover the distance from Pokrov to Moscow in such a short time as to be in a Moscow neighbourhood located on the opposite side to the direction of Pokrov at approximately 3 PM, when the alleged crime had been committed. The defence's request

¹⁵⁵ Kuntsevskiy district court of Moscow, case No 22 13610, October 20, 2003. Document on file with the ERRC. ERRC interview with Ms Valentina Drobovskaya, July 28, 2004, Pokrov.

for an investigative experiment was turned down. The appeal also mentioned that Ms Pachkovskaya had had a miscarriage in May 2003, while in custody.

On December 22, 2003 the Moscow regional court upheld the decision of the lower court and Ms Pachkovskaya's sentence remained in force. Following the entry into force on December 8, 2003 of amendments to the Criminal Code of the Russian Federation (Law No 162-FZ), the original sentence of a six-year term of imprisonment was lowered to four years.¹⁵⁶

Romani children may also face inhuman treatment and discrimination in the criminal process.¹⁵⁷ On May 7, 2004 two fourteen-year-old Romani girls, Lyubov and Nadezhda Galchenko, were arrested by the police at the market place "Progress" in Rostov. The officers reportedly said to the girls' lawyer that there were complaints from women working at the market that their handbags had been stolen by some Romani girls. The officers insisted that the girls confess to the crime but the latter refused. Then the officers organised identification. They placed the Romani girls who had visibly dark complexion and hair next to blond, white-skinned Russian girls.

¹⁵⁶ Moscow regional court, cassation decree, December 22, 2003. Document on file with the ERRC.

¹⁵⁷ The Russian Federation has ratified the Convention on the Rights of the Child, yet in many cases authorities do not respect the special rights guaranteed in the Convention to protect children from human rights violations. Article 37(b) of the UN Convention on the Rights of the Child stipulates in particular that "[t]he arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;" and (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

In 1999 the Committee on the Rights of the Child expressed concern about reports of extended periods of pre-trial detention of juveniles at the discretion of the prosecutor, and about poor conditions in places of detention and prisons in Russia. The Committee was further concerned about allegations that the conditions in which children were held, particularly in detention facilities but also in institutions in general, amounted to inhuman or degrading treatment. The Committee recommended that "the State party take particular measures to implement, as soon as possible, the planned reform of the system of juvenile justice, including the adoption of comprehensive legislation on juvenile justice, the introduction of special juvenile courts with trained juvenile judges and the revision of the Code of Criminal Procedure, so as to transfer the power to order the arrest of juveniles from the Procurator to the juvenile courts, to limit the term of pre-trial detention and to expedite court procedures and the

The victims reportedly recognised the girls as the perpetrators of the thefts. Lyubov and Nadezhda Galchenko were taken to the police department and placed in a cell. Later they were transferred to the preliminary detention ward. On May 12, 2004 the girls' uncle, who have raised the girls and was taking care of them, approached Mr Pavel Limanskiy, vice-president of the Romani organisation Amala, asking for help to protect their rights. Amala then joined a request of the girls' lawyer to the Proletarskiy District Court of Rostov for a change of the measure of restraint and guaranteed that the girls would not attempt to escape from the prosecution. One of them, Nadezhda Galchenko, suffered from kidney disease. Despite this, on May 12, 2004, Mr Bondarev, the judge of the Proletarskiy District Court, decided that the girls should be remanded in detention pending trial. The girls spent two months and twelve days in detention. Their uncle was told that he had to start compensating the victims for the sustained damages. On July 19, 2004, Galchenko sisters were sentenced to a three-year term of imprisonment conditionally.¹⁵⁸

Denial of fair trial and other human rights violations were the basis for a complaint submitted to the European Court of Human Rights by Ms Svetlana Stepanova, a Romani woman from Moscow.¹⁵⁹ At approximately 7:40 PM on November 23, 2000, police officers detained Mr D. Sokolov, suspected of being under the influence of drugs. The officers allegedly found 0.81 grams of heroin on Mr Sokolov, which they took away from him. Mr Sokolov reportedly told the officers that he had purchased the heroin from a Romani woman called "Patrina", who was later identified as Svetlana Stepanova. According to the Moscow-based non-governmental organisation International Protection Centre (IPC), following his detention, Mr Sokolov consented to participate in a so-called "test purchase" of drugs. On November 24, 2000, according to Mr Sokolov's testimony

training of law enforcement and judicial officials in child rights and the rehabilitative aims of juvenile justice, as provided for by the Convention on the Rights of the Child" (see Concluding Observations of the Committee on the Rights of the Child, Russian Federation, 10 November 1999; UN doc CRC/C/15/Add.110; paras. 68-69, at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/f60a0928c30f787980256811003b8d5d?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/f60a0928c30f787980256811003b8d5d?Opendocument).

¹⁵⁸ ERRC interview with Pavel Limanskiy, June 28, 2004, Rostov. ERRC telephone interview with Pavel Limanskiy, December 22, 2004, Budapest.

¹⁵⁹ The documents of the case were provided to the ERRC by the Moscow-based human rights non-governmental organisation International Protection Centre (IPC). The case of Ms Stepanova was the first case brought before the European Court of Human Rights involving a Romani applicant. The complaint was filed on December 25, 2002, by the IPC on behalf of Ms Stepanova. The complaint

given to the police, he telephoned “Patrina” and told her that he would bring a television set to her house as payment for a dose. Mr Sokolov was then taken to “Patrina’s” house in a police car driven by Officer Semygin. Mr Sokolov reportedly met “Patrina” on the road not far from her home and gave her the television set in return for 1 gram of heroin. Following the transaction, Mr Sokolov gave the packet of heroin to the police.

Shortly thereafter, several police officers together with special police force officers dressed in camouflage uniforms and armed with shields and sledgehammers, reportedly forced their way into the home in which “Patrina” lived with her four underage children. The officers, who did not have a search warrant, reportedly found the television set in the flat and took it with them, and detained Ms Stepanova. During the arrest procedure, the officers beat Ms Stepanova on her head and face and kicked her. At the police station, the officers reportedly kept Ms Stepanova outdoors undressed and handcuffed in an alleged attempt to force her to confess. Ms Stepanova was then body searched by a male police officer without witnesses, in violation of Article 172 of the Russian Criminal Procedure Code. During numerous interrogations, Ms Stepanova repeatedly claimed that the itemised protocol of the body search did not list all the objects taken away from her. The forced entry and search of Ms Stepanova’s home by police was registered as a survey of the scene of an incident while in reality, the police conducted an illegal house search. Ms Stepanova’s later-appointed attorney claimed that the search was in violation of Russian law.

Following her detention, Ms Stepanova was interrogated several times in the capacity of a witness and participated in a police line-up in which Mr Sokolov was shown. At the end of the official investigation into her case, Ms Stepanova was charged in accordance with Article 228(4) of the Criminal Code for unlawful possession of drugs in large quantities with the purpose of selling it, and for selling large quantities of drugs. Despite the fact that Ms Stepanova was illiterate, she was not provided with a defence attorney until November 28, 2000, when she was first identified as a

claimed violations of Articles 3 (prohibition of torture), 5(1) (right to liberty and security of person), 5(3) (right to trial within a reasonable time or release pending trial), 6(1) (right to a fair trial), 6(3) (right to adequate defence), 8 (right to respect for private and family life), and 14 (prohibition of discrimination) of the European Convention for the Protection of Human Rights and Fundamental Freedoms. The complaint was filed following Ms Stepanova’s arrest for suspected drug trafficking and subsequent unjust pre-trial detention and trial. European Court of Human Rights registered the complaint in 2003 (Reg. No 7207/03).

suspect. The conclusions of the drug analysis were communicated to Ms Stepanova in the absence of her attorney despite her illiteracy. Ms Stepanova was held in pre-trial detention until June 25, 2002, at which time the judge announced the guilty verdict in her case. During this period, Ms Stepanova and her attorney sent several appeals each to various courts requesting that she be allowed to stay at home during the trial period as she was the only adult who cared for her four underage children. All appeals were reportedly rejected. On May 16, 2002, the Taganskiy district court of Moscow found Ms Stepanova guilty and sentenced her to six-years-imprisonment and ordered that her property be confiscated. Her subsequent appeals were rejected at every instance.¹⁶⁰

For many Roma bribery has become the perverse symbol of justice. ERRC heard about hundreds of cases in which police stop Romani people in the streets and keep them in detention accusing them of crime they have never committed. The Roma hire attorneys. The attorneys routinely have conversations with police, investigators, prosecutors or judges discussing how much money has to be paid to release the Roma, who thus cannot be described as a detainee but rather as a kind of hostage of a corrupt institution. The negotiating leverage of the attorneys comes from procedural and other circumstances, such as, for example, the degree of demonstrable unlawfulness of the detention. Often, when the victimised family of the “hostage” cannot afford to pay the “ransom” in the agreed amount, more distant relatives and the whole Romani community are asked for help. Many Roma believe that only money can rescue them from long pre-trial detention and subsequent imprisonment. Roma have told the ERRC they view the attorney primarily as the distributor of bribe money, their legal skills serving as the resource of negotiating amounts more affordable for the victim’s family. Roma are then released, while police start looking for the next victim. The practice of extorting bribes from Roma seems deeply entrenched in Russia.

5.2 Denial of Legal Remedy

Under international law, Russia has a duty to investigate allegations of human rights violations. The perpetrators of human rights abuses should be punished, and victims

¹⁶⁰ Following the entry into force on December 8, 2003 of amendments to the Criminal Code of the Russian Federation (Law No 162-FZ) Ms Stepanova’s attorney appealed to lower the original sentence of a six-year term of imprisonment and his appeal was rejected. For more details see: http://lists.errc.org/rr_nr3_2003/snap36.shtml.

should be able to receive effective remedy. Article 12 of the Convention against Torture obliges states parties to initiate a prompt and impartial investigation of torture complaints whenever circumstances give “reasonable ground to believe that an act of torture has been committed.” Considering the gravity of the crime of torture, UN General Resolution 55/89 mandates that, “Even in the absence of an express complaint, an investigation shall be undertaken if there are other indications that torture or ill treatment might have occurred.”¹⁶¹

Article 13 of the ECHR requires states to establish “an effective remedy before a national authority” for anyone whose rights and freedoms as set out in the Convention have been violated. Furthermore, the European Court of Human Rights has ruled that Article 1 of the ECHR, in conjunction with article 3, requires an effective investigation of torture and ill-treatment complaints against police officers and other state actors whenever the applicant has an “arguable claim.”¹⁶² Under international law, states also have an obligation to act with due diligence to prevent, investigate and hold perpetrators accountable for abuses of human rights, including acts by private individuals.¹⁶³

¹⁶¹ See General Assembly Fifty-fifth session, Resolution adopted by the General Assembly [on the report of the Third Committee (A/55/602/Add.1), 55/89 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Annex “Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, paragraph 2.

¹⁶² For example, in the case of *Assenov and others v. Bulgaria* the ECHR stated: “The Court considers that, in these circumstances, where an individual raises an arguable claim that he has been seriously ill-treated by the police or other agents of the State unlawfully and in breach of Article 3, that provision, read in conjunction with the State’s general duty under Article 1 of the Convention to “secure to everyone within their jurisdiction the rights and freedoms in [the] Convention,” requires by implication that there should be an effective official investigation [of alleged violations of the rights set forth in the Convention.] This obligation...should be capable of leading to the identification and punishment of those responsible.” (See *Assenov and others v. Bulgaria*, 24760/94) [1998] ECHR 98, 28 October 1998, paragraph 102, at: <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Assenov%20%7C%20v.%20%7C%20Bulgaria&sessionid=679199&skin=hudoc-en>)

¹⁶³ The Covenant on Civil and Political Rights (ICCPR), in its Article 2 (3a), imposes a duty on each Party to ensure an effective remedy to any person whose rights or freedoms are violated, whether or not by persons acting in an official capacity. The UN Human Rights Committee General Comment No 20 from 1992 reads: “It is duty of the State Party to afford everyone protection through legislative and other measures as may be necessary against acts prohibited by Article 7 [ICCPR] whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.” (paragraph 2) The Human Rights Committee further stated that: “Article 7 should be read in conjunction with article 2, paragraph 3, of the Covenant. In their reports, States parties should indicate how their legal system effectively guarantees the immediate termination of all the acts prohibited by article 7

Roma who have suffered human rights violations committed by law enforcement officials as well as by non-state actors do not have access to an effective investigation of their complaints. The overwhelming number of complaints filed against police officers do not result in the opening of criminal investigation. In the very few instances in which criminal investigations are held, the cases are frequently closed owing to “lack of evidence”. Where complaints have been processed, investigations usually found no offence committed by police and other law enforcement officials.¹⁶⁴ This environment of perceived impunity is additionally discouraging for Romani victims who are brave enough to lodge complaints. Finally, most Roma in Russia do not know what their rights are and how to defend them.¹⁶⁵

as well as appropriate redress. [...]Complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective.” (paragraph 14). See: Human Rights Committee, General Comment 20, Article 7, Forty-fourth Session, 1992, at: <http://www.unhchr.ch/tbs/doc.nsf/0/6924291970754969c12563ed004c8ae5?Opendocument>.

¹⁶⁴ Failure to prosecute law enforcement officials for violation of international and Russian law was also noted by the UN Human Rights Committee (HRC) in its 2003 Concluding Observations on the Russian Federation. The HRC recommended that, “The State party should ensure that law enforcement officials are prosecuted for acts contrary to article 7 of the Covenant, and that the charges correspond to the seriousness of the acts committed. The State party should ensure the implementation of existing applicable legislation, as well as the Covenant, through further professional training of law enforcement personnel on the rights of suspects and detainees. See Human Rights Committee. Concluding observations of the Human Rights Committee: Russian Federation. 06/11/2003 CCPR/CO/79/RUS. (Concluding Observations/Comments), paragraph 12, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/622c5ddc8c476dc4c1256e0c003c9758?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/622c5ddc8c476dc4c1256e0c003c9758?Opendocument).

¹⁶⁵ The Ekaterinburg-based Romani non-governmental organisation Roma Ural, for example, noted: “It was established that Roma do not even know what legal assistance is. They do not have understanding of the legal culture. They do not know what “right” is and what rights they have. Some of them are not aware that they have rights and they can defend their rights. Roma do not know how to defend themselves and what institutions to address in cases of violations of their rights.” See Roma Ural. Institutional Support and Legal Aid for Roma, Ekaterinburg, 2003. (Translation in English by the ERRC. Report on file with the ERRC)

5.2.1 Failure to Investigate Complaints against Police

Throughout Russia the ERRC heard many allegations about collusion between the police and the prosecutors' offices to secure convictions using illegal means and to cover up complaints of torture and ill-treatment.¹⁶⁶

The climate of impunity for law enforcement officials prevailing in the Russian Federation is illustrated by the following case: In October 2003, a group of approximately ten police officers in plain clothes broke into a Romani house in Bataysk, Rostov region, without showing warrants.¹⁶⁷ The police forced all the nine Roma

¹⁶⁶ According to Russian law, the investigation of torture complaints falls within the jurisdiction of the prosecution office of the same district in which the reported offence has taken place. This means that prosecutors frequently must investigate complaints against police of their own district with whom they work in close cooperation on a daily basis on the prevention and disclosure of general crime. The decision of the district prosecutor regarding a complaint against a public official including police can be appealed before the regional level prosecution authorities, who control the district level prosecution authorities. According to reports, in many cases the regional prosecution authorities cancel illegal or unjustified decisions of the district level prosecution authorities, including in the usual case in which the latter have refused to institute or have closed criminal proceedings based on torture complaints. However, following that, the cases are again returned to the same district prosecution authorities which, neglecting the directives of prosecution authorities of higher instances, fail to carry out proper investigation. (See for example, Alternative NGO Report on Observance of ICCPR by the Russian Federation Submitted to the Attention of the UN Human Rights Committee in Connection with the Upcoming Consideration of the Fifth Periodical Report of the Russian Federation, Article 7, at: <http://www.mhg.ru/english/1F25799>)

United Nations General Assembly Resolution 55/89 "Torture and other cruel, inhuman or degrading treatment or punishment" calls on States to ensure that, "In cases in which the established investigative procedures are inadequate because of insufficient expertise or suspected bias, or because of the apparent existence of a pattern of abuse or for other substantial reasons, [...] investigations are undertaken through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognised impartiality, competence and independence as individuals. In particular, they shall be independent of any suspected perpetrators and the institutions or agencies they may serve. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided for under these Principles." See General Assembly Fifty-fifth session, Resolution adopted by the General Assembly [on the report of the Third Committee (A/55/602/Add.1)], 55/89 Torture and other cruel, inhuman or degrading treatment or punishment, Annex "Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment", 5(a).

¹⁶⁷ ERRC interview with Mr N.R. and Ms Y.R., July 1, 2004, Bataysk.

present to lie face down on the floor and began to beat them. The officers introduced themselves as “officers from the Department of the Interior of Rostov region”, but did not show any identity documents. The attackers detained Mr P.L., Mr I.Y., Ms E.R., Mr N.R. and Ms M.L. and drove them to the Pervomayskiy district police station of Rostov. On the staircase inside the police station, the police officers allegedly slipped drugs into the pockets of Mr P.L., Mr I.Y. and Ms E.R. In the police station the Roma were beaten and urged to sign documents confessing drug ownership. The Roma refused to do so and the beating allegedly continued. According to testimonies of the victims provided to the ERRC, the violence in the police station included pulling of the hair, hitting the victims’ heads against the wall, throwing jackets on their heads and beating them through the jackets. In one of the rooms where Roma were beaten, police officers had turned on the TV to maximum volume, so that no cries could be heard outside the police station. Ms E.R. was subjected to degrading and humiliating sexual harassment as well. One of the officers whom she can identify reportedly took out his penis in the presence of several other police officers and threatened to force her to perform oral sex on him. The officers in most cases used obscene language when they addressed the victims.

Later, Ms M.L. and Ms E.R. were released from the police station, while Mr P.L., Mr. I.Y., and Mr N.R. remained in custody. Officers L.Y. and G.B. demanded that the three Romani males pay for their release from custody. The police officers took the three Romani men to different offices of the police station, where they beat them again. Mr N.R. reported to the ERRC that police suffocated him with a scarf. Officer L.Y. allegedly demanded 100,000 roubles (approximately EUR 2,770) from the Roma in order to release them. A wealthy Romani man, known under the nickname “Kashtan”, who had allegedly been frequently involved in extortion of money in complicity with the police, and played the role of an intermediary “rescuing” Roma from trouble by taking their money and negotiating levels of bribes and other conditions in similar cases, called members of the victims’ family and offered to “help” release the detainees in exchange for the above amount of money. The sum of 100,000 roubles was subsequently collected by relatives and given to “Kashtan”. However, “Kashtan” then told relatives of the victim that this amount had only been the price for the release of Ms E.R. and Ms M.L., while additional USD 15,000 (approximately EUR 11,540) had allegedly been demanded by the police for the release of the remaining three persons. He started harassing the family and insisting that the second sum be submitted expeditiously. One of the detained Roma, Mr. N.R., pretended that he would pay for his release and was accompanied home by the officers to provide the money. Mr. N.R. told ERRC that he managed to escape on the way home.

In October, 2003, Mr P.L. and Mr I.Y. were sentenced to five days imprisonment for hooliganism by a district court of Rostov. The case file copied by the ERRC contains absurdities providing clear evidence that the charges were entirely fabricated. For example, at the time of the alleged acts of hooliganism (including loud singing in downtown Rostov) for which they were sentenced, the two men were in fact in custody at the police station. The decision of the court was appealed before the Regional Court of Rostov. The higher court quashed the sentence. By the time the Regional Court made its decision, Mr P.L and Mr I.Y. had already spent five days in custody.

In December 2003, a District Prosecutor's Office of Rostov initiated criminal investigation against the police officers of the Pervomayskiy police station under Articles 285.1 and 286.1 (abuse of power), Article 292 (forgery), and Article 301.1 (unlawful detention) of the Criminal Code of the Russian Federation.

In the course of the investigation police officers V. N., Y.T., M.Z., S. L. and V.A. were identified by Mr P.L. and Mr I.Y. as the perpetrators of the alleged violations. However, according to Mr P.L. and Mr I.Y., not all officers who took part in the action were presented to them for identification. According to the Romani family, Officers L.Y. and G.B. gave false testimony stating that on the date in question they had been away from the Pervomayskiy police station and had not asked for any money for the release of Mr P.L. and Mr I.Y.

In April 2004, the criminal investigation against the police officers was terminated for "lack of sufficient evidence that an offence had been committed". In May 2004, the lawyer of the family, Mr V.S., appealed the termination of the criminal investigation before a district prosecutor. The appeal had not been considered and in June 2004, Mr V.S. appealed the termination of the criminal investigation before the higher instance prosecutor of Rostov region. On August 16, 2004, the appeal was rejected.

In late June 2004 the ERRC learned that the Romani businessman and middleman "Kashtan" had been shot dead by unknown perpetrators, allegedly to remove him as an already compromised member of a criminal circle involved in extortion and including high ranking public officials in Southern Russia.

During telephone interviews on August 16, 2004, the ERRC learned that members of the criminal justice system in Rostov had unofficially informed local Romani

leaders that the public prosecutor had initiated the criminal prosecution against the police officers only in order to intimidate them and to solve internal problems between the police and the prosecution in the city. After the problems had allegedly been solved, the criminal case had been dropped.

The ERRC also learned that Mr. V.S., the lawyer representing the Romani victims, had been “advised” by the prosecutor of the Rostov region not to make any further steps related to the case. Mr V.S. had allegedly also received threats to his life and to the life of his children by police officers, following, which he withdrew from the case. The ERRC also learned that the Romani families concerned had received threats from the prosecution that a criminal case for the kidnapping of a girl could be initiated against them and that they could be sentenced on any ground if they continued to press for prosecution of the police officers.

5.2.2 Failure to Investigate Complaints against Non-State Actors

When Roma have been victims of crimes by non-state actors, they have been denied protection by the authorities and their complaints have been ignored. The Romani family of Mr Nikolay Orlov, 50, developed its business of parking services and wholesale timber trading in the town of Aleksandrov in the Vladimir region. Mr Orlov was also the leader of the local Romani organisation. Since September 2002, Russian racketeering groups engaging in extortion of money under the pretext of offering security services to businesses in Aleksandrov and neighbouring areas began to harass the family. The bandits insisted on payment for providing the business of the Orlov family with informal “protection” (*krysha* in Russian slang) and said repeatedly that “all Russians pay to us and only you, Gypsy people, don’t pay; while you should in fact pay double amounts since you are Gypsies”. During the period January 25-29, 2003, several fires set by unknown persons occurred in the timber store owned by Mr Orlov’s firm. A criminal investigation was opened, but no one has yet been charged with arson.

Despite sustained pressure, Mr Nikolay Orlov and his son Mr Leonid Orlov consistently refused to pay money to the Aleksandrov racketeers. On February 11, 2003, a group of about ten people came to a parking lot owned by the Orlov company and started beating Mr Leonid Orlov, his brother Mr Yanosh Orlov and a non-Romani friend of theirs with baseball bats and iron sticks. Mr Yanosh Orlov was seriously

wounded, his nose was broken and he was covered in blood. Mr Leonid Orlov was also severely beaten, as was their non-Romani friend. Seeing the motionless and blood-covered bodies of his brother and his friend, and thinking they have been murdered, Mr Leonid Orlov reached for his legally owned handgun hidden in his car and produced a shot at the attackers. The bullet hit and killed Mr Bolshakov, one of the racketeers. Mr Vasiliy Bolshakov, leader of the local racketeer grouping and father of the victim, was seen and heard, during his son's funeral, pledging solemnly to kill the entire Orlov family in revenge.

From that day, the grouping led by Mr Vasily Bolshakov began hunting for an opportunity to kill the Orlovs. In particular, on May 1, 2003, unknown persons shot at Mr Leonid Orlov when he was in the yard of his house. A criminal investigation was opened against unknown perpetrators for attempted murder. Separately, a criminal investigation was underway against Mr Leonid Orlov, and in the course of that investigation, the charge against him was transformed from Article 107 of the Criminal Code of the Russian Federation (murder in a state of affect) to Article 105 (premeditated murder). Unknown persons called Mr Leonid Orlov before the re-categorisation of the charge and urged him to reconsider his testimonies against the racketeers, threatening that the charge will be replaced with one carrying a heavier punishment. Mr Leonid Orlov refused to cooperate in favour of the bandits. Accordingly, the charge against him was altered to an Article 105 offence.

On March 17, 2004, Mr Nikolay Orlov was shot dead in broad daylight in the central square of Aleksandrov, in front of the police station, as he was walking out of the court building. The assailant approached Mr Orlov, produced seven shots from close range using a handgun with a silencer, and ran away. An investigation against an unknown perpetrator was opened.

Mr Leonid Orlov and other members of his family have repeatedly asked the Department on Fighting Organised Crime to ensure the protection of their family. However, the family has received no help from the Russian authorities to date. The children of Mr Leonid Orlov and those of his brother have stopped going to school, out of fear that they can be kidnapped.¹⁶⁸ As of the date this report went to press, the

¹⁶⁸ "Romani Family Members Suffer Extreme Harm Following Threats by Extortionists in Russia." In *Roma Rights* 2/2004, p. 60. This article summarises the results of the interviews ERRC conducted with witnesses to the case.

investigation in the murder of Mr Nikolay Orlov was suspended until the perpetrator was identified.¹⁶⁹

In another case, the police reportedly failed to identify perpetrators of a violent crime thus effectively absolving them from justice. The family of Ms J.I. and Mr J.V. and their three children, Roma citizens of Ukraine, moved to Russia in the hope to find better employment opportunities. They purchased a house in the village of K., located not far from Shakhty, Rostov region, where they had relatives, and earned their living by collecting and selling scrap metal. On July 30, 2004 at about 10 PM, the family was visited in their house by Ch.D., who invited Mr. J.V. to go out and talk outside of the house. Mr. J.V. left the house and got into the car waiting in front of the house with several men inside. At about 11.30 PM Ch.D. knocked on the door and told Ms J.I. that her husband was lying on the ground behind the gate. Ch.D. also told her that her husband was beaten and threatened her that if she called the police she and her children would be killed.¹⁷⁰ Ch.D. told Ms J.I. that he had a cousin in the criminal department of the police and “would do his best to close the case and if she files a complaint she would badly regret”. Ms J.I. found her husband covered in blood with injuries on the head and face and broken bones. He could not speak. Ms J.I. and her daughter carried him into the house and called the ambulance. Mr J.V. was taken to the hospital where he died four days later.

Despite the threats that she received, Ms J.I. reported the case to the police on July 31, 2004. In the police she was initially accused of having beaten up her own husband. Ms J.I. told the police that she would inform human rights organisations about the case. Then the police called Ch.D for interrogation. Ch.D. reportedly confessed his participation in the beating, explaining that the deceased was molesting his fiancée and Ch.D. decided to “give him a lesson”. A criminal investigation was opened against Ch.D. for intentional infliction of bodily harm of medium severity without consequences for the life of the individual under Article 112.2 of the RF Criminal Code. Ms J.I.’s lawyer appealed against this determination and the case was qualified under Article 111.2(b) of the Criminal Code – “intentional infliction of grave bodily injury with particular cruelty or torture, on an individual whose helplessness has been known to the offender”. None of the other

¹⁶⁹ ERRC telephone interview with Mr Evgeny Yuriev, legal representative of Orlov’s family, February 8, 2005.

¹⁷⁰ The case was communicated to the ERRC by a local Romani activist who took Ms J.I.’s testimony in August 2004.

individuals who participated in the beating was identified or prosecuted. In the course of the investigation, Ms J.I. repeatedly received threats. According to Ms J.I., some of those who beat up her husband worked in the police. She did not dare to insist that all individuals who beat her husband to death be prosecuted. As of the date this report was published, the first court hearing on the case was scheduled and postponed.

Similarly, in the case of Mr Konstantin Astariyan, police was apparently uninterested to investigate Mr Astariyan's complaint of violence by unidentified perpetrators. On March 16, 2002, according to ERRC/Memorial research, a 33-year-old Romani man, Mr Konstantin Astariyan, went for a drink in one of the night-clubs in the town of Pskov, together with his cousin. According to Mr Astariyan's testimony, at approximately 4 AM a group of eight people approached the two men, twisted their hands behind their backs, put knives to their necks, and then pushed both of them outside. Two cars were waiting outside the club, and Mr Astariyan was pushed into one of the cars. One of the men told Mr Astariyan that somebody had stolen property belonging to his girlfriend. When Mr Astariyan said that he had nothing to do with the theft, the men replied: "We will clarify it when we arrive." The Romani men were then driven to the house of the purported theft victim. Upon seeing Mr Astariyan, the woman, who appeared to be very drunk, reportedly said: "Maybe it was him, maybe not." The men subsequently drove Mr Astariyan to a forest, where they started to beat him until he lost consciousness. A bus driver later found Mr Astariyan lying in the middle of the road and took him back to town. Mr Astariyan's sister immediately went to the local police station, but she was not allowed to enter. Through the locked door, she started to tell police officers inside what had happened, but the police officers were reportedly not interested in listening. They reportedly opened the door only after keeping her outside for more than half an hour. According to Mr Astariyan, the police did not initiate investigation, apparently because Mr Astariyan's sister could not provide them with the colour of the car in which her brother was kidnapped or its license plate number. Mr Astariyan spent two weeks recovering in a hospital from the physical and psychological damage inflicted during the attack. During that period, he was reportedly visited by a police officer once. Mr Astariyan told the officer everything he knew about the attack, but the police officer did not appear to be interested in investigating the case further, and did not even suggest that Mr Astariyan should file a complaint. Mr Astariyan was later told that the people who had attacked him were police officers.¹⁷¹

¹⁷¹ Case summary based on ERRC/Memorial interview with Mr Konstantin Astariyan, April 2002, Pskov.

In September 2001, according to research by the ERRC, Memorial and the Moscow-based non-governmental organisation Moscow Helsinki Group, a male Romani youth named P.L. was beaten by six unidentified non-Romani adults in Priozersk, north-western Russia. P.L. was working as a waiter in a local restaurant when three non-Romani men started abusing him – first verbally and then physically, as he resisted being dragged out of the restaurant. Once they had brought him into the street, the attackers began kicking and punching him until he began bleeding. The assault was stopped by the intervention of a passer-by. As a result of the attack, P.L. sustained a broken nose, a concussion and numerous bruises. P.L.’s family wanted to file a criminal complaint, but the local police reportedly refused to initiate an investigation stating that there were no grounds for launching an investigation into the attack. The family appealed the decision of the police in court, but the court ruled against the parents, reportedly motivating its rejection based on the fact that the plaintiffs had not written down in their complaint the addresses of the unidentified offenders.¹⁷²

¹⁷² Case summary based on ERRC/Memorial/Moscow Helsinki Group interviews with the family of P.L., September 2001 and March 2002, Priozersk. Full names on file with the ERRC.

6. ABUSE OF ROMA RIGHTS BY NON-STATE ACTORS

In recent years, apart from the police, non-state actors, such as members of nationalist-extremist groups as well as members of populist citizens' formations undertaking vigilante anti-drug-enforcement activities have also increasingly targeted Roma for violent racially motivated attacks.

As nationalist-extremist movements have been gaining increasing popularity in Russia, violent attacks on Roma by skinheads, Cossacks¹⁷³ and other formal and informal groups have been reported with disturbing frequency.¹⁷⁴ Roma are particularly exposed to such attacks because they live in compact settlements that are easy to identify.

¹⁷³ The Cossack movement advocates revival of the paramilitary Cossack institution of pre-Communist Russia and claims but has not been granted the status of a separate "nationality". However, the Cossacks enjoy a number of official privileges with regard to access to civil service and their members and sympathisers are well represented in power positions in the local administration in some regions, including Krasnodar, Rostov, and Stavropol. In a number of regions, Cossack organisations have been granted the right to conduct joint operations with law enforcement bodies. See "Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination. An NGO report to the UN Committee on Elimination of Racial Discrimination", Moscow, December 2002, para. 68, at: http://66.102.9.104/search?q=cache:ID4sh5ZieO8J:www.ilhr.org/ilhr/reports/CERD_Russia_2003.htm+tomsk+public+commission+on+human+rights&hl=hu.

In its 2003 Concluding Observations on Russia, the UN Committee on the Elimination of All Forms of Racial Discrimination has noted with particular concern "reports that some Cossack organisations have engaged in acts of intimidation and violence against ethnic groups. According to information received by the Committee, these organisations, which function as paramilitary units and are used by local authorities to carry out law enforcement functions, enjoy special privileges, including State funding." (See United Nations Committee on the Elimination of Racial Discrimination. Concluding observations: Russian Federation. CERD/C/62/CO/7, March 23, 2003)

¹⁷⁴ According to an expert of the non-governmental organisation International Bureau for Human Rights, there are over 50,000 skinheads in Russia currently. In his report "How to Subdue the Neo-Nazi Setbacks in a Country that Defeated Fascism", January 2005, Semyon Charny wrote that there are over a dozen Neo-Nazi organisations in Russia today. In comparison, he says there are about 70,000 skinheads in the rest of the world including the U.S., Europe and other countries. See http://www.skyhen.org/Focus/russia/report_sounds_the_alarm_over_rise_of_neo-nazism_in_russia.php.

In the fall of 2003, the St. Petersburg-based Memorial, Committee of Human Rights Lawyers, and several other organisations sent a letter to the Governor's Office of St. Petersburg expressing concerns on the increase of the extremist and nationalistic sentiment in the city, directed in particular against Roma. In his response, Mr. L.P. Bogdanov, Head of the Administrative Committee of St. Petersburg's Governor's Office, assured the human rights organisations that "...the issue of protecting rights and freedoms and the human dignity of citizens, irrespective of their status as residents of St. Petersburg or as guests of our city, or individuals without citizenship, will be under the constant control of the executive organs of St. Petersburg state authorities."¹⁷⁵

The Russian Federation is bound by international treaties to provide protection to everyone under its jurisdiction against violent acts committed not only by the agents of the state but also by non-state agents. The Russian government, however, has undertaken nothing to reduce anti-Romani sentiment or to stem the tide of vigilante anti-Romani human rights abuses. ERRC believes that many attacks by civilians are not even reported to the police due to reasonable fear of harassment and extortion of Roma by the police itself, as well as retaliation by those against whom complaints have been filed. Protection provided to Roma by authorities against racially motivated violence is often inadequate or entirely unavailable.¹⁷⁶

Most recently, the ERRC has been provided with information that in Iskitim, Novosibirsk region, on February 14, 2005, approximately twenty individuals attacked

¹⁷⁵ Document on file with the ERRC.

¹⁷⁶ The UN Convention against Torture establishes the responsibility of the state for acts of torture inflicted "with the consent or acquiescence of a public official". Failure to provide protection against violent racist attacks may amount to consent or acquiescence in torture. For example, in the case *Hajrizi Dzemajl et al. v. Yugoslavia*, involving a pogrom on a Romani community by non-Roma in the town of Danilovgrad, Serbia and Montenegro, the Committee against Torture found violation of Article 16(1) of the Convention, accepting that "the complainants have sufficiently demonstrated that the police (public officials), although they had been informed of the immediate risk that the complainants were facing and had been present at the scene of the events, did not take any appropriate steps in order to protect the complainants, thus implying "acquiescence" in the sense of article 16 of the Convention." The Committee also noted that it "has reiterated on many instances its concerns about 'inaction by police and law-enforcement officials who fail to provide adequate protection against racially motivated attacks when such groups have been threatened'". See Committee against Torture. Communication No 161/2000Yugoslavia. 02/12/2002. CAT/C/29/D/161/2000. (Jurisprudence), at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/b5238fc275369719c1256c95002fca4f?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/b5238fc275369719c1256c95002fca4f?Opendocument).

and burned a number of Romani houses in that village.¹⁷⁷ According to reports, the assailants, who reportedly arrived in several jeeps and departed by the same means, managed to destroy entirely around ten dwellings in the course of the attack. After the incident, the Romani inhabitants fled the town due to fear of further attacks. The incident has thus resulted in the complete expulsion of the entirety of the approximately 400-person Romani community of Iskitim from the town.

In an interview with “TV Center” on February 14, 2005, Mr Pyotr Belykh, head of the Iskitim Department of Internal Affairs, stated that there had been four arson attacks in total. He also stated that the Roma had not filed any complaint with police, apparently implying that without a formal complaint in the matter, his office would take no action. On the other hand, victims stated that about ten houses had been burnt and according to them, fire engines and ambulances tried to reach the village, but traffic police officers prevented them from doing so. During the whole incident, despite clear and evident awareness that the attacks were ongoing, law enforcement officials and municipal authorities reportedly did nothing to prevent them. Similar acts of violence had reportedly taken place in December 2004 and January 2005.¹⁷⁸

According to information provided to the ERRC by the Tomsk-based Commission on Human Rights, in the period between February 15-March 3, 2005, the Prosecutor’s Office of Novosibirsk Region initiated 6 criminal investigation cases into the arson attacks on Romani houses in Iskitim for intentional destruction of property, motivated by hooliganism, causing serious damage, under Article 167(2) of the Criminal Code. In at least three of the arson attack cases the investigators at the District Police Office of Iskitim had initially refused to open criminal investigation. These decisions were cancelled by the Inter-district Prosecutor of Iskitim who established serious violations in the conduct of the procedural actions preceding the

¹⁷⁷ ERRC telephone interviews with Mr Boris Kreyndel, Chair of the Tomsk-based Commission on Human Rights of the Tomsk region and with Ms Nadezhda Demeter, Chair of the Moscow-based Romani non-governmental organisation Romano Kher, February 20, 2005, Budapest.

¹⁷⁸ On February 21, 2005, the ERRC sent a letter to Mr Vladimir Tokarev, Prosecutor of the Novosibirsk Region with a copy to Mr Vladimir Ustinov, Prosecutor General of the Russian Federation, urging him to ensure that all perpetrators involved in the violent arson attacks on the homes of Roma in Iskitim, as well as the wholesale expulsion of the Romani community from the town – including any and all law enforcement and/or other officials who have allowed the perpetrators to act with impunity – are swiftly brought to justice, and that all compensation due to victims is provided to them without delay.

criminal investigation, implicating concealment of crimes and raised the issue of disciplinary measures against responsible law enforcement officials. In another four cases, on March 17, 2005 the Prosecutor's Office of Novosibirsk Region opened criminal investigation for theft by a forced entry into one's house under Article 158, for extortion under Article 163, and for assault committed by an illegal forceful entry into one's house under Article 162 of the Criminal Code. No criminal action has reportedly been initiated for failure of law enforcement officials to intervene in the arson attacks against Roma.¹⁷⁹

During a September 21, 2003 skinhead attack on a Romani camp in St. Petersburg, Nilufar Sangboeva, a 6-year-old "Gypsy" (Lyuli) girl whose family had immigrated from Tajikistan was killed and another two Lyuli women and two girls, aged 5 and 6 respectively, were also seriously injured.¹⁸⁰ Police spokesperson Mr. Mark Nazarov was quoted in the daily as having stated that the skinheads, armed with an axe, a knife and a metal rod, ambushed two women and the children in front of a nearby store. The attack was reportedly one of a series of attacks and harassment by skinheads of about 45 "Gypsies" (Lyuli) from Tajikistan settled near the Dachnoye railway station. The skinheads reportedly ordered the Lyuli to pay them money or leave the area. On November 9, 2003, Memorial informed the ERRC that police were investigating several individuals on suspicion of murder and racial hatred under Articles 105(1) and 282¹⁸¹ of the Russian Criminal Code. Mr Nazarov also reported that police had detained the Gypsy camp residents after the attack. Some of them were reportedly sent by train to Arkhangelsk on September 28, 2003, according to the daily. Memorial estimated the number of Lyuli expelled from the city during the action to be approximately 50 persons. At the end of October 2003, a number of

¹⁷⁹ Responses by the Prosecutor's Office of the Novosibirsk Region to the Commission on Human Rights in the Tomsk Region, April 2005. Documents on file with the ERRC.

¹⁸⁰ See Svetlana Tihomirova. "Nachalsya sud nad ubiytsami tsiganskoi devochki" published on the website Prava cheloveka v Rossii, at: www.hro.org/actions/nazi/2004/10/14.php.

¹⁸¹ Article 105(1) of the Criminal Code of the Russian Federation states: "Murder is the intentional causing of death to another person. It shall be punishable with deprivation of liberty for a term of six to fifteen years." Article 282 of the Criminal Code of the Russian Federation establishes criminal liability for "actions aimed at the incitement of hatred or enmity, as well as abasement of dignity of a person or a group of persons on the basis of sex, race, nationality, language, origin, attitude to religion, as well as affiliation to any social group, if these acts have been committed in public or with the use of mass media."

Russian human rights organisations, including Memorial, sent a letter to St Petersburg Mayor Valentina Matvienko, expressing concern about the incident and racist attacks against foreigners generally, as well as the failure of police to investigate such crimes. They called on Mayor Matvienko to take all measures possible to prevent further abuse. On December 17, 2003, Memorial announced that several skinheads had been charged in connection with the incident. On December 8, 2004 the City Court of St. Petersburg sentenced seven minors to two and half to ten years imprisonment. The Court recognised that the murder had been motivated by racial hatred.

On the afternoon of October 5, 2003, three racist hooligans attacked Mr Alexander Klein, a Romani activist, near a marketplace in Pskov, north-western Russia, according to the St. Petersburg-based non-governmental organisation Memorial. The attackers reportedly insulted Mr Klein, calling him “black ass”, then beat him, breaking his fingers and causing abrasions and bruising all over his body. The violence was reportedly stopped by a plain-clothed police officer. The latter refused to take the attackers into custody but offered to take Mr Klein home. Soon thereafter, Mr Klein went to a local hospital for medical treatment but was refused because the doctor was reportedly in a “bad mood” and did not want to assist him. After Mr Klein returned home, a group of men visited his home and threatened him with violence should he file a complaint with the police. Mr Klein did not lodge a complaint out of fear.

According to the Volgograd-based Romani organisation Assotsiatsia Tsygan, on May 10, 2002, at approximately 5 PM, seven Roma were brutally attacked by approximately thirty Cossacks in the town of Novopavlovsk in the Stavropol region (kray) in southern Russia. At approximately 10 AM on May 3, 2002, in the town of Novopavlovsk, Mr Nikolay Gudenko, an 18-year-old Romani man, accidentally hit the wheel of a parked car while riding his bicycle. Despite apologies offered by Mr Gudenko, the owner of the car, Mr V. Grachov, initiated a fight with him, which ended with the owner of the car being knocked out. Subsequently, Mr Grachov sought assistance from a local Cossack leader to organise revenge. According to Assotsiatsia Tsygan, on May 10, 2002, local Cossacks took revenge on the seven-member Romani family of Mr A.P. Kazachenko, who had not been involved in the argument or the ensuing fight. Assotsiatsia Tsygan reported that around 30 Cossacks attacked Mr A. P. Kazachenko and his family in their garden outside their home, allegedly using baseball bats, rubber sticks, rakes and pitchforks. Simultaneously, members of the gang allegedly blocked all roads leading to the Kazachenko family house, which created an obstacle for the police who had been called by neighbours soon after the

attack started. On May 11, 2002, neighbours reported to Assotsiatsia Tsygan that approximately five police officers had arrived at the scene about 10 minutes after being called, but seemed reluctant to intervene. According to Assotsiatsia Tsygan, the attack lasted for approximately a quarter of an hour. By the time the police managed to get to the house, the physical assault had ended and the officers witnessed only verbal insults. At approximately 5:15 PM, the police reportedly called an ambulance, which arrived 10 minutes later. According to Assotsiatsia Tsygan, all six members of the Kazachenko family were taken to hospital with various degrees of bodily injury. Seventeen-year-old Ms L.G. reportedly sustained the most serious injuries, with bruises all over her body and a laceration on her shoulder from a rake. The other victims also reportedly sustained bruising and injuries of various degrees, and some of the Roma reportedly lost teeth in the attack. Medical examinations were reportedly carried out at the hospital on all members of the Kazachenko family to establish the injuries sustained. In the days following the incident, Assotsiatsia Tsygan urged the municipality of Novopavlovsk, the Prosecutor of Stavropol region (kray), and the Plenipotentiary of the President of the Russian Federation for the Southern Federal District to take measures to identify the perpetrators of the attack and provide legal remedy to the victims. According to Assotsiatsia Tsygan, the organisation received a telephone call from the police requesting that no further inquiries or complaints be issued. No one has been charged in connection with the case.

On March 21, 2002, Mr M.M., a Roma from the town of Peri, St. Petersburg region, told researchers from the ERRC and the human rights organisation Memorial that racist skinheads had frequently assaulted the local Romani community and harassed its members. According to Mr M.M., Romani women appeared to be the primary targets of these attacks. Skinheads typically waited on the platform of the local railway station for Romani women to arrive. When the women stepped down from the train, the skinheads attacked them with spray canisters filled with tear-gas. The attackers usually wore caps that had what Mr. M.M. called “the sign of death” painted on them. The skinheads frequently accompanied their assaults with abusive language and threats such as “death to Gypsies”. Reportedly graffiti with similar messages could also be frequently seen in the area. According to Mr. M.M., skinheads had severely beaten a pregnant woman from the community. Mr. M.M. also told researchers that “the police is on their side; when they beat us, nothing happens – but should we fight back against the abuse, they intervene.”¹⁸²

¹⁸² ERRC/Memorial interview with Mr. M.M., March 28, 2002, Peri.

Schools are not protected from racial attacks by skinheads either. At the end of March 2002, Ms V. Bydina, a 48-year-old Romani woman from the town of Khimki in the Moscow area, informed Romano Kher, Moscow-based Romani organisation, that in March 2002, approximately ten racist skinheads threatened her 14-year-old son Nikolay in front of Elementary School Number 10, which he attended at the time. According to Ms Bydina, Nikolay called her after the skinheads had threatened him, scared of physical abuse, and asked her to meet him near the school. Ms Bydina testified that, when she arrived at the school, she saw 13 and 14-year-old teenagers armed with chains. The teenagers reportedly had swastikas painted on their clothes, shaved heads and wore black clothing and big boots. Ms Bydina reported to Romano Kher that she appealed for help to the Department of Education of the town of Khimki when she learned that her son attended the same school as the young skinheads. According to Ms Bydina, a representative of the Department of Education told her that the authorities of Khimki could not fight skinheads and that it was not their competence. The representative reportedly stated that if the state did not have an effective remedy, they could not do anything. Ms Bydina subsequently informed Romano Kher that an unknown person had called her on the telephone at home and threatened her, after which she went to Ukraine for one month to avoid violence. During the period, her two children did not attend school. When they returned to Khimki, Ms Bydina reportedly found a swastika drawn on the wall near the door of her flat and a written message, saying, “We will come back.” On September 20, 2002, Ms Bydina informed Romano Kher that measures had been taken by school authorities to prohibit skinheads from loitering near the school, but that she was selling her flat and moving away because she was worried about her children.

In some instances police officers intimidate Roma in order to discourage them from filing complaints against human rights violations. According to the testimony of the victim Yanosh Lokotosh, 23-year-old Romani man, who lived in the Romani settlement in Kimry, Tver region, on April 11, 2004, he went to the discotheque *Magnit* together with six young Romani persons.¹⁸³ A few hours later, at about 3 a.m., it turned out that one leather jacket had been stolen from the wardrobe. Security guards hired by the owner of the discotheque started beating severely Mr Lokotosh and the other Romani youngsters, suspecting them for the theft. Yanosh Lokotosh was kicked repeatedly on the head and also got serious injuries on the stomach. At some point while the

¹⁸³ ERRC interview with Mr Yanosh Lokotosh, April 13, 2004, Kimry.

beating was going on, police officers from the Central police station intervened to stop the beating. Mr Lokotosh was taken to the police station, then released and went home. His mother took him to the hospital in the early morning hours on the next day. Doctors examined him and identified numerous bruises and injuries on the head and stomach. On April 13, 2004, when ERRC visited Mr Lokotosh, he had dark spots below his eyes, blurred vision and his head was shaking. He had difficulty communicating and looked as one who has had brain concussion. The results of the medical exam were sent to the district police and an investigation case was opened. The local Roma leaders, who were interviewed by the ERRC, stated that similar incidents had happened in the past. Trying to assist the victim's mother file a complaint, ERRC visited the local police station and found that an investigation had been opened on the incident of the beating. However, police on duty tried to intimidate the mother of Mr Lokotosh by telling her that her family has been involved in drug dealing and referring to a relative of hers currently under pre-trial detention. Two months after the accident, Mr Lokotosh and his mother left Russia and moved to Ukraine for permanent living.

When Roma decide to take the risk and file a complaint about skinheads' violence, police often totally ignore such complaints. For example, Mr Greko, a Romani businessman from Pokrov, Vladimir region, told the ERRC that since 2001 skinheads have repeatedly harassed and insulted Romani women in the express-trains "Vladimir-Moscow".¹⁸⁴ Romani women from the village Glubokoe, located 2 km from Pokrov, earn their living from fortune telling and for this purpose travel frequently from Pokrov to Moscow (about 100 km). As a rule, skinhead groups, about 15-20 people, get on the train in Vladimir and on the way to Moscow they harass young Romani women and other members of visible minorities, like "persons of Caucasian nationality". They verbally abuse Romani women and often beat them. Several times Mr Greko complained to the railway police of Petushkovskiy District responsible for this area. He urged the police to investigate these cases of racially motivated skinheads' attacks. The police explained to Mr Greko that it was very difficult to conduct such investigation due to the fact that skinheads acted very fast and it was very complicated to catch them.

Failure of the police to provide adequate protection to Roma against racially motivated attacks forced Roma from Pskov to leave their homes in June 2004.

¹⁸⁴ ERRC telephone interview with Mr Greko, December 3, 2004, Budapest.

Skinhead groups in Pskov threatened Roma with revenge attacks after a Romani man, who reportedly acted in self-defence, killed a skinhead. Local Romani activists notified the police and asked their help. The police sent patrols to the Romani settlement which, however, withdrew after two days.¹⁸⁵

¹⁸⁵ ERRC telephone interview with Stephania Kulaeva, December 6, 2004, Budapest.

7. HATE SPEECH AGAINST ROMA IN THE MEDIA

The climate of intolerance towards Roma is particularly reinforced by overwhelming hate speech in the media. The public accepts media policy against specific minority groups – according to the statistic in the research conducted by four Moscow-based NGOs there is almost no condemnation of hate speech towards Roma on federal and regional level.¹⁸⁶

The Russian media contribute to the perpetuation of anti-Romani racism by creating a strong association between Roma and crime, and even by encouraging in some instances violence and discrimination against Roma.¹⁸⁷ The media have persistently identified Roma as the main actors in the Russian drug trade, using “drug dealer” and “Gypsy” interchangeably in reporting. Bypassing the presumption of in-

¹⁸⁶ See Centre Panorama, Moscow Helsinki Group, Centre for the Development of Democracy and Human Rights, Foundation “Glasnost”. “Yazyk moy: Problemi etnicheskoy I religioznoy neterpimosti v rissiyskih SMI, Moscow, 2002, pp. 53-55.

¹⁸⁷ Incitement to racial discrimination is prohibited under international law. Article 4 ICERD stipulates: “States Parties condemn all propaganda and all organisations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia: (a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; (b) Shall declare illegal and prohibit organisations, and all other propaganda activities, which promote and incite racial discrimination, and shall recognise participation in such organisations or activities as an offence punishable by law; (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.”

Article 13(5) of the Constitution of the Russian Federation mandates that, “The establishment and the activities of public associations, whose aims and actions are directed at forcible alteration of the fundamentals of constitutional governance and violation of the integrity of the Russian Federation and undermining of the security of the state, the forming of armed units, the incitement of social, racial, national and religious strife shall be prohibited.” Article 29(2) prohibits “propaganda or campaigning inciting social, racial, national or religious hatred and strife” and “propaganda of social, racial,

nocence entirely, both mainstream and tabloid media treat all Roma, including young children, as fair game for slander and stereotyping as drug traffickers.¹⁸⁸

Among the most inciteful and richest in evocative anti-Romani images have been several films featuring activities of the Ekaterinburg-based vigilante non-governmental organisation City without Drugs. In a 2003 documentary entitled “Drug Wars”, for example, broadcast by the Sverdlovsk private regional television channel TV 10 and the Sverdlovsk public regional channel, the viewer is reminded that one of the first initiatives of the founders of City without Drugs has been an organised action against a Romani settlement in Ekaterinburg. About 300 people dressed in black had organised a picket in the Romani settlement, the so-called “intimidating action” (aktsiya ustrasheniya). Many of those who participated in the picket had allegedly been members of a local criminal group (the so called “uralmashevtsi”). The effect of the action, according to the authors of the film, has been that Roma from the settlement immediately stopped to deal with drugs. One part of the documentary consisted

national, religious or language superiority”. Federal Law “On Mass Media” (Article 51), also bans “distribution of information aimed at slandering a citizen or separate categories of citizens for their race or nationality, their language, their attitude to religion”.

European standards oblige states to promote tolerance and respect to national minorities. Article 6 of the Council of Europe Framework Convention for the Protection of National Minorities (FCNM) states: “1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media. 2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.” The Explanatory Report to the FCNM in its Clause 49 notes that Paragraph 1 of Article 6 of the FCNM stresses the spirit of tolerance and intercultural dialogue and points out the importance of the Parties’ promoting mutual respect, understanding and co-operation among all who live on their territory. The fields of education, culture and the media are specifically mentioned because they are considered particularly relevant to the achievement of these aims.

¹⁸⁸ The conclusions of the monitoring on media hate speech in Sverdlovsk region conducted by the Ekaterinburg-based Romani non-governmental organisation Roma Ural noted: “Roma drug dealers and thieves are identified with the Romani nation as a whole. Roma are portrayed as a nation whose main occupation is criminal activity. As a consequence, Roma are perceived as anti-social elements and the general public attitude is one of fear, hostility and mistrust towards Roma. These feelings are multiplied by the belief in magical abilities of Romani women.” See Roma Ural. “Roma Voices in the Media. The Image of Roma in the TV, Print Media and Internet of Sverdlovsk Region.” Ekaterinburg, 2002-2003.

of interviews with Roma conducted by representatives of the organisation in a Romani settlement. The viewer is guided throughout the Romani settlement by Evgeniy Royzman, President of City without Drugs, who points at red-brick houses explaining that these have been built on “drug-money”. Royzman expresses doubt that such prosperous houses could be built by Roma legally because no Roma worked even a single day of their life. Following these conclusions, Andrey Kabanov, Vice President of City without Drugs, appears on the screen with a sword, crying “Death to the hawkers!” (“Smert barygam!”). Then the President reappears to state that every Romani family in Ekaterinburg has at least one family member sentenced to prison for drug dealing. There follows another sword waving episode in which Andrey Kabanov calls: “Death to the drug dealers!” (“Smertj narkotorgovcam!”). Several images of Romani interviewees presented were apparently meant to convince the viewer that Roma cannot be other than drug dealers and criminals. In one case, a Romani woman is shown severely resisting the interview with City without Drugs representatives and cursing the interviewers.¹⁸⁹

Another film about drug dealers in Ekaterinburg, entitled “Palace Coup or Heroin Hotbed” (“Dvortsoviy perevorot ili geroinoviy ochag”) broadcast by the Sverdlovsk regional channel TV 10 and by the national public channel ORT in 2002,¹⁹⁰ persistently links Roma with the drug dealing business. The film presents the destruction of a house, known to have belonged to a Romani drug dealer in Ekaterinburg, while the presenter explains that the action had been undertaken in December 2000 under pressure of enthusiastic activists from the non-governmental organisation City without Drugs and in accordance with the decision of the Mayor’s office. In the end of the film the Vice President of City without drugs solemnly promises that: “Until all of them are locked up there will be no peace here.”¹⁹¹

On February 10, 2004, a broadcast entitled *Coma* and devoted to “Roma drug dealers” in Kimry, Tver region, was shown on the national coverage TV channel NTV. It contained hate speech against Roma, indirectly appealing to exterminate

¹⁸⁹ Highlights of the documentary summarised by the ERRC. A copy of the documentary is on file with the ERRC.

¹⁹⁰ The film was produced by Saveliy Vovtuzenko as a special TV project of TV Studio “TAU” (Televizionnoe Agenstvo Urala).

¹⁹¹ Highlights of the documentary summarised by the ERRC. A copy of the documentary is on file with the ERRC.

Roma. In particular, Father Andrey (Lazarev), well-known local Orthodox priest, repeatedly urged to burn out Romani houses. He stated in the documentary that Kimry has become one of the chief transit points of the drug trafficking in Russia and identified Roma as the main actors in the Russian drug trade. The same message was repeated by one drug addict, a non-Romani man named “Sasha”, who said that “only *napalm* can solve the problem with Romani drug dealers”.

On June 28, 2004, the ERRC in cooperation with the Moscow Helsinki Group and the Moscow Bureau on Human Rights sent a letter to the General Prosecutor of the Russian Federation urging him to investigate the lawfulness of showing the documentary film *Coma*. On August 9, 2004, the General Prosecutor informed the organisations that their letter has been referred to the prosecutor’s office of the Ostankinskiy District of the City of Moscow. On November 18, 2004, Ostankinskiy District Prosecutor, Mr A.N.Yushkov, responded that the videocassette provided by the authors of the letter “was not produced in accordance with the procedural rules and therefore cannot be taken into consideration. Due to the lack of procedural status it cannot be considered as evidence”.¹⁹² While the response of the General Prosecutor’s office has been formally in line with Russian law regarding evidentiary rules, had the institution taken seriously the alleged violation of criminal law, it could have ordered an expertise for the verification of the cassette’s contents.¹⁹³ On February 22, 2004, the ERRC and MHG sent a joint complaint to the Ostankinskiy District Prosecutor asking for an expertise of the video cassette and for the initiation of criminal investigation.

¹⁹² Letter No 348 Zh-04 from the prosecutor’s office of the Ostankinskiy District of the City of Moscow, November 18, 2004. Document on file with the ERRC.

¹⁹³ Order No 3 “On reinforcement of the prosecutor’s control over legality in processing complaints and other information concerning crimes and preparation of crimes”, issued by the General Prosecutor on January 10, 1999 reads: “In order to reinforce the prosecutor’s control over legality in the processing of complaints and other information concerning crimes and preparation of crimes and in accordance with the guidelines of Article 17.1 of the Federal Law “On Prosecutor’s Office of the Russian Federation”, I herewith order:

- 1.4 To perform in due time control over the legality of processing of public, including such made through the media, calls to violent take-over of power or forcible change of the existing constitutional order, incitement to national, racial or religious hatred in public or through the media. While conducting the check, officials should not to be limited to the examination of materials received by the prosecutor’s offices, but should also analyse constantly the content of all TV and radio programs of informative character, various publications, as well as productions of not registered mass media [...].” (Unofficial translation by the ERRC)

Another example of inflammatory anti-Romani speech was presented by the Samara-based television channel RTR, in its programme “Kriminal” broadcast on September 7, 2004 in the Samara region. The following fragments illustrate the point.¹⁹⁴

Presenter (Ms Inga Penner): “According to law enforcement reports the key organisers of drug deliveries are apparently Gypsies. Namely, they partially deliver and partially distribute heroin and opium throughout the Samara region. [...] The expansion of the Gypsy drug crime goes back to the mid-1980s. At present approximately 4,000 people out of 12,000 of the whole population of Gypsies living in the region directly or indirectly are involved in drug trade. [...] Sometimes the entire family can be involved in the drug business. For the majority of the people drug dealing is a main source of income. [...] Most of the Gypsies not see drug dealing as a crime; it is more like a lifestyle, which they learn since their childhood. [...] Women are engaged in a considerable degree in the drug trade. They are less suspicious and the law is not so strict with regard to pregnant women. Males very rarely interfere in the trade and in case of arrest prefer to throw down the guilt to females.”

Officer of Federal Drug Control Service [remains anonymous, does not appear on screen]: “The husbands have quite an interesting position. They marry women, involve them in the criminal activity and as a result their wives are sent to prison. Later the men marry again. It happens that they marry three-four times.”

Presenter: “It is not rare that Roma keep Russians as slaves in the their homes. In most of the cases they are drug addicts or their children who have been sold for a doze. They work in Roma houses and at the same time also distribute drugs. They get a doze for selling drugs and are ready to fulfil any tasks of their lords.”

Presenter: The annual income of the drug Mafia of Samara is estimated at 5 billion roubles (approximately 27.5 million Euros) whereas Roma control one third of the total drug turnover.”

Earlier, on February 25, 2002, a documentary film about “Gypsy drug dealers” in Ekaterinburg was shown on the national coverage public television channel RTR. The documentary presented an intimidation method that exploits racial tensions as a potential solution for combating drug-related criminality. According to the film-

¹⁹⁴ Translation of the transcript by the ERRC.

makers, the local police spread a rumour that drug dealers would be beaten and that their houses would be burned; the filmmakers reported that the strategy had been successful, since around 10 Romani families left the city immediately after the rumour was spread. The same day, a report about the fight against drug trafficking in the Krasnoyarsk region (*kray*) of Russia, broadcast during the evening news on the state channel RTR on February 25, 2002, explicitly stated, without presenting any corroborative evidence, that the Roma of the city of Krasnoyarsk are to blame for drug-related crime. As an illustration of this statement, an alleged Romani drug dealer was shown, a person who had apparently not yet been sentenced for any crime and whose innocence should therefore have been presumed by reporters. The broadcast showed not only the alleged drug dealer, but also his children and grandchildren, whose involvement in the drug trade, though never explicitly stated, was presumed.

On March 1, 2002, the public television channel ORT broadcast a news story about the fight against the drug Mafia in the Tyumen region. While voice-over narration informed that approximately one thousand drug dealers had been arrested, the camera showed an elderly Romani woman and an approximately seven-year-old Romani boy, whose relationship to the drug trade was not clear.

Public officials reinforce the stereotypes by making comments in public pointing to the ethnicity of alleged drug dealers. On July 14, 2004 the national daily newspaper *Moskovskiy Komsomolets* published in its “Investigations” section the article “Pose for a Dose”.¹⁹⁵ The journalist interviewed Evgeniy Rozman, deputy of the State Duma and President of City without Drugs, who said, “Each addicted man is a potential distributor, they take drugs from the Gypsies, Azerbaijanians and Tajiks”. Press statements of the Federal Drug Control Service (FDCS) also often identify the Romani ethnicity of suspects or accused of drug-related crimes. For example, in its edition of February 22, 2005 the Rostov-based daily *Vecherniy Rostov* published a FDCS press release according to which the main organiser of a large group of drug dealers operating on the territory of the Rostov region, had been a fifty-seven-year old Romani woman. The woman together with her nineteen-year old daughter had allegedly long dealt in drugs and decided to expand the scope of the trade.¹⁹⁶ An earlier edition of the same newspaper, from January 24,

¹⁹⁵ The title implies readiness to submit to sex in exchange for a drug dose. Rita Moheli. “Iz-za dozi vstali v pozu”. In *Moskovskiy Komsomolets*, Moscow, July 14, 2004.

¹⁹⁶ Press-otdel Rostovskogo upravleniya Federalnoi sluzhby narkokontrolya. “11 del na vosmeryh”. In *Vecherniy Rostov*, February 22, 2005.

2005, published a FDSC press release entitled “Gypsies Mixed Drugs with Natrium Glukonat in Rostov Night Clubs”, which informed that the FDSC officers had detained two men of Romani nationality in whom the officers had found psychotropic substances.¹⁹⁷

In an attempt to bring more attention to the issue, journalists often use metaphor to inspire fear, disgust or hatred. For example, on August 11, 2004 the Rostov region weekly newspaper *Sedmaya Stolitsa* published the article “The Gypsy Needle” by Inga Pelikhova.¹⁹⁸ In this article the author described Roma as the local ethnic drug Mafia. Throughout the text the journalist referred to Roma as “spiders” and to their houses as “spider’s webs”. The article stated that 10 out of 93 drug dealers in Rostov were Roma but that they specialised in the hard drugs “not fooling around with innocent marihuana.”

On February 27, 2002, the national daily *MK – Moskovskiy Komsomolets* published a front-page article with the headline “Moscow Gypsies Will Be Crushed” and the subtitle “Gypsies Will Soon Face Close Relationships with Police”.¹⁹⁹ Reporting on the beginning of “Operation Tabor”, the article claimed that beggars, fortune-tellers, tramps, swindlers who rob citizens while exchanging money, as well as Roma considered to be a nuisance, would be expelled “with disgrace” from railway stations, markets, metro stations and uninhabited buildings. In addition, according to the article, persons who rented flats to Roma would be subjected to checks. The article also used sarcastic exclusionary terms such as “tourists” with reference to Roma.

On March 13, 2002, the Russian newspaper *Argumenty i Fakty* published an article entitled “I Am a Heroin-Mother”. The article covered the activities of the Ekaterinburg-based non-governmental organisation City Without Drugs, whose head had declared that, since authorities had been ineffective in combating drug-related crime, the organisation had decided to take matters in its own hands. The text of the article deployed widespread anti-Romani stereotypes, using the words “Gypsies” and “drug dealers” interchangeably and implying a causal link between rich “red brick castles”

¹⁹⁷ Press-otdel Rostovskogo upravleniya Federalnoi sluzhby narkokontrolya. “Tsygane v Rostovskikh nochnyh klubah razbavlyali dur glyukonatom kaltsiya.” In *Vecherniy Rostov*, January 24, 2005.

¹⁹⁸ Inga Pelikhova. “Tsiganskaya igla”. In *Sedmaya stolitsa*, Rostov, August 11, 2004.

¹⁹⁹ Article “Moskovskie tsygane skoro budut unichtozheni”. In *Moskovskiy Komsomolets*, Moscow, February 27, 2002.

being erected in the Romani settlement in recent years and hospital wards filling up with “half-dead bodies in drug-induced comas”.

In some cases, even well-intended publications on Roma resort to stereotypical images associating Roma with thieves. For example, the article “Tabor Goes to School”, published by the *Izvestiya* daily on April 8, 2004 and devoted to the International Romani Day April 8, describes Romani children in the following way: “Rikardo has no money, however he wants to attend school. Therefore he sold a pen with a golden cover. We will not specify how he got the pen”. A further description of Roma revealed that “Roma from Peri town, Leningrad region, have no habit to wash up and wash their dress”.²⁰⁰

As of the end of 2004, the ERRC is aware of just two cases when anti-Romani hate-speech has been successfully challenged. In June 2002, the Samara-based newspaper *Volzhskaya Zarya* published hate-speech against Roma declaring that, “all Roma are thieves and criminals and no Roma work, in order to have more time for crimes”. After the interference of Romani Duma, a local Romani non-governmental organisation, the newspaper published a refutation on behalf of the organisation.

In another instance, following a complaint from the Nizhniy Novgorod-based non-governmental organisation Centre of Interethnic Cooperation “Dialogue”, on November 15, 2004 the Committee on Information Disputes of the Nizhegorodskiy region found with regard to articles published by the dailies *Nashe vremya 21 vek* and *Nizhegorodskaya pravda* that: “In the course of exposing the problems related to drug trafficking, the journalist has reached his purpose by unfair methods: in his articles he created a criminal image of the Gypsy people who terrify their “victims”, and led the audience to the logical conclusion that the solution of the drug problem is the “elimination” of the Gypsy factor. The Committee acknowledged that “the content of the articles published by the journalist I. Grach violates the professional ethics by transferring the negative evaluation of the criminal inclination of separate representatives of the Gypsy nation to the whole nation “and recommended that the decision be published in the newspapers.”²⁰¹

²⁰⁰ Article “Tabor uhodit v shkolu”. In *Izvestiya*, April 8, 2004.

²⁰¹ The articles that were found inciting hate had the following titles: “Gypsy Myth”, “I Will Get Thick Bars”, “Fortune-tellers on a Hunting Party” and “Gypsy Necklace: Attempt for an Ethnographic Essay”. The decision of the Committee is available in Russian at: <http://xeno.sova-center.ru/213716E/21398CB/492AF95>.

Anti-Romani expression has also manifested itself in desecration of Romani graves. On July 26, 2003, the International Romani Union (IRU) reported that on July 11, 2003, a cemetery in the city of Volgograd in southern Russia was desecrated, as reported in the Volgograd-based daily newspaper *Oblastnye Vesti*. A number of Romani graves were destroyed in the process. The daily reported that local police suspect a group of skinheads to have perpetrated the act. According to IRU, Mr Yakov Egorov, a Romani man from Volgograd, reported the incident to the local police. The police reportedly informed Mr Egorov that, even if the perpetrators were to be arrested, they would likely be charged with only vandalism. This implies that the racial motivation behind the criminal act will not be taken into consideration in front of a possible future court hearing.

8. ACCESS TO PERSONAL DOCUMENTS

For Roma and some other minorities in Russia, failure to provide a document when stopped by police often leads to detention, ill treatment and extortion of money. While Roma are a favourite target of police for document checks, they often face discrimination when trying to obtain the documents required under Russian law. Lack of residence registration, lack of passports²⁰² and/or failure to secure a valid residence permit also prevents many Roma from exercising their social and economic rights. In the latter case, discrimination in access to social and economic rights is one effect of denial of access to personal documents, which has a disproportionate impact on Roma.²⁰³

8.1 Access to Residence Registration

In Mytishchi, a town in the northwestern suburbs of Moscow, Mr A.R., a Romani man who had arrived in the early 1990s from Belarus, was unemployed and unable to afford legal counsel. All his attempts to legalise his and his family's residence in Russia were unsuccessful. He had his old Soviet passport with a residence registration in Belarus. As he explained to the ERRC,

²⁰² "Passport" throughout this text refers to the basic identity document used by citizens of the Russian Federation.

²⁰³ The prohibition of discrimination in Article 1(1) ICERD extends to "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the **purpose or effect** [emphasis added] of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." This definition encompasses both direct discrimination and indirect discrimination, in that it looks to the "purpose or effect" of the actions in question. In its General Recommendation XIV on the Definition of Racial Discrimination, (Forty-second Session, 1993), the CERD specified: "In seeking to determine whether an action has an effect contrary to the Convention, it will look to see whether that action has an unjustifiable disparate impact upon a group distinguished by race, colour, descent, or national or ethnic origin." (See CERD General Recommendation No. 14: Definition of discrimination (Art. 1, par.1), 22/03/93, at: <http://www.unhchr.ch/tbs/doc.nsf/0/d7bd5d2bf71258aac12563ee004b639e?Opendocument>).

It is enough just to go out towards the road, and I am inevitably stopped by police for passport checks. They then have to be bribed to leave me alone. I am tired of this.

Finally, Mr A.R. convinced a policeman to keep his passport in the police station, while issuing him a paper, undated, according to which the passport had been declared as lost. He found it easier to pass police checks with this replacement

The prohibition of both direct and indirect discrimination thus applies to Article 5 ICERD, which prohibits discrimination with respect to a number of civil and political, social and economic rights as follows:

“In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- a) The right to equal treatment before the tribunals and all other organs administering justice;
- b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- c) Political rights, in particular the right to participate in elections-to vote and to stand for election-on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- d) Other civil rights, in particular:
 - i) The right to freedom of movement and residence within the border of the State;
 - ii) The right to leave any country, including one’s own, and to return to one’s country;
 - iii) The right to nationality;
 - iv) The right to marriage and choice of spouse;
 - v) The right to own property alone as well as in association with others;
 - vi) The right to inherit;
 - vii) The right to freedom of thought, conscience and religion;
 - viii) The right to freedom of opinion and expression;
 - ix) The right to freedom of peaceful assembly and association;
- e) Economic, social and cultural rights, in particular:
 - i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
 - ii) The right to form and join trade unions;
 - iii) The right to housing;
 - iv) The right to public health, medical care, social security and social services;
 - v) The right to education and training;
 - vi) The right to equal participation in cultural activities;
 - f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.”

paper and was evidently pleased at having managed to obtain, for a while, some freedom from harassment. In the meantime, the passport was “deposited” in the police station. In June 2004, Mr A.R. returned with his family to Belarus.²⁰⁴

Russian Federal Law “On the Right of the Citizens of the Russian Federation to Freedom of Movement, Choice of Place of Sojourn and Residence within the Borders of the Russian Federation” (hereinafter Law “On Freedom of Movement”) of 1993 requires obligatory registration of residence and place of sojourn.²⁰⁵ Failure to obtain registration of sojourn or residence is illegal and can be punished by fine. In the 1990s, a number of regions throughout Russia introduced restrictive local laws on temporary and permanent registration,²⁰⁶ effectively preventing citizens and others in the Russian Federation from freely

²⁰⁴ Case summary based on ERRC/Romano Kher interviews with Mr A.R., June 2003 and June 2004, Mytishchi.

²⁰⁵ The Law “On the Right of the Citizens of the Russian Federation to Freedom of Movement, Choice of Place of Sojourn and Residence within the Borders of the Russian Federation” substituted the propiska system, under which people in the Soviet Union had to obtain official permission to register or change their place of residence. Article 3 of the law states that Russian citizens as well as foreigners are obliged to register their place of permanent residence or temporary stay. The obligatory registration is of a notifying character only. (Federal Law №5242-I of June 25, 1993. Unofficial translation by the ERRC)

Residence registration for Russian citizens may be temporary (registration of sojourn) or permanent (registration of residence). To be granted a registration at the place of residence (permanent) or place of sojourn (temporary), a person has to fulfil a number of conditions. These include, among other things, the presentation of an ID document, such as a passport or a birth certificate, a paper, which serves as a ground for legal residence, such as a certificate on inheritance or ownership, lease agreement or the owner’s written consent certifying the actual address of residence. (See Order No. 393 of the Ministry of Internal Affairs of the Russian Federation “On the Approval of the Instruction on the Application of the Rules of Registration and De-Registration of Citizens of the Russian Federation at Their Places of Residence or Sojourn Within the Russian Federation” of 23 October 1995)

²⁰⁶ Shortly after the adoption of the law “On the Right of the Citizens of the Russian Federation to Freedom of Movement, Choice of Place of Sojourn and Residence within the Borders of the Russian Federation”, in 1995 were enacted the “Rules on the Registration of Citizens of the Russian Federation and their Removal from the Roster According to Place of Sojourn and Residence within the Russian Federation” which introduced certain conditions under which local authorities may refuse registration.

With respect to citizens who wanted to settle permanently in a region or location, the Rules envisioned grounds for refusal of residence registration such as: the building in which the settler is to live is likely to collapse; the amount of floor space rented or bought by the settler is less than the

moving within the country, despite protection of the freedom of movement provided by the Constitution of the Russian Federation and the Law “On Freedom of Movement” itself.²⁰⁷ A number of regional statutory acts have been found unconstitutional and abolished by the Constitutional Court.²⁰⁸ Yet, arbitrary and

per capita norm established by federal law; a court order prohibiting the settler from cohabiting with his minor children would prevent the proposed settlement; or the settler has provided inauthentic title, rental, or lease documentation. In a decision from 1998, the Constitutional Court of the Russian Federation found the grounds for refusal of registration elaborated by the Rules unconstitutional. (See footnote 205)

Many regions of the Russian Federation also adopted their own legal acts on issuing registration to newly arriving people, in spite of the provision of the Law “On Freedom of Movement” that states that rules on registration are to be established only by the federal authorities of the Russian Federation and not by its regional subjects. Such regional acts used to contain different restrictions to, or requirements for, registration, such as limitation of the period of registration, presence of close relatives legally residing in the region, payment of unproportional fees, availability of a minimal amount of square meters per person, and others.

²⁰⁷ Article 27(1) of the Constitution guarantees the right to freedom of movement of everyone lawfully on the territory of the Russian Federation. Article 1 of the Law “On Freedom of Movement” guarantees the right “to freedom of movement, choice of place of sojourn and residence.” Article 8 outlines a number of situations under which “the rights of Russian citizens to freedom of movement [...] may be restricted on the basis of law.” Border areas, “closed military cities,” “closed territories,” “territories where a state of emergency is in effect”, ecological disaster areas, and cities quarantined for health reasons are all subject to state control of entry, exit, and residency.

²⁰⁸ Widespread violation by local bodies of freedom of movement, as codified in Article 27 of the Constitution, the 1993 Law and other legal acts of the Russian Federation, resulted in several challenges of local acts before the Constitutional Court. In 1996, the ruling of the Constitutional Court on the matter stated: “The limitation of the right to choose one’s place of residence can be introduced only by federal law, [and only] to the degree necessary to defend the basis of constitutional governance, morality, health, the rights and legal interests of others; for the national defence and security of the state.” Further the Court stated: “The registration or non-existence of such cannot be considered a reason for limitation or condition of realisation of rights and freedom [...] As a result, refusal to register on the basis of tax debts or other tax-related issues is unconstitutional”. See *Postanovlenie konstitutsionnogo suda Rossiyskoy Federatsii po delu o proverke konstitutsionnosti ryada normativnykh aktov goroda Moskvyy i Moskovskoy oblasti*. Sobr. Zakonod. RF, 1996, No. 16, Item No. 1909.

In 1998, the Constitutional Court struck down several articles from the “Rules on the Registration of Citizens of the Russian Federation and their Removal from the Roster According to Place of Sojourn and Residence within the Russian Federation” and reaffirmed the non-discretionary nature of the residence registration regime, ruling that: “Registration authorities have only the power to verify the citizen’s act of free choice when he selects the place he will sojourn or live.” See *Postanovlenie*

discriminatory invoking of the registration regime, which affects especially ethnic minorities, has not been discontinued.²⁰⁹

The system of residence registration has caught many Roma in Russia in a vicious circle of abuse generating further abuse. Roma are not able to secure residence registration, often as a result of arbitrary refusal of authorities to register them. At the same time, as a result of racial profiling, they are targeted for disproportionate checks of identity documents by the police and failing to produce them, they are often subjected to detention and ill treatment. The routine way to avoid prolonged detention and physical abuse is to pay bribes demanded by police. Desperate, Roma generally pay these bribes for each of their numerous encounters with police officers, since where Roma are at issue, obtaining regular personal documents is apparently even more difficult and costly than bribing.

In some cases, organised campaigns to identify Roma without documents have resulted in evictions and deportations of big Romani communities from one region of Russia to another. Such violent actions are sometimes preceded by persistent pressure on Romani families by police and/or local administrations to sell their property and leave the areas where they have settled. For example, in early April 2002, a Romani family was “warned” by police and local administrators in the town of Egoryevsk, approximately one hundred kilometres south-east of Moscow, that “problems would arise if they continued to live there”. According to Mr Yan Masalskiy, relative of the Romani family, one month after his relatives had moved to Egoryevsk, police and local officials threatened them while they were seeking to register themselves as locally resident.²¹⁰ When ERRC/Romano Kher travelled to the Egoryevsk area on April 29, 2002, the Romani family had sold their house and left the area.

konstitutsionnogo suda Rossiyskoy Federatsii No. 4-P, po delu o proverke konstitutsionnosti punktov 10, 12 i 21 Pravil registratsionnogo ucheta po mestu prebyvaniya i po mestu zhitel'stva v predelakh Rossiyskoy Federatsii, utverzhdennykh postanovleniem Pravitel'stva Rossiyskoy Federatsii ot 17 iulia 1995 goda No. 713. Sobr. Zakonod. RF, 1998, No. 6, Item 7083, at 1538.

²⁰⁹ More information on continuing enforcement of discriminatory residence registration regulations is available from “NGO report to the UN Committee on Elimination of Racial Discrimination. Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination”, December 2002, Moscow, paragraph 73, at: <http://www.hro.org/docs/reps/race/index.htm>.

²¹⁰ Case summary based on ERRC/Romano Kher interview with Mr Yan Masalskiy, April 2002, Egoryevsk. Authorities seeking to prevent Roma from settling on the territory they administer often

The internal registration system has been widely criticised for opening the way to racial discrimination by allowing denial of registration to certain ethnic minority groups as well as increasing the incidence of arbitrary detention and ill-treatment by police of ethnic minorities targeted for document checks.²¹¹ Russian human rights groups have defined the internal registration system as “a classical example of institutional racism, with elements of organised direct discrimination by the state.”²¹²

Although the law provides that residence/sojourn registration or its absence may not be a basis of restriction or a precondition for the exercise of rights and freedoms established by the Constitution of the Russian Federation and Russian laws, in practice, a citizen who has no registration at the place of residence, has difficult or no

discriminatorily refuse to register Roma as resident in municipalities. Indeed, in its Second Preliminary Version of “On the Observation by the Russian Federation of the International Convention on Elimination of All Forms of Racial Discrimination,” dated November 2000, Memorial reported that national and ethnic minorities were disproportionately frequently refused registration in regions which established so-called “commissions on migration control” tasked to review applications for residence permits. The full text of the report is available at: http://www.memo.ru/hr/discrim/ethnic/docl_ind.htm.

²¹¹ Council of Europe bodies have also expressed concern about the discriminatory application of the residence registration system. The Parliamentary Assembly has stated that “whilst noting that the Russian federal authorities have achieved notable progress in abolishing the remains of the old propiska (internal registration) system, the Assembly regrets that restrictive registration requirements continue to be enforced, often in a discriminatory manner, against ethnic minorities.” See Parliamentary Assembly of the Council of Europe. Resolution 1277 (2002). Honouring of obligations and commitments by the Russian Federation, at: <http://assembly.coe.int/Documents/AdoptedText/TA02/ERES1277.htm>. The European Commission against Racism and Intolerance (ECRI) also expressed concerns that “More often, however, discrimination results from the practice of systematically refusing to register members of specific ethnic minorities in certain regions, both for permanent residence and for temporary stay”. Further, ECRI noted that, “Although, by law, registration should not constitute a precondition for the enjoyment of fundamental rights and freedoms, in practice, registration is nonetheless necessary for the enjoyment of many political, social and economic rights, including: participation in elections; medical care; secondary school and higher school education; pensions and allowances; right to work; marriage registration; acquisition of citizenship; obtaining passports, driving licences etc. Members of minority groups, who suffer discrimination in securing registration, are therefore effectively excluded from the enjoyment of these rights.” See European Commission against Racism and Intolerance. Second report on the Russian Federation, adopted on 16 March 2001 and made public on 13 November, 2001, paragraphs 76 and 78, at: http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Russian_Federation/Russian_Federation_CBC_2.asp#P359_72950.

²¹² Osipov, Aleksander. “Europe, Russia, Durban”, 2001, at: <http://www.hrighs.ru/text/b15/Chapter7.htm>.

access to a range of rights.²¹³ Restrictions imposed for reasons of registration are mainly related to social and economic rights (the right to work, to dispose of, possess and use property, to social security, and to medical service), but they may also affect civil and political rights – the right of entering into marriage, of inviolability of private and family life, of access to justice, of participation in elections. Regional statutory acts and law enforcement practices have led to the fact that a citizen of the Russian Federation residing in one region or locality (city, village, settlement) of the Russian Federation without registration in that particular region or locality faces serious limitation in the exercise of rights provided by law.

ERRC research shows that Roma who cannot secure personal documents are often exposed to extremely substandard living conditions and are unable to access other basic social and economic rights such as education, health care, employment, and housing. In Novochoerkassk, Rostov region, for example, about ten Romani families, comprising about 50 adults and 20 children, were living on the communal dumpsite at the time of the ERRC visit in June 2004.²¹⁴ Roma told the ERRC that in 2001-2002 they had to move to the city dumpsite because they were unable to solve problems with personal documents and residence registration and as a result to get any accommodation. Some families had reportedly become homeless after they had sold their houses in order to pay bribes to public officials. On the dumpsite the Roma had built small sheds of wooden planks and cardboard – building mate-

²¹³ The Committee on Economic, Social and Cultural Rights in its 4th Report of the Russian Federation expressed concerns about cases where the lack of registration of place of residence and other identity documents in practice places limitations on the enjoyment of economic and social rights. The Committee was also concerned that "... some groups of people, including the homeless and the Roma, face particular difficulties in obtaining personal identification documents, including registration of residence." See United Nations Committee on Economic, Social and Cultural Rights. Concluding observations: Russian Federation. E/C.12/2003/SR.56, November 28, 2003.

Russian human rights organisations have asserted that "the institution of registration technically becomes a condition for the citizens to enjoy their rights: acquisition of the citizenship and formalities in this connection; employment; marriage registration; participation in elections; medical care; higher and occasionally even secondary education; pensions and allowances." See "NGO report to the UN Committee on Elimination of Racial Discrimination. Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination", December 2002, Moscow, available at: http://www.ilhr.org/ilhr/reports/CERD_Russia_2003.htm.

²¹⁴ ERRC interview with the Roma families on the dumpsite, 29 June 2004, Novochoerkassk.

rial that they had collected from the dump. None of the children attended school. Some of the adults had passports of the former Soviet Union and some did not have any documents. A security firm guarding the city dump did not prevent Roma from settling on the dump. In exchange, however, the company demanded that the scrap metal they had gathered be sold only to it and at lower prices. When asked how they managed to feed themselves, the Romani women, in tears in obviously feeling the inhumanity of their circumstances, said that they sought and found among the garbage half-rotten potatoes and left-over from other products and cooked such a “meal” on fire. None of their attempts to secure residence registration for those who had valid passports had been successful. These conditions stand in stark contrast to the picture described to the ERRC by local officials in Rostov, who told the ERRC that Roma people in Rostov region are not poor and have equal access to education, health care and housing. The officials also assured the ERRC that on the whole, they had no problems with “their Roma” and that violations of Roma rights happened in other regions.²¹⁵

Many Roma trying to obtain residence registration meet numerous bureaucratic hurdles, some of which erected by local authorities in violation of the law. For example, some authorities impose arbitrary requirements such as presenting a special document certifying the absence of housing debts, including debts on heating, water, gas, etc. Although this rule is applied to everyone, it has a disparate effect on Roma who are more likely to be poor and unable to pay for their utilities, or have had no registered residence for long periods prior to applying.²¹⁶

During field research, the ERRC spoke with Roma from Storozhovka, a Romani neighbourhood located in the suburb of Saratov, central Russia, home to more than 300 people. Most of them were Ukrainian citizens who arrived in Russia in 2002 and bought a large piece of land.²¹⁷ The local authorities reportedly refused to register them. Police frequently stop them in the streets for documents check and because

²¹⁵ ERRC interview with Mr N.Chernishov, Chair of the Committee on Nationalities, Religion and Cosaks issues at the city administration of Rostov, and Mr M. Popov, Deputy Chair of the same Committee, Rostov, July 1, 2004.

²¹⁶ See Raihman, Leonid. “Roma in Russia: A Personal Documents Disaster”. Roma Rights 3/2003, available at: <http://www.errc.org/cikk.php?cikk=1053&archiv=1>.

²¹⁷ ERRC interview with Vladimir, August 24, 2004, Storozhovka.

they don't have registration, police extort money from them. Roma who cannot pay are reportedly taken to the police station and kept in cells together with homeless people until their relatives collect the money and bring them to the police department. Without residence registration, the Roma cannot receive social support for their children. For example, Ms Fatima Shtefan, 21, told the ERRC that she had recently given birth to twins. When she went to the local authorities to request a personal document in order to receive social aid for her children, she was reportedly told to close the door from outside.

Despite criticism of the restrictive residence registration policies, some public officials call for even tougher measures on "illegal migrants". For example, in 2004 the Moscow City Duma committee on legislation and security proposed amendments to the Law on the Right of Citizens of the Russian Federation to Freedom of Movement authorising each region to "restrict entry for residents of other regions". The language the authorities use speaks for itself. In the beginning of October 2004 at a meeting with law enforcement bodies Mr Tkachev, governor of Krasnodar Region (*kray*), discussed setting up "filtration camps" for internal migrants.²¹⁸ Mr Gromov, Governor of the Moscow region, supported the idea of establishing "deportation centres".²¹⁹

8.2 Access to Legal Status

A large number of Roma with whom the ERRC met during field research have been denied the fundamental right to be recognised as persons before the law as a result of lack of proper identity documents.²²⁰ Due to illiteracy and poor knowledge

²¹⁸ Karastelev, Vadim and Tamara Karasteleva. "Sistematicheskoe narushenie prav cheloveka v Krasnodarskom krae podryvaet mezhdunarodniy avtoritet Rossii", see: <http://xeno.sova-center.ru/29481C8/4E77E70#r9>.

²¹⁹ On October 1, 2004 the Governor of the Moscow region announced at a press conference that the authorities had started to build the first deportation center for illegal immigrants. The total number of such centers will amount to four, spread over the region's territory. See "Moscow Region Starts Building Deportation Centers for Illegal Immigrants". In Mosnews, October 1, 2004, at: <http://www.mosnews.com/news/2004/10/01/deportationcenters.shtml>. See also Kolesnikov, Andrey. "Manageable Xenophobia (Opinion)". In Mosnews, November 2, 2004, available at: <http://www.mosnews.com/commentary/2004/11/02/intolerance.shtml>.

²²⁰ Article 16 of the ICCPR stipulates that, "Everyone shall have the right to recognition everywhere as a person before the law."

of the law, as well as due to the unaffordability of legal advice, Roma are at higher risk of remaining without valid personal documents. Indeed, during field research, the ERRC realised that it was very difficult to obtain from Roma detailed information about the process that they had undergone applying for residence permit or citizenship of the Russian Federation. In many cases Roma gave confusing accounts of the numerous bureaucratic procedures with which they had to cope with. The general impression of many, however, had been one of lack of cooperation on the part of the immigration authorities. In addition to the general obstacles created by Russian citizenship legislation and enforcement practices for the former Soviet citizens, some cases documented by the ERRC clearly indicate that immigration officials have exploited the disadvantaged position of Roma to discourage and prevent them from applying and obtaining citizenship. Notably, the 1991 Federal Law “On Citizenship of the Russian Federation” and the subsequent Federal Law “On Citizenship of the Russian Federation” of 2002, amended in 2003, guarantee equal rights to all citizens, but doesn’t provide for equal access to citizenship regardless of race or ethnicity. Situations described by Roma to the ERRC revealed discriminatory treatment by immigration and other local authorities.

During field research in 2003 and 2004, the ERRC established that many Roma holding old USSR passports who resided in the Russian Federation had failed to apply for the new passports of the Russian Federation within the deadline set at July 1, 2004.²²¹ Roma interviewed by the ERRC cited lack of money, administrative hurdles, or the fact that they did not know anything about the pending end of validity of the Soviet passports as reasons for not having updated their identity documentation before the deadline. Having in mind the high rates of illiteracy among Roma, special government measures to assist this particular minority in obtaining new passports would have been fully justified. The ERRC, however, is not aware of any such measures undertaken by the government. In this context, it is probable that after July 2004, a considerable group of Roma throughout Russia have found themselves excluded from basic rights, which cannot be accessed without evidence of valid Russian citizenship, generally proven with an identity document. It is not clear what measures the Government has put in place to ensure that after the entry

²²¹ Article 2 of the RF Government Resolution No. 828 tasked the Ministry of Interior, starting from July 8, 1997, “to carry-out, prior to 31 December 2003, gradual replacement of the passports of USSR citizenship by passports of citizenship of the Russian Federation”. On July 1, 2004, the extended deadline for replacement of old Soviet Union passports with new Russian Federation ones expired. Citizens who failed to obtain new passports within the deadline were liable for administrative fines.

into force of the new system on July 1, 2004, fundamental social and economic rights would be limited “only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society”, as required by the International Covenant on Economic, Social and Cultural Rights.²²²

The situation is further aggravated by the apparently large numbers of Roma and other Gypsy-like minorities who have moved into the territory of the Russian Federation from former Soviet republics (Belarus, Kazakhstan, Moldova, Ukraine, etc.) following the dissolution of the USSR. Members of such minorities have faced daunting obstacles in exercising a range of legal rights, from housing and employment to medical care, education and social security services such as pensions or other forms of social support regardless of need or their factual ties to the Russian Federation. Roma and others who had lived in Russia for 10-12 years but did not have their residence registered were effectively prevented from applying for Russian citizenship.²²³ Many Roma, who as of 2002 still had a passport issued by the USSR with a residence registration in some of the former Soviet Republics, and who have failed to acquire Russian citizenship through the registration procedure established by the 1991 Federal Law “On Citizenship of the Russian Federation” covering citizens of the Soviet Union, have become foreigners after the entry into force of the 2002 Federal Law “On the Legal Status of Foreign Citizens in

²²² In its Concluding Observations the United Nations Committee on Economic, Social and Cultural Rights urged the Russian government to ensure that the lack of residence registration and other personal identity documents do not become an obstacle to the enjoyment of economic, social and cultural rights.

United Nations Committee on Economic, Social and Cultural Rights. Concluding observations: Russian Federation. E/C.12/2003/SR.56, November 28, 2003.

²²³ The adoption of Federal Law No. 62-FZ of May 15, 2002, “On Citizenship of the Russian Federation” exacerbated the problems faced by hundreds of thousands of former Soviet citizens residing in the Russian Federation, in obtaining Russian citizenship. The law provided that foreign nationals and stateless persons can apply for Russian citizenship provided that a number of criteria are met. One of these criteria stipulated that applicants must have permanently resided in the Russian Federation for a period of five years since being granted a residence permit or since their registration as locally resident (Article 13(1)(a)). For former Soviet citizens, who were born on the territory of the Russian Federation, this term was reduced to one year (Article 13(2)). (See Federal Law “On Citizenship of the Russian Federation” No 62-FZ of May 31, 2002, available at: <http://www.fromuz.com/module.s.php?name=Pages&go=page&pid=5>)

the Russian Federation”.²²⁴ After the expiry of the Soviet passports in mid-2004, Roma who were unable to acquire citizenship of the former Soviet Republics and were denied citizenship of the Russian Federation became effectively stateless.²²⁵

The K. family lived in Latvia until 1992. Then they returned to Russia, which they considered their native country, as the K. family did not speak Latvian lan-

²²⁴ Article 18 of the 1991 Federal Law “On Citizenship of the Russian Federation” provided that citizens of the former USSR residing on the territories of states which were a part of the former USSR can acquire Russian citizenship by way of registration, as long as they had not taken any other citizenship. See Federal Law “On Citizenship of the Russian Federation” No. 1948-1.

Federal Law “On the Legal Status of Foreign Citizens in the Russian Federation” No 115-FZ of July 25, 2002, does not distinguish between the foreigners who already live in the country and those who arrive in Russia anew. The people who were not Russian nationals and who have lived in the country had to apply for temporary or permanent residence permit on equal footing with newcomers. The Law is available at: <http://www.vrf.ru/115-fz3.htm>.

²²⁵ The international community has repeatedly affirmed the principle that statelessness is anathema. Article 24 of ICCPR, addressing the rights of children, stipulates that “[e]very child has the right to acquire a nationality.” The Convention of the Rights of the Child states at Article 7: “The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents [...]” A number of international legal instruments address the issue of statelessness exclusively. The Convention on the Reduction of Statelessness includes a number of provisions aiming to prevent statelessness as a result of loss of nationality due to any change in the personal status of an individual. Article 8 states that “[a] Contracting State shall not deprive a person of his nationality if such deprivation would render him stateless.” Article 9 stipulates that a State may not deprive any person or group of persons of their right to nationality on racial, ethnic, religious or political grounds. The Russian Federation has not ratified the Convention on the Reduction of Statelessness.

Further, the Convention Relating to the Status of Stateless Persons provides, *inter alia*, “The Contracting States shall as far as possible facilitate the [...] naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings” (Article 32). The Russian Federation has not ratified the Convention Relating to the Status of Stateless Persons.

The European Convention on Nationality recognises the right to nationality and Article 3 acknowledges the principle that each State determines under its own law who are its nationals. However, domestic laws of States Parties must be in conformity with a set of principles enumerated in the Convention. These principles are: everyone has the right to a nationality; statelessness shall be avoided; no one shall be arbitrarily deprived of his or her nationality; neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse. (Article 4). Article 5 states that the rule of non-discrimination applies in matters of nationality:

guage. In Pskov, the father and the eldest son were able to get Russian passports. The eldest daughter, Ms V.K., born in 1978 in Latvia, had been refused Latvian citizenship. In September 1992, when she arrived in the Russian Federation, the deadline established by the 1991 law “On Citizenship of the Russian Federation” within which former Soviet citizens residing on the territory of the Russian Federation were considered citizens of the Russian Federation as well had expired²²⁶ and Ms V.K. had to apply for Russian citizenship. She was unable to obtain either citizenship or permanent registration in Russia. She thus could not work legally or send her children to school. After the entry into force of amendments to the law “On Citizenship of the Russian Federation” in November 2003, Ms V.K. applied for citizenship under the simplified procedure for stateless Soviet citizens established by the law.²²⁷

The rules of a State Party on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin. Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently. In addition, the European Convention on Nationality renders explicit that the context of state succession places particular burdens on states to act to avoid statelessness. State succession is regulated under an entirely separate chapter of the Convention (Chapter VI), which states, at Article 18, “(1) In matters of nationality in cases of State succession, each State Party concerned shall respect the principles of the rule of law, the rules concerning human rights [...] in particular in order to avoid statelessness. (2) In deciding on the granting or the retention of nationality in cases of State succession, each State Party concerned shall take account in particular of: (a) the genuine and effective link of the person concerned with the State; (b) the habitual residence of the person concerned at the time of State succession; (c) the will of the person concerned; (d) the territorial origin of the person concerned.. [...]” The Russian Federation has signed but not yet ratified the European Convention on Nationality.

²²⁶ This deadline was until February 6, 1992 according to Article 13 of Federal Law “On Citizenship of the Russian Federation”, FZ No. 1948-1.

²²⁷ Federal Law “On Citizenship of the Russian Federation” No 151-FZ of November 11, 2003 (see *infra*) amended Federal Law No. 62-FZ of May 31, 2002 exempting foreign citizens and stateless persons, who had been citizens of the USSR, from the general requirement to have resided five years in the Russian Federation in order to be eligible for citizenship (Article 14(4)). This category of people were required to have residence registration or residence permit in the Russian Federation as of July 1, 2002 and declare their wish to become citizens by January 1, 2006. Foreign citizens and stateless persons can be granted citizenship under the simplified procedure also if they: had one parent who is citizen of the Russian Federation and resides in the Russian Federation (Article 14(1)(a)); were Soviet citizens, live in one of the former Soviet republics and are stateless (Article 14(1)(b)); have citizenship of one of the former Soviet Republics and had finished high school or university in the Russian Federation (Article 14(1)(c)); were born on the territory of the Russian Federation and had Soviet citizenship (Article 14(2)(a)); were married to a Russian citizen (Article 14(2)(b)); are

As of the date this report went to press her citizenship application was still being processed.²²⁸

Some Roma with citizenship of one of the former Soviet republics were not able to obtain a residence permit in Russia. Natalia Ogly, 32, testified to the ERRC that she arrived from Nikolaev, Ukraine, with 3 underage children in Yablonovskiy, Adygey Republic, in 2000. She lived in the house of her 54-years-old father, Russian citizen, who was seriously ill. Since she was a Ukrainian citizen, Natalia applied for a residence permit, but the local immigration department allegedly asked a bribe in the amount of USD 1,000 (approximately EUR 770) and returned the documents to the applicant. She had no money to pay the amount demanded and she could not hire a lawyer to assist her with the legal and administrative matters involved. She informed the ERRC that 1,000 USD is the usual amount of money established by local authorities for this service.²²⁹

In another instance, in Yaroslavl, central Russia, the ERRC spoke with Ms Lidia Damaskina, 51, a Romani woman who has arrived in Russia from Ukraine in 1983. In 2003 she obtained Ukrainian citizenship and a residence permit for Russia. Her two daughters, Rada Damaskina, 21, and Alyona Damaskina, 15, were born in Russia. Neither of them was able to obtain whether Russian or Ukrainian citizenship.²³⁰ Rada's two children and Alyona's one child did not have birth

disabled and have a capable adult child who is a Russian citizen (Article 14(2)(c)). The simplified procedure also applies to disabled foreign citizens and stateless persons who arrived in the Russian Federation from the former Soviet republics and who have been registered in Russia as of July 1, 2002 or received permits for temporary residence in the Russian Federation and if they state their wish to receive Russian citizenship before January 1, 2006 (Article 14(3)). See Federal Law "On Citizenship of the Russian Federation" No. 151-FZ, available at: <http://www.vrf.ru/62-fz2.htm>.

²²⁸ See FIDH/Northwest Centre for Social and Legal Protection for Roma. *Russian Roma: At the Crossroads of all Forms of Discrimination*, Paris, 2004. p.24. Written communication with lawyer Marina Nosova, assisting Ms V.K. to obtain Russian citizenship, Budapest, March 23, 2005.

²²⁹ ERRC interview with Ms Ogly, July 2, 2004, Yablonovskiy.

²³⁰ According to Article 12(1)(g) of Federal Law "On Citizenship of the Russian Federation" № 151-FZ children can obtain Russian citizenship if they meet simultaneously the following conditions: they were born on the territory of the Russian Federation, their parents or their only parent were foreign citizens or stateless persons, and the children have been refused citizenship of the state of which their parents or single parent are citizens.

certificates because their mothers did not have passports. Rada and Alyona have applied for Russian citizenship, and were reportedly told that they should apply for Ukrainian citizenship instead.

In many cases, immigration and other officials exploit the fact that Roma are illiterate and unable to afford legal representation, and give arbitrary instructions to Roma which Roma are apparently not able to follow.

The amendments to the citizenship legislation introduced by the Federal Law “On Citizenship of the Russian Federation” No. 151-FZ of November 2003 were aimed at ameliorating the situation of many former Soviet citizens residing on the territory of the Russian Federation without any citizenship, by exempting them from the condition to have resided for five years in the Russian Federation in order to be eligible for citizenship (Article 14(4)). This category of persons are required, however, to have residence registration or a residence permit in the Russian Federation. Instances of arbitrary denial of such documents revealed during ERRC research indicate that Roma and others may still be excluded from citizenship if they have not been able to register their residence or obtain residence permit as foreigners.

9. DISCRIMINATION IN ACCESS TO SOCIAL AND ECONOMIC RIGHTS

There is no reliable data about the status of Roma in various sectoral fields nation-wide. ERRC research revealed a seemingly greater social class stratification among Roma in Russia as compared to other countries of Central and Eastern Europe. In Russia, one perhaps rather small but highly visible portion of the Romani community enjoys a relative prosperity. Some Romani entrepreneurs live in large, solid houses, whose interiors suggests wealth. Their children are high-achieving students in regular or elite Russian schools. In contrast, the ERRC research during the period 2000-2004 found that large parts of the Romani communities throughout Russia live in severe poverty and do not have access to basic social and economic rights. During field missions in Russia, the ERRC has witnessed degrading poverty and inhuman conditions in many Romani settlements. Many Roma do not have access to gainful employment or any employment at all. While lack of education or low education plays a significant role for the exclusion of large parts of the Romani minority from the labour market, cases of discrimination against Roma in employment were also reported to the ERRC.

While poverty and lack of access to social and economic rights guaranteed under international and Russian law are typical for large segments of the population of the Russian Federation, Roma bear also the burden of prejudice and discrimination denying them rights on the basis of their ethnicity.²³¹ Discrimination against Roma takes two broad forms: many individuals are subjected to direct discrimination facing less favourable treatment on grounds, which expressly relate to their ethnicity. Secondly, Roma experience indirect discrimination in access to social and economic rights, which are denied to them, among other things, on grounds that Roma do not have personal documents, including residence registration.

²³¹ Article 5 of the ICERD obliges States Parties to “undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law” in the enjoyment of a number of social and economic rights. See full text of the article at footnote 203 supra.

Racial discrimination in the enjoyment of economic, social and cultural rights is also prohibited under Article 2(2) of the ICESCR.

9.1 Access to Adequate Housing

Roma in Russia face serious obstacles in the exercise of the right to adequate housing as elaborated under international and domestic legal norms.²³² A large number of Roma live in a state of complete separation from mainstream society – in settlements or ghettos in substandard conditions. Most Romani settlements and

²³² Pursuant to Article 11 (1) of the ICESCR, States parties “recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. This Article read together with Article 2(2) of ICESCR guarantees the exercise of the right to housing “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

General Comment 4 “The right to adequate housing” of the Committee on Economic, Social and Cultural Rights (CESCR) notes that “the human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights.” Further in General Comment 4, the CESCR specifies that “the reference in article 11 (1) must be read as referring not just to housing but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: ‘Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities – all at a reasonable cost.’”

The CESCR defines the elements of “adequate housing” as follows:

Legal security of tenure. [...] Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;

b) Availability of services, materials, facilities and infrastructure. An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;

c) Affordability. Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. [...] In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;

d) Habitability. Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. [...];

neighbourhoods visited by the ERRC and its partner organisations in recent years are located on the outskirts of towns and cities, with little access to public transportation and few or no adequate means of communication with the outside world, such as telephones. Although some Romani families can afford better and even elite housing inside or outside the Romani settlements or neighbourhoods, in some cases the overwhelming majority of the local community live in appalling conditions, often in makeshift shacks. Moreover, the respective local authorities have failed to date to provide some of these settlements with basic infrastructure, such as drinking water, heating, sewage or even electricity. Public services such as garbage removal or road repair are virtually unheard of in the many Romani settlements. Segregated housing complicates problems in accessing education or employment. In the absence of public transportation, Romani children often have to walk long distances to attend school, even in the cold Russian winter.

For example, in July 2001, the ERRC and representatives of the Moscow-based non-governmental organisation Memorial visited a Romani settlement in Pushkin-skiye Gory near Pskov, in north-western Russia, where makeshift housing with no electricity or heating appeared unfit for human habitation even on warmer, longer summer days. In the same area, the children of the Samulevich family from the Romani settlement of Vasyugino, near the town of Novorzhev, had to walk three kilometres to attend the nearest school, a feat that becomes practically impossible to accomplish during the hard northern winters of the region. At the time of the ERRC/Memorial visit, in the small, wet and cold hut in which the Samulevich family lived, the children slept on the floor. At the time of an ERRC/Memorial visit in 2001, in Gorelovo, outside St. Petersburg, Mr Pyotr Martsinkevich, an elderly Romani man, lived with his wife and his two grandchildren in a barrack with an earthen floor. Mr Martsinkevitch, who suffered from tuberculosis, had to sleep on the bare ground.

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- (e) Accessibility. Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. [...];
- (f) Location. Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. [...];
- (g) Cultural adequacy. The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. [...].” See The right to adequate housing (Art.11 (1)): 13/12/91. CESCR General comment 4. (General Comments), available at: [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+comment+4.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+comment+4.En?OpenDocument).

Such examples stand in stark contrast against the widespread stereotype of the “rich Romani palaces” featured in Russian media and condemned as having been built from money earned by dealing drugs.²³³

The poverty factor is exacerbated by widespread discriminatory treatment of Roma in access to adequate housing. According to testimony of many Roma, local authorities refuse to provide eligible Romani families with adequate housing, exposing many of them to harsh and life threatening conditions. Arbitrary refusal of residence registration and of legalisation of housing lay the ground for abusive forced evictions often resulting in homelessness and life in extremely substandard conditions. In some cases reported to the ERRC, Roma with residence registration had made attempts to register homeless members of Romani communities as residing in their houses, but officials refused to register homeless Roma referring to restrictions in the Housing Code.²³⁴

9.1.1 Discriminatory Refusal by Authorities to Provide Roma with Adequate Housing

Many Roma live in extremely poor conditions, which do not meet basic standards for adequate housing. Roma who are apparently eligible for alternative housing, however, are likely to encounter indifference or even hostility on the part of local authorities who often express overt anti-Romani sentiments.

According to ERRC research in June 2003 and August 2004 in the city of Volzhskiy, Volgograd region, over fifty Roma lived in a building on 9 Udarnaya Street. Only one Russian family lived in the building, which was referred to as a “Gypsy house”. All the flats in the building belonged to the municipality. The building was in a dilapidated condition despite the fact that the municipality had registered that building as fit for dwelling. Some windowpanes and even frames were missing. The walls inside the flats were made of cardboard and in many places were falling apart. There were mice in the flats, so children were scared to walk to the bathroom dur-

²³³ See Kulaeva Stephaniea. “Poverty among Roma in Northwestern Russia”. In *Roma Rights 1/2002, Extreme Poverty*, available at: http://www.errc.org/rr_nr1_2002/field1.shtml.

²³⁴ ERRC interview with Mr P.L., local Romani activist, June 29, 2004, Rostov.

ing the night. Many flats had high levels of humidity. Some Roma suffered from tuberculosis yet lived together with their family members. Most of the flats were overcrowded. In some cases up to fifteen people, including a high proportion of disabled, lived in two small rooms. In 2003 the municipality sent workers to perform renovation of the building, but apart from minor repairs – e.g. a minimal amount of plaster applied to those parts of the wall that were in the worst condition – no proper renovation was carried out. The workers reportedly had three Roma sign a protocol that the renovation had been completed. No cleaning was provided in the vicinity of the building, although the municipal cleaner assigned to the area was obliged to clean the area around the house as well, but, according to the Roma who lived in house, when confronted, the cleaner only said, “Hm, the Gypsy house”, laughed in the face of the Roma and walked away. The Roma reported they had been paying rent regularly. However, when they sought assistance from the local department of housing, the officials reportedly sent them away in a humiliating way, using foul language. There was no gas provision in the building at the time of the ERRC visit. The electricity was cut off, although the families claimed that they had regularly paid their bills. The neighbourhood had been at risk of flooding by the river Volga, and the municipal authorities have been distributing flats to residents of the area. However, according to Ms Konstantinova, a Romani activist and resident in a nearby building, ethnic Russians and refugees usually received municipal flats in a decent condition, whereas such flats are not assigned to the Roma.²³⁵

In another case, Ms Ekaterina Lekatarchuk, a 37-year-old Romani woman from Tomsk, Siberia, told the ERRC that on March 27, 2004, her 11-year-old child was badly injured as a result of collapse of the ceiling in the house where they rented a municipal flat. A patch of plaster from the ceiling fell on the child’s head causing concussion, and also resulted in partial deafness and other permanent complications. After examination by the competent authorities, the child was categorised with a medium level of handicap. The ERRC visit established that the family of Ms Lekatarchuk lived in miserable conditions. The heating system in the house had been damaged for a long time and leaked hot water, causing a high level of humidity in the house. Because of the humidity the walls and the ceilings were crumbling and falling out. In the seven-month-long Siberian winter, the ceilings and the walls inside had

²³⁵ ERRC interview with Ms Elena Konstantinova, June 21, 2003, Volzhskiy. The 1983 Housing Code of the Russian Federation provides at article 91 that citizens, whose accommodation is threatened with collapse, shall be provided with alternative accommodation.

been covered with a layer of ice. When the weather warmed up the ice melted forming pools of water in the rooms. The electricity cables had not been changed since 1975 and posed risks to the safety of the house inhabitants. After the incident with her child, Ms Lekatarchuk had made several attempts to approach local authorities to provide her with adequate housing. In the regional administration, officials had reportedly responded to Ms Lekatarchuk's request, "You are a tough nation. Everything will be fine with you". Finally, in the end of 2004, Ms Lekatarchuk filed a lawsuit against the municipality seeking compensation for damages.²³⁶

Alexandra Alexandrova, 67, a Romani woman from Syrkovo, Novgorod Region, also reportedly experienced racially motivated abuse by local authorities when she applied for alternative accommodation. She had worked in the local collective farm for 21 years and then retired. As of May 2003, Ms Aleksandrova lived in a little wooden house. The house was reportedly falling apart and there was no heating. In winter Ms Alexandrova had to sleep in a coat and felt boots. Ms Alexandrova had many times asked the local administration to give her a better place to live, but she never got one. Several years previously when she was away from home, the housing inspectors reportedly carried out a check of the house and concluded that the house was in normal condition. Being illiterate, Ms Alexandrova could not challenge the decision of the inspectors. She told the representative of the Northwest Centre for Social and Legal Protection of Roma that the Russians who had been applying together with her at the local administration for improvement of their housing had already received new flats. She believed that she was denied alternative housing because she was Romani. When she went to the local authorities and asked them to find a solution to her problem she was told, "You Gypsies, you are thieves. You are not entitled to anything".²³⁷

Similarly, anti-Romani sentiments were apparently behind the failure of the authorities in Pskov, north-western Russia, to provide Ms Sofia Kozlova and her family with adequate accommodation. When the derelict house Ms Kozlova and her children lived in collapsed in 1998, local authorities in Pskov moved her family

²³⁶ ERRC interviews with Ms Lekatarchuk, July 24, 2004, Tomsk. ERRC telephone interview with Mr Lev Dende, Mr Lekatarchuk's legal representative, February 8, 2005, Budapest.

²³⁷ The information on the case was provided to the ERRC by the North-West Centre for Social and Legal Protection of Roma. Interview of the North-West Center with Ms Aleksandrova, May 10, 2003, Syrkovo, (unpublished).

into two small rooms in a substandard barrack with unacceptable living conditions. As of April 2002, the barrack had no heating; oilcloth was used instead of windowpanes. Because of the cold, Ms Kozlova's children frequently fell ill. Despite the fact that local authorities had reportedly promised Ms Kozlova that the barrack was only a temporary solution, and that she and her family would be moved to adequate housing in the spring of 1999, as of February 2003, Ms Kozlova's family had not been offered alternative housing. According to Ms Kozlova, each time she went to the local authorities to ask for adequate alternative housing, she has been told that she is not entitled to any more space and that, as a "Gypsy woman", she would not be able to handle the "luxury" of more space. Finally, since local authorities had not registered Ms Kozlova as living in any other place than the old house, which collapsed in 1998, as of February 24, 2003, Ms Kozlova was under threat of eviction even from the inadequate barrack that was assigned to her.²³⁸

On August 26, 2004, the ERRC visited the Romani settlement in Glushonki district of Smolensk. There, about 150 Romani families lived in utter poverty. The neighbourhood had no paved roads and rubbish covered the spaces between the houses. Many families had not had either electricity or running water for several years. There was a swamp in close proximity to the Romani houses. A Romani child had reportedly drowned in the swamp several years earlier. The Roma in the neighbourhood had lived there for 36 years. The land belonged to the municipality, which gave permission for the construction of the houses. All of the houses, however, were "illegal" because they didn't meet the sanitary and safety requirements. Local Romani activists tried to connect the neighbourhood to the power supply grid and to build canalisation, but it turned out that the street where Roma lived was not included in the city plan, which meant that they were unable to do so, and the area remained without adequate infrastructure.

9.1.2 Forced Evictions

Forced evictions are considered a *prima facie* breach of governments' obligations under international human rights law due to numerous implications with respect to a

²³⁸ ERRC interview with Ms Sofia Kozlova, April 2002, Pskov.

range of other fundamental rights arising as a consequence of forced evictions.²³⁹ The ERRC and partner organisations have documented instances of forced evictions, or attempts to evict – including mass evictions – of Roma from local settlements. Such acts are frequently undertaken by local law-enforcement officials and facilitated or tolerated by local authorities. In many instances, arbitrary denial of residence regis-

²³⁹ In its General Comment No. 4 (1991) on the rights to adequate housing enshrined in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Committee on Economic, Social and Cultural Rights (CESCR) concluded that “forced evictions are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.” See Committee on Economic, Social and Cultural Rights. “General Comment No. 4 (1991), The Right to Adequate Housing (Art 11(1) of the Covenant)”, adopted by the UN Committee on Economic, Social and Cultural Rights on 12 December 1991, UN doc. E/CN.4/1991/(4)1991, paragraph 18, available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/469f4d91a9378221c12563ed0053547e?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?Opendocument).

The United Nations Commission on Human Rights resolution 1993/77, entitled “Forced evictions” adopted on March 10, 1993, states: “The Commission on Human Rights [...] affirms that the practice of forced evictions constitutes a gross violation of human rights [...]” The Commission further urged governments “to take immediate measures, at all levels, aimed at eliminating the practice of forced evictions [...] to confer legal security of tenure on all persons currently threatened with forced evictions.” The resolution is available at: <http://www.unhcr.ch/html/menub/2/fs25.htm#annexi>.

General Comment No. 7 (1997) by CESCR, entitled: “General Comment 7 on the Right to Housing (Art 11(1) of the Covenant): forced evictions”, defines forced evictions as: “the permanent or temporary removal against their will of individuals, families and/or communities from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. Paragraph 14 adds that “In cases where eviction is considered to be justified, it should be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality.”

The Committee also observed that “in essence, the obligations of States parties to the ICESCR in relation to forced evictions are based on article 11.1, read in conjunction with other relevant provisions. (General Comment No. 7, paragraph 8). In particular, Article 2.1 ICESCR obliges States to use “all appropriate means” to promote the right to adequate housing. However, in view of the nature of the practice of forced evictions, the reference in Article 2.1 to progressive achievement based on the availability of resources will rarely be relevant. The State itself must refrain from forced evictions and ensure that the law is enforced against its agents or third parties who carry out forced evictions (as defined in paragraph 3 above). Moreover, this approach is reinforced by article 17.1 ICESCR, which complements the right not to be forcefully evicted without adequate protection. That provision recognises, inter alia, the right to be protected against “arbitrary or unlawful interference” with one’s home. It is to be noted that the State’s obligation to ensure respect for that right is not qualified by considerations relating to its available resources.”

tration to Roma serves as a pretext for the subsequent eviction from the places where the Roma wanted to settle. Russian authorities often evict Roma flouting national and international standards with respect to adequate housing, exposing many individuals to homelessness and preventing them from access to other basic rights. As a rule, individuals whose homes have been demolished do not receive any compensation or alternative accommodation.²⁴⁰ Neither have authorities been held accountable for violating the law. The following instances are illustrative:

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) bans racial discrimination in the exercise of the right to housing. ICERD Article 5(e)(iii) states, “[...] States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] the right to housing.” (See CESCR, General Comment 7, Sixteenth Session, 1997, “The right to adequate housing (Art.11.1): forced evictions: 20/05/97”, available at: [http://www.unhcr.ch/tbs/doc.nsf/\(symbol\)/CESCR+General+Comment+7.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(symbol)/CESCR+General+Comment+7.En?OpenDocument))

²⁴⁰ A number of international law provisions require that governments ensure procedural protection for victims of forced evictions as well as access to legal remedy and compensation and/or alternative accommodation for those with respect to whom forced evictions have been applied.

General Comment No. 7 of the CESCR specifies the minimum procedural guarantees in cases of forced evictions, including inter alia, “(b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; [...] (g) provision of legal remedies.” Paragraph 16 states that, “Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.” (paragraph 17) (CESCR. “General Comment 7, Sixteenth Session, 1997, “The right to adequate housing (Art.11.1): forced evictions: 20/05/97”)

In General Comment No. 4 of the CESCR, the Committee on Economic and Social Rights Social expresses its view that “many component elements of the right to adequate housing [are] at least consistent with the provision of domestic legal remedies. Depending on the legal system, such areas might include, but are not limited to: (a) legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions; (b) legal procedures seeking compensation following an illegal eviction; (c) complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination; (d) allegations of any form of discrimination in the allocation and availability of access to housing; and (e) complaints against landlords concerning unhealthy or inadequate housing conditions. In some legal systems it would also be appropriate to explore the possibility of facilitating class

In the beginning of the summer of 2004, 16 Romani families (about a hundred persons) have arrived in Zharovikha village, Arkhangelsk region, from Volgograd, and addressed the local administration with the request to provide them with a site for construction of houses.²⁴¹ According to an order (N 739/1 of 02.07.2004) of Mr Kalinin, First Deputy of the Mayor in Arkhangelsk, a site for a temporary wooden construction was assigned. Moreover, the future settlement received a postal address, namely: Arkhangelsk, 37 Tarasov Street. Two months later, the city-planning Commission conducted official examination of the specified site during which it was established that construction was already underway, despite the fact that permission documentation had not yet been obtained. Following this, the mayor's office requested a court order for the demolition of the unregulated buildings. The buildings erected by the Roma were not solid constructions but temporary wooden sheds. Arkhangelsk has the status of a Far North territory, with harsh climatic conditions during winter and demolition of the sheds during wintertime could have exposed the Romani families to homelessness in severe climatic conditions.

In the meantime, this story was overblown in the local media, which apparently heeded the interests of local politicians and businessmen.²⁴² In August 2004, the local newspapers published articles directed against the group of Roma trying to settle in Arkhangelsk. Some publications alleged, without providing any evidence, that the Romani tabor had been expelled from Volgograd for drug dealing. Subsequent searches by local police reportedly did not find any drugs.²⁴³

action suits in situations involving significantly increased levels of homelessness.”(CESCR. “General Comment No. 4 (1991), The Right to Adequate Housing (Art 11(1) of the Covenant)

The UN Resolution 1993/77 mandates that, “All Governments [should] provide immediate restitution, compensation and/or appropriate and sufficient alternative accommodation or land, consistent with their wishes and needs, to persons and communities that have been forcibly evicted, following mutually satisfactory negotiations with the affected persons or groups.”

²⁴¹ The information on the case was provided to the ERRC by the Northwest Centre for Social and Legal Protection of Roma.

²⁴² For example, one article stated that a local businessman who had his house next to the Kalderary settlement, initiated fight against Roma. Kuleshov, Aleksandr. “Tsygane ostanutsya bez zhilia?”. In *Pravda Severo-Zapada* No 43, October 27, 2004; “Uznayte ikh i strakh proydet”, No 44, November 3, 2004.

²⁴³ The ERRC and the Moscow Helsinki Group sent a letter requesting the Lomonosov's District court of Arkhangelsk in its hearing of the case on November 23, 2004 to ensure that the housing rights of the Romani families be adequately protected, decline the claim for demolition of the wooden buildings

According to Ms Marina Nosova, lawyer of the Northwest Centre for Social and Legal Protection of Roma, during a court preliminary hearing held on November 22, 2004, Roma proposed to the Mayor's office a friendly settlement with the following conditions: the respondent (the Romani families) would demolish the temporary unregulated buildings immediately after receiving an official permission for the building of proper houses. The representative of the Mayor's office reportedly rejected the proposal and insisted on demolishing the buildings. On March 14, 2005, the Regional Court of Arkhangelsk upheld the first instance court decision to demolish the buildings erected by the Roma.²⁴⁴

In mid-August of 2001, 16 Romani families – approximately 115 people – recently moved from the Voronezh region of central Russia to the city of Krasnodar, in the south of Russia, were expelled by local authorities in Krasnodar. Following their arrival in Krasnodar, the Roma registered as locally resident with their relatives and received temporary residence permits. Local authorities undertook fingerprinting and videotaping the newcomers. When the Romani families started building houses in one of the suburban areas without having sought official permits for construction, authorities reacted swiftly: On the evening of October 12, 2001, the street where the newcomers were living was blocked by police. Most of the recently arrived Roma were forced into two buses, and their personal belongings were loaded onto twelve lorries. Some of the Roma were allowed to leave in their cars. Flanked by police cars, the motorcade set off for the Voronezh region, more than 500 kilometres away from Krasnodar.²⁴⁵

In March 2001, 18 Romani families seeking to improve their housing conditions obtained permission from the joint stock company Omskgidroprivod to use 0.7 hectares of the unexplored land next to Dunayevskogo street in Omsk, Siberia, for building 8-10 wooden houses. The Roma started collecting the necessary

already constructed and prevent the exposure of the Romani families to the winter cold and other harms of a homeless existence. In its response to the letter, Mr Nilov, Mayor of Arkhangelsk, whom the NGOs sent a copy of the letter of concern, recognised that in some newspapers' articles that had published materials on the case direct discriminatory attitudes towards Roma could be found. At the same time, Mr Nilov assured the ERRC and the Moscow Helsinki Group that the Mayor's office does not share such attitudes.

²⁴⁴ ERRC telephone interviews with Ms Nosova, December 13, 2004, Budapest and April 22, 2005, Budapest.

²⁴⁵ Case summary based on ERRC communications with Krasnodar-based human rights organisations, October 2001. See also Rokotov, Viktor. "Opyat Deportatsiya". In *Vek, Yuzhny vestnik* No 45, Krasnodar, 2001.

documents and applied to the Omsk Land Resources Committee. Their inadequate housing conditions forced them to start building the houses prior to having obtained all the necessary documents. On October 15, 2001, the Head of the Kirovskiy Administrative District of Omsk city issued an Order №382-1 to demolish the Romani houses in Dunayevskogo street, stating that these houses had been built in violation of the land and town planning regulations. The decision about the demolition of the houses had been taken without consultation with the Roma. In order to survive the cold Siberian winter, the Romani families built sheds on the site of the demolished houses.

After sending several complaints to the Governor of the Omsk region and the mayor of Omsk, the Romani families were informed that the building of the houses in Dunayevskogo street could not be renewed because it interfered with the general planning of the city. The Roma were informed that the site was reserved for future construction of a main road. However, when the ERRC visited the neighbourhood in July 2004, it found that the empty spots of the demolished Romani houses were interspersed in a mosaic pattern with non-Romani houses that had not been affected. The selectivity of the demolition was made clear that a main road was not, in fact, being planned. The Roma had apparently been removed from that part of the city on grounds of their ethnic origin. At the beginning of 2004, the Roma had been offered land lots far outside the city, where they could start building new houses. The area, however, was hardly fit for habitation at the time of the ERRC visit. As of July 2004, there was no sewage system or running water. The Roma had to walk long distances in order to fetch drinking water from a public fountain in the nearest village. According to the information provided to the ERRC by the Romani families at the site, ten children were sick with malaria and were in hospital. Indeed, they had used the unhygienic well located near their houses. The Roma stated that the only reason for the negative attitude of the authorities towards them was their nationality, as no ethnic Russian family in the area had ever been forced to demolish their own house at the beginning of the winter. According to Ivan Barvalovskiy, local Romani activist, the Roma eventually left the place and relocated on their own to another village.²⁴⁶

While in Omsk, the ERRC met Ms Zoya Sharypova, an official from the Commission on Human and Citizens' Rights at the Governor's office. The ERRC

²⁴⁶ ERRC telephone interview with Mr I. Barvalovskiy, March 7, 2005, Budapest.

informed Ms Sharypova about the 2001 case of eviction of Roma and showed her documents. In response, she said, “I will deal with the case of these evicted Gypsies if I receive a written complaint.”²⁴⁷ She told the ERRC: “The Gypsies are a headache. [...] They are people of inordinary behavior. On the market and everywhere they steal.” However, when asked by the ERRC whether her office had received complaints against Roma, Ms Sharypova responded: “No, no one has ever complained.” Ms Sharypova also expressed the view that Roma themselves did not have problems because they did not complain and added that the officials from the Commission did not have contacts with Romani leaders because they did not know where to find the Romani leaders.²⁴⁸

9.1.3 Refusal of Authorities to Legalise Romani Housing

Roma in the Russian Federation are systematically denied security of tenure.²⁴⁹ Russian authorities as a rule fail to act to assist Roma in legalising their houses, in particular when these are in informal settlements.

Roma frequently meet obstacles in registering houses built by them. For example, over 300 Moldovan Roma (approximately 45 families) lived in the Romani neighbourhood at the outskirts of Ulyanovsk.²⁵⁰ They moved to Ulyanovsk from Volgograd in 1992 and settled on a piece of land that belonged to a neighbouring military unit. The families built houses on the land and since then they have not been able to legalise their houses. Local authorities allegedly want to evict them from that

²⁴⁷ This comment is typical for the bureaucratic attitude among public officials. It is not that public officials are limited by law to act only if seized – it is rather that due to their racist bias they lean on bureaucratic procedure as a way to avoid doing anything.

²⁴⁸ ERRC interview with Ms Zoya Sharypova, July 22, 2004, Omsk.

²⁴⁹ International law recognises security of tenure as a component of the right to adequate housing and failure to ensure security of tenure involves a violation of the ICESCR. CESCR General Comment no. 4 states that: “Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. State parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such [protection...].” See The right to adequate housing (Art.11 (1)): 13/12/91. CESCR General comment 4. (General Comments).

²⁵⁰ ERRC field research, August 19, 2004, Ulyanovsk.

place. There was only one property register for all houses reportedly as a compromise from the local authorities. There were problems with basic infrastructure, too: there was one well for the whole community, and there was no gas. The electricity supply was irregular. The Roma have accumulated a debt of 500,000 roubles (approximately EUR 13,900) for electricity they have consumed over the past 10 years. The Roma told the ERRC that they had asked the authorities to provide them with separate electricity metres to be able to pay individually, but the authorities ignored the request. Roma heat their homes with coal and waste of the local furniture factory, paying 100 roubles per lorry of waste.

At the time of an ERRC/Memorial visit in February 2002, in the village of Yaitskoe, near Samara, approximately 300 Roma lived in appalling conditions in a segregated settlement. There was no basic infrastructure or services such as running water, waste removal, or gas, and access to public transportation was limited (the nearest bus stop was 1.5 km from the village). The only primary school in the settlement was closed because it had no heating. The Roma of Yaitskoe lacked basic security of tenure, since the legal status of the land on which the Romani settlement was located was not resolved. When the Roma had bought land on the outskirts of the village several years earlier, they had not received official documents establishing the purchase of the land. The local municipality soon afterwards reportedly sold the same land to a local businessman who since built a fish processing enterprise there. Soon after the purchase of the land, the businessman allegedly threatened the Roma several times that their houses would be set on fire. Tensions further escalated in May 2002 when unknown perpetrators set on fire five houses belonging to Roma in the settlement. Following the arson attack, the businessman to whom the municipality had sold the land reportedly threatened that the rest of the houses would be burned too or pulled down. The Roma sent a letter to Mr Limanskiy, the mayor of the city of Samara, under whose administration the village of Yaitskoe was, asking him to assist in resolving the dispute regarding the legal status of the land on which the Romani families had built their homes. Despite all efforts undertaken by local Romani organisations mediating in the dispute, the Roma in Yaitskoe had not secured legal tenure as of February 2003, and they continued to fear a forced expulsion from their homes.²⁵¹ During a round-table discussion “Roma and the police” held in Samara in April 2004

²⁵¹ Case summary based on ERRC/Romano Kher interview with Roma of Yaitskoe, February 2002 - April 2004, Yaitskoe. Names of interviewees on file with the ERRC.

participating public officials recognised that such situation was abnormal. However, no progress had been made as this report went to press.

In some instances, authorities have reportedly failed to warn Roma about the safety conditions on sites chosen by them for building houses, and subsequently refused to legalise buildings on the ground that safety rules had been violated. For example, Mr Aleksandr Ravinskiy, a Romani man, lived with his family in the settlement Baltino, Mytishchi municipality, to the northwest of Moscow. He had arrived in the early 1990s from the Gomel area of Belarus with his wife and five children, but had been repeatedly turned down when applying for a residence permit. In 1995, he bought a piece of land on which he then built a house for his family. When he sought to register his residence, he was told that the house had been built under a high voltage traffic line and that therefore it could not be registered, as a result of which no residence registration could be issued either. The purchase of the land itself had not been formalised and Mr Ravinskiy did not have a valid ownership document. He told ERRC in June 2003 that the building of the house had been proceeding in full view of the local authorities and apparently with their tolerance. According to Mr Ravinsky, however, the local administration personnel never informed him that the land was not appropriate for the construction of housing, or that the construction might be considered illegal. He learned this only after he had completed the building.²⁵²

9.2 Access to Education

In each community visited by the ERRC throughout Russia large numbers of Romani children have either not attended school at all or have dropped in the early stages of their schooling. Precise figures about Roma without any formal education are difficult to obtain due to the fact that there have been no specialised nation-wide surveys. Some indication about the proportions of Romani children not attending school is provided by a 2004 report of the then Minister for Nationalities on the Situation of Roma in the Russian Federation. According to this report, education remains among the most acute problems affecting Roma. For example, in Belgorod region, out of 1,048 Romani children only 189 have

²⁵² ERRC interview with Mr Aleksandr Ravinskiy, June 2003, Baltino.

been going to school and still fewer of them have continued their education after the fourth grade; in Kostroma region, out of 240 Romani children of school age, only 59% went to school.²⁵³

A 2003 survey conducted in 27 districts of Smolensk region, central Russia, where an estimated 7,000 Roma live, revealed that more than a hundred Romani children of school age didn't attend school, and that two-thirds of Roma were illiterate and unemployed.²⁵⁴

Romani children in Russia face numerous obstacles in accessing education ranging from lack of documents and refusal to enrol them in school, to failure of the authorities to ensure that schools are physically accessible for Romani children.²⁵⁵

²⁵³ Document No 1016P-P11 1032674. Information on the situation with Roma in Russia. Moscow, February 20, 2004.

²⁵⁴ Nefedova, Lyudmila. "Doklad o polozhenii tsygan v Smolenskoj oblasti na pervoi regionalnoi konferentsii po teme: 'Aktualnye problemy adaptatsii tsygan v sovremennom rossiyskom obshtestve.'" Smolensk, November 27, 2003. Document on file with the ERRC.

²⁵⁵ A number of international instruments guarantee the right to education. Under Article 13 of the ICESCR read in conjunction with Article 2(2) of this treaty, States Parties to the ICESCR recognised the right of everyone to education "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Under Article 28(1) of the Convention on the Rights of the Child "States Parties recognise the right of the child to education [...] on the basis of equal opportunity" and commit, inter alia, to "take measures to encourage regular attendance at schools and the reduction of drop-out rates".

In General Comment 13 on the right to education, CESCR defined the essential features of education at all levels and in all its forms:

- a) Availability – functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. [...];
- b) Accessibility – educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:

Non-discrimination – education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (see paras. 31-37 on non-discrimination);

Physical accessibility – education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology

Unavailability of pre-school instruction in Russian language also creates obstacles for the Romani children who have not mastered the Russian language by the time they enrol in school and is a cause for dropping out of school.²⁵⁶ The ERRC had documented cases when Romani children have been subject to abuse including racist slurs in the classroom by both teachers and schoolmates.

9.2.1 Lack of Personal Documents as a Barrier to Education

During field research in August 2004 the ERRC representatives encountered many Roma who had not been able to enrol their children in school due to lack of residence registration. For example, in Aisha, near the city of Kazan, Central Russia, where 10 Romani families lived, the community leader, 58-year-old Roman told the ERRC that many of the Roma lacked residence registration and this is why their children could not attend school. The children who attended school dropped out by the third grade.

In another instance, a group of about twenty Romani families from Volzhskiy, Volgograd region, expressed their willingness to send their children to the local school and asked the local Romani activist Ms Elena Konstantinova, chair of lo-

(e.g. access to a “distance learning” programme); Economic accessibility – education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available “free to all”, States parties are required to progressively introduce free secondary and higher education;

c) Acceptability – the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents [...];

d) Adaptability – education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. (See CESCR. General Comment No. 13. The right to education. (Article 13 of the Covenant), available at: [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/ae1a0b126d068e868025683c003c8b3b?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/ae1a0b126d068e868025683c003c8b3b?Opendocument))

²⁵⁶ For example, Ms Marina Zalapina, director of school No. 8 of Chapayevsk, Samara region, with about 120 Roma students out of 350 students in total, told the ERRC that in the absence of pre-school education Romani children have poor command of Russian. As a result, while in the 1st-3rd grades half of the children are Roma, in the higher grades the number of Roma gradually decreases. Ms Zalapina

cal Romani NGO Juvlikano Romano Kongress, to help with all documents needed for enrolling their children in elementary school. It turned out that children had to undergo medical tests necessary for enrolment. The tests cost approximately USD 10-15 (approximately EUR 8-11.5). Ms Konstantinova tried to collect documents proving indigence, to make the test free of charge for poor Roma. However, low-income status of a family must be proved before local administrations with relevant personal documents, including residence registration. Almost none of the Roma from that group had residence registration and as a result none of the children had a chance to enrol in first grade in 2003.²⁵⁷

9.2.2 Failure of Authorities to Provide Transportation to School

Lack of transportation for Romani children to school sometimes makes the school physically inaccessible, especially for children who live in rural areas and in settlements located on the fringes of towns and cities. For instance, in the city of Tver, central Russia, during field research in the Romani settlement Savatyevvo in August 2004, the ERRC was told that the nearest school was located 3 km away. The school was attended predominantly by Romani children from the settlement. Several attempts of the Roma to ask the local authorities for transportation for their children were met with indifference. The same problem was communicated to the ERRC by the Roma from the Kalinovo settlement in the city of Ivanovo, central Russia. The school was far away from the settlement and the children had to cross a big boulevard on the way to school. Some years ago the Roma petitioned the local administration to build a school in the settlement and were allegedly told to collect money and build the school themselves.

In some cases school and other local authorities clearly differentiate between Romani and non-Romani children to the detriment of the Romani children with respect to ensuring conditions for access to school. According to the testimony of Mr Vasiliy Kutenkov to the ERRC, towards the end of 2003, the school in the Yaitskoe settlement, Samara

stated that Romani children like to come to school, but not infrequently they have difficulties attending classes because they live in bad conditions, parents are unemployed, elder children must help adults with new-born children, etc. ERRC interview with Ms Marina Zalapina, April 5, 2004, Chapayevsk.

²⁵⁷ ERRC telephone interview with Ms Elena Konstantinova, September 21, 2003, Budapest.

region, was closed due to failure of the heating system.²⁵⁸ At least 38 Romani children from the settlement stopped attending school because the nearest school in Pridorozhny village was about 5 km away from their settlement and the authorities did not ensure transportation for the Romani children. At the same time, Russian children who lived nearby Yaitskoe and also used to attend the Yaitskoe school, were provided with special transport and attended the school in Lopatino village, about 10 km away from Yaitskoe. The school director of the Lopatino school, who was also a director of the school in Pridorozhny village, had reportedly explained to Mr Kutenkov that the bus was too small for all children from Yaitskoe and if Mr Kutenkov could find an opportunity to rent one more bus, the director would open a class for the Romani children in the Pridorozhny school. In October 2004, the Ministry of Education and Science of the Samara Region responded to Mr Kutenkov's inquiry about the opening of the Yaitskoe school in the school year 2004-2005, that the school heating had not been mended and the school would not open but the Romani children would be enrolled in and transported to the Pridorozhny school.²⁵⁹ By December 2004, however, no transportation was available. At that point, Mr Kutenkov again addressed the Regional Ministry of Education enclosing to his letter a list of 38 Romani children who wanted to attend school. The Ministry of Education and Science also demanded that the Romani parents submit written requests for enrolment. Since many Romani parents were illiterate and unable to conform to this requirement, Mr Kutenkov organised the submission of written requests by the parents to the Pridorozhny school. Finally, in January 2005, the Minister of Education and Science of Samara region wrote to Mr Kutenkov that in order to enrol in the school the children should obtain medical certificates.²⁶⁰ While submission of medical certificates is a general requirement for enrolment, in this particular case this requirement practically prevented Romani children from enrolment because the parents did not have residence registration and respectively medical insurance. In order to obtain medical certificates for their children the parents had to pay 1,000 rubles (approximately EUR 27) per child, amounts which were unaffordable for them. Eventually, following several appeals by local Romani activists to the regional and city authorities, the latter agreed to pay for the issuing of medical certificates

²⁵⁸ ERRC telephone interviews with Mr Vasiliy Kutenkov, January 16, 2005, Budapest and April 22, 2005, Budapest.

²⁵⁹ Letter No 2883, dated 11/10/2004 from the Regional Ministry of Education and Science of Samara Region, on file with the ERRC.

²⁶⁰ Letter No 05, dated 18/01/2005 from the Minister of Education and Science of Samara Region, on file with the ERRC.

of the Romani children. The children started attending the Pridorozhny school on April 18, 2005 – after a break of almost a year and a half – and have reportedly been ensured that they would be regularly enrolled at school starting from September 2005.

9.2.3 Racially-Based Abuse of Romani Children at School

A recently published textbook for Russian secondary school, approved by the Ministry of Education and Science of the Russian Federation, compounded the racist images of Roma abundant in the Russian media. The “Basics of Private Security and Life Safety”²⁶¹ – a textbook for the tenth grade, advises students against:

Touching the homeless and Gypsies, their clothes, their hands, the objects they have been using, even the place where they sat or lay (in the metro or in underground passages)... Possible is infection with pediculosis, gastric and enteric diseases, respiratory virus diseases, dysentery, typhoid, cholera, tuberculosis, grippe, syphilis, spotted typhus.²⁶²

²⁶¹ M.P. Frolov, E.N. Litvinov, A.T. Smirnov. edited by Y.L.Vorobyev, First Deputy Minister of Emergency Situations. *Osnovy bezopastnosti zhiznedeyatelnosti. 10 Klass.* (Basics of Private Security and Life Safety). Moskva: Astrel AST, 2004.

²⁶² With respect to the textbook, Ms Nadezhda Demeter, Vice-president of Federal National Cultural Autonomy of the Russian Roma, told the ERRC: “This expression is reminiscent of a law adopted in Germany in 1926, ‘against Gypsies, tramps and parasites’”. ERRC communication with Ms Demeter, December 7, 2004, Moscow.

On December 16, 2004 the ERRC sent a letter to the Minister of Education and Science of the Russian Federation expressing concern about the fact that the textbook approved by the Ministry of Education and Science contained inflammatory language about Roma. On January 26, 2005, the Director of Izdatelstvo Astrel – the Publishing House which published the textbook – wrote to the ERRC apologising for the “lack of tactfulness with respect to the people of Gypsy nationality”. The publisher informed the ERRC that the text in question had existed in an earlier draft but was deleted in the final draft, and the release of the book with the abolished text was the fault of the editor who prepared the book for print. The Director informed the ERRC that the editor was dismissed. Furthermore, according to the Director “in the little number of schools which had bought the book, the teachers were instructed to clarify to the children the injustice with respect to Roma contained in the text in question. (Letter to the ERRC by Yu.V. Deykalo, Director of Publishing House “Astrel”, dated 26.01.2005)

The ERRC did not receive response from the Ministry of Education and Science and is not aware of any responsibility sought from officials from the Ministry of Education and Science who had approved the textbook.

In a public environment increasingly penetrated by anti-Romani racism, it is not surprising that teachers and non-Romani children freely express racial prejudice against Romani children at school. In St. Petersburg, representatives of Memorial recorded the following conversation between a Russian boy and a teacher.²⁶³ Pointing in the direction of a classroom with Romani children, the boy asked the teacher: “Why are you working with them?” “Why?” answered the teacher, “We could work with you too if you want. We can organise a Russian choir. What’s the matter, anyway?” “The problem is that they are blacks, and we are in Russia here,” answered the boy.

In Kimry, Roma testified to the ERRC that their children had stopped attending school because non-Romani children harassed them, calling them “drug-dealers”. The Roma from the community allegedly collected money to pay a teacher to go to the Romani neighbourhood.²⁶⁴ In another instance, according to a Romani man from the town of Kinel, east of Samara,²⁶⁵ a schoolteacher once declared: “I will not teach Gypsies.” Romani parents complained to the headmaster. Following the complaint, the teacher’s husband, who was a police officer, reportedly went to the Roma and said: “If you want to live peacefully, don’t send your kids to school.” According to Roma, non-Romani schoolchildren in Kinel generally have a negative attitude towards Romani children and often make humiliating references to their ethnicity.

Widely reported instances of anti-Romani speech at school seriously question the teachers’ preparedness to treat Roma equally and offer them the quality of teaching that is offered to other students. Anti-Romani prejudice has apparently induced school authorities in some places to separate Roma from non-Roma at school. In Cheboksary, the capital city of the Chuvash republic, during field research in August 2004, the ERRC learned that in the local mainstream school attended by Roma and non-Roma there was one separate room on the ground floor for the Roma.²⁶⁶ This class – which had a separate entrance – was attended by Romani children of various ages: from 7 to 14. Classes reportedly lasted for only two hours per day. According to testimonies by several Romani children,

²⁶³ Moscow Helsinki Group. “Roma as a particularly vulnerable group”. Available at: <http://www.mhg.ru/english/1FCE327>.

²⁶⁴ ERRC interviews, August 17, 2004, Kimry.

²⁶⁵ ERRC interview with Romani families, August 23, 2004, Kinel.

²⁶⁶ ERRC interview with local Romani activists, August 19, 2004, Cheboksary.

schoolteachers asked various amounts of money from them allegedly for renovation of the school. Romani children also claimed that at the opening new school year ceremonies, they sat separately from non-Romani children and that they were also requested to pay various amounts of money for yearly enrolment. The quality of education, according to Roma, was poor and the teachers had no interest in providing quality education to Romani children. Some children complained that non-Romani children verbally abused them making degrading references to their Romani ethnicity.

While some school authorities may prevent enrolment of Romani children at school, in Nizhniy Novgorod Roma reported to the ERRC that the educational authorities took opportunity of the parents' desire to enrol their children in order to extort money from the parents. According to Mr Bogomolov, Romani leader from Nizhniy Novgorod, when Romani parents attempt to enrol their children in school, some headmasters first say that there are no places, but then explain that if the parents could make a contribution to the school fund for renovation, they could decline other parents' requests for enrolment and enrol the Romani children in their place.²⁶⁷

In March 2004, following a conference on Romani education in Moscow organised by the Interregional Public Fund Union of Public Roma Organisations "Romane phrala", seventeen Romani non-governmental organisations addressed the Minister of Education and Science of the Russian Federation with a request to develop a programme aimed at ensuring access of Romani children to education.²⁶⁸ The Romani representatives proposed training for teachers in Romani language and culture and establishment of a department of Romology at the Moscow State Institute of International Relations. As of the date this report went into print, there was no response to the letter.²⁶⁹ The government of the Russian Federation, however, in its Initial Report to the Committee on the Elimination of Racial Discrimination recognised the necessity to extend national experience of organising of Roma language learning and preparation of specialists from the Romani communities.²⁷⁰

²⁶⁷ ERRC interview with Mr Bogomolov, August 17, 2004, Nizhniy Novgorod.

²⁶⁸ See Mariyanna Seslavinskaya. "The Conference on Roma education in Russia", available at: <http://lists.delfi.lv/pipermail/minclres/2004-March/003280.html>.

²⁶⁹ ERRC telephone interview with Ms Seslavinskaya, secretary of the Romane Phrala, March 9, 2005, Budapest.

²⁷⁰ See Addendum to the Initial Report to the Committee on the Elimination of Racial Discrimination, p. 77, available at: <http://www.tolerance.ngo.ru/documents/2003/report1/part8.pnp>.

The Minister for Nationalities of the Russian Federation concluded in his report on the situation of Roma in the Russian Federation that the problems such as establishing the departments on the faculties of philology for training specialists on the Romani languages, publishing textbooks on the Romani language and literature in the Romani language, as well as methodical books were insufficiently considered on the federal level.²⁷¹

9.3 Discrimination in Access to Health Care

Romani communities in Russia are disproportionately exposed to substandard living conditions and hazardous environments which have a deleterious impact on the Romani health status. Moreover, Romani settlements located in the outskirts of towns and cities, often do not have access to emergency medical services.²⁷² For instance, in the village of Ovoshchnoe, Rostov region, Roma testified to the ERRC that ambulances often refused to go to the onion field where the Roma worked and lived.

Roma testified to the ERRC that in practice they cannot rely on emergency aid. According to Mr Boris Mikhail, 37-year-old Romani man, living in the Romani neighbourhood in the outskirts of Ulyanovsk, central Russia, as a rule, the emergency ambulance arrives in about three hours after the first call. If an operation needs to be made, the doctors allegedly request money. Roma who do not have registration are denied medical service unless they pay to doctors on the spot.²⁷³

²⁷¹ Document No 1016P-P11 1032674. Information on the situation of Roma in Russia. Moscow, February 20, 2004.

²⁷² Russian citizens have the right to emergency aid free of charge anywhere in Russia, regardless of registration. Article 39 of the RF Law “On Health Protection” provides that Article 39 states that urgent medical help is to be provided immediately to citizens of the Russian Federation who need emergency medical intervention regardless of the territorial or departmental belonging of the medical institutions. Since January 2005 such help is provided free of charge also for other people on the territory of the Russian Federation. In addition, Article 2(a) of the Federal Program on State Guarantees for Providing Free Medical Aid to Russian Citizens establishes that citizens of the Russian Federation are entitled to free medical assistance in emergency cases when the life or health of a citizen or the life and health of people around him/her are in danger [...]” State Program approved by a RF Government Decision No 1096 dated September 11, 1998. (Unofficial translation by the ERRC)

²⁷³ ERRC interview with Mr Boris Mikhail, August 19, 2004, Ulyanovsk.

Similarly, in Tver, central Russia, during ERRC field research in the Romani settlement Savatyevvo in August 2004, Roma told the ERRC that the nearest medical facility was located at about 12 km away from the neighbourhood. According to residents of the neighbourhood, it was common that doctors refused to go to the neighbourhood when they were called, explaining that they did not have petrol for the ambulance. In many cases the Roma reportedly had to drive sick persons to the nearest hospital themselves. The Roma had asked several times the administration of Tver region to provide them with assistance to build a medical facility in the neighbourhood, offering to contribute to the construction of such facility. The administration had reportedly declined their requests.

Obstacles related to the big distances separating Romani neighbourhoods from medical facilities, are often compounded by prejudice on the part of medical professionals which may result in provision of medical service of substandard quality or denial of medical service altogether. In one example, on May 5, 2004, Ms Abramenko, coordinator of the project “The programme of free medical aid to elderly Roma” implemented by the Northwest Center for Social and Legal Protection of Roma, proposed to Mr Vladimir Lavrenov, chief medical doctor of the Pskov district hospital, to conclude a contract with the hospital under the project. Mr Lavrenov reportedly refused, declaring that at no price would he treat Gypsies.²⁷⁴

A major obstacle to health care is the lack of residence registration. Although theoretically lack of residence registration should not pose any obstacles to access to health care, in reality it prevents Roma from obtaining universal medical insurance.²⁷⁵ Many Roma testified to the ERRC that if they did not have residence registration in the respective location they were denied medical treatment and could get

²⁷⁴ FIDH/Northwest Center for Social and Legal Protection of Roma. *Russian Roma: At the Crossroads of all Forms of Discrimination*, Paris, 2004.

²⁷⁵ In 1993 the Russian Federation introduced a universal compulsory health insurance system. The statutory health-care system guarantees access to a comprehensive range of services to the entire population at no charge. The working population is covered by insurance payments made by their employers, while the unemployed, children, students, pensioners, and the disabled are covered by contributions made on their behalf by district authorities. Medical insurance, is issued by the authorities in the region where one has residence registration. By law, non-residents (persons who are not permanently or temporarily registered with the police) should be able to access free health care services as well as other social services.

it only if they paid for it. Money is extorted by medical professionals in many cases, regardless of the individual's eligibility for free medical care, a pattern which has rendered access to health care contingent on the ability to pay.

On June 29, 2004, the ERRC spoke with 45-year-old Romani man Mr Nikolay Romaschenko, who lived in Kizetirinovskaya Balka district of Rostov. According to Mr Romaschenko's testimony, he was born and lived in Rostov, but he did not have residence registration. On August 4, 2003, while digging coal, Mr Romaschenko had an accident – a mass of coal slid down over him and caused severe injuries. His hipbone, edge bones, and several ribs were broken; his urocyt was ruptured. Since then he had been almost motionless for half a year. According to Mr Romaschenko's testimony at some point during his illness doctors refused to make more visits to his house although he had a catheter which had to be changed every 2-3 months. The doctors told him that he could go to the local hospital but demanded that he should pay for his stay in hospital. Due to the fact that Mr Romaschenko did not have residence registration, he did not have a health insurance either. He could not afford the cost of hospital treatment and remained at home. At the time of the ERRC visit, Mr Romaschenko lived with his family in very substandard conditions: in a one-room dilapidated house, with no running water, canalisation and heating. On June 29, 2004, when the ERRC visited Nikolay Romaschenko his physical condition was critical.

9.4 Discrimination in Access to Employment

The Labour Code of the Russian Federation, which came into force in February 2002, significantly advanced the protection against discrimination in employment.²⁷⁶

²⁷⁶ Article 3 of the Labour Code (“Prohibition of discrimination in the sphere of labor”), guarantees to everyone “equal opportunities to realize his/her labor rights. No one can be constrained in his/her labor rights and freedoms or get any advantages irrespective of sex, race, color of skin, nationality, language, origins, property, social or position status, age, domicile, religious beliefs, political convictions, affiliation or non-affiliation with public associations as well as other factors not relevant to professional qualities of the employee. The persons considering themselves to be discriminated against in the sphere of labor shall be entitled to petition the federal labor inspectorate bodies and/or courts applying for restoration of their violated rights, compensation of the material loss and redress of the moral damage.” See Labour Code of the Russian Federation of December 31, 2001. Federal Law No. 197-FZ of 2001, available at: <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/60535/65252/E01RUS01.htm#sec13>.

The Code prohibits discrimination at any stage of employment and provides for recourse mechanisms. However, the protection afforded by the Labour Code is significantly undermined by discriminatory application of the registration system denying employment to individuals who do not have residence registration.²⁷⁷

Roma are sometimes denied jobs for reasons expressly relating to their Romani ethnicity. For example, on June 29, 2004 Mr Andrey Scherbakov, 30-years-old Romani man, living in the city of Shahty, Rostov region, told the ERRC representatives the following: He does occasional jobs as a construction worker. He usually receives his salary non-officially, without signing any documents. In some instances, when he applied for job with construction firms, representatives of the firms asked him whether he was Romani and when he gave an affirmative answer, they refused to hire him, stating: “We do not need Roma at the building site”, or “We do not employ Roma”, etc. At the same time at the places where he used to work he had not been treated with prejudice or humiliation by his employers and colleagues. While being unemployed Mr Scherbakov several times tried to work as a guard but he had been denied that job. Once at a big company he was told: “It is impossible to employ a Roma. Roma start stealing before they were born.”

Discriminatory treatment at the labour market, forces some Roma to work and live in inhuman conditions. For instance, in the village of Ovoschnoye, located 10-15 km away from Bataysk, about 300 Roma (self-appellation Rychary), worked on a private onion field, 10 hours per day, 6 months per year.²⁷⁸ The Romani families lived in small wooden sheds near the field, without electricity and running water. The children didn't go to schools for several months a year and also worked for 10 hours in the fields. The people who worked in the field reportedly got 10 rubles (EUR 0.27) per hour. According to their testimony, the money was just enough to buy food and give bribes to police officers who came to the fields reportedly once or twice every month and took money from the Roma (approximately 300-400 rubles per person, the equivalent of EUR 8-11) because the Roma lived without registration and their sheds were built without permission. If the owners of the field found anything wrong with the work done by the Roma,

²⁷⁷ See for example, criticism addressed with regard to the discriminatory effects of the registration system by the European Commission against Racism and Intolerance (ECRI). In ECRI. Second Report on the Russian Federation. CRI (2001) 41, November 13, 2001, paragraph 35.

²⁷⁸ Case summary based on ERRC/Amala interviews, Ovoshchnoe, Rostov Region, June 30, 2004.

they punished the Roma by withholding their personal documents, if they had any, or making them work extra hours without payment.²⁷⁹

On July 6, 2004 Vecherniy Rostov newspaper published the article “Human rights activists were shocked in a Romani settlement”, describing the conditions in the onions field in Ovoshchnoe as a “slave-owning system”.²⁸⁰ Following the publication, local authorities ordered the owner of the onion fields to release the Roma. Some of the Roma, however, reportedly hid in the woods while the inspection was going on, and continued to work on the fields for lack of better opportunities to earn their living.

In another case, Romani women from Krasnodar, told the ERRC that they had arrived in Krasnodar several years previously from Abkhazia, and were not able to secure residence registration because they could not afford the bribe of reportedly USD 1,000 (approximately EUR 770) per person.²⁸¹ Two-three years previously, the Romani women used to work on the local market, selling goods. They did not have trade permits although reportedly they had the necessary documentation to obtain one. Local administration had expelled the women from the market with the argument that the market place “was not for Romani newcomers”. At the time of ERRC visit, the Romani women were selling small packages of lime on the street. Their hands were covered with sores and eczema, which gradually destroys the skin of their hands. The women told the ERRC that sometimes they could avoid police checks and arrest thanks to “sympathetic” police officers who walked around in plain clothes and reportedly cautioned them against imminent checks in return for a bribe.

Analysis of official employment statistics suggests that authorities are complacent about the problem of discrimination. Official statistics do not reflect unemployment levels among ethnic and religious minorities, pregnant women, and mothers of young children, refugees and forced migrants, asylum-seekers, stateless persons,

²⁷⁹ The Constitution of the Russian Federation guarantees at Article 37.3 that, “Everyone shall have the right to work under conditions meeting the requirements of safety and hygiene, to remuneration for work without any discrimination whatsoever and not below the statutory minimum wage, and also the right to security against unemployment”.

²⁸⁰ Article “V tsyganskom posolke pod Rostovom pravozashtitniki ispytali shok”. In Vecherniy Rostov, July 6, 2004.

²⁸¹ ERRC interviews with Romani women, July 2, 2004, Krasnodar.



Ms Lekatarchuk and her son in their home, Tomsk, Siberia, July 24, 2004. A patch of plaster from the ceiling fell on the boy's head resulting in partial deafness. When the family sought help at the regional administration, an official reportedly said: "You are a tough nation. Everything will be fine with you."

PHOTO: ERRIC



Homes of Roma outside the village of Ovoshchnoe, Rostov oblast, June 30, 2004. The shacks were situated in fields where Roma worked under slave-like conditions.

PHOTO: ERRC



Housing conditions of Roma in Volzhskiy, Volgograd region, June 2003.

PHOTO: ERRC



Romani children in Yaitskoe, Samara oblast, central Russia, June 18, 2003. Most of the children did not have access to school at the time of the ERRC visit.

PHOTO: ERRC



At the time of the ERRC visit in July 2004, there was no sewage system or running water in Karbishevo, outskirts of Omsk. Ten children became sick with malaria because they had used the unhygienic well located near their houses.

PHOTO: ERRC



Romani family living in a shed with three children, July 21, 2004, Omsk, Siberia.

PHOTO: ERRC



Romani children in Uljanovsk, central Russia, August 20, 2004. The Romani community of approximately 300 people lived under a constant threat of eviction because local authorities refused to legalise their houses.

PHOTO: ERRC



Housing conditions of Romani homes in Uljanovsk , August 20, 2004.

PHOTO: ERRC



Romani woman with her children begging on a street in Rostov, June 30, 2004.

PHOTO: ERRC



Physically disabled Romani man who at the time of the ERRC visit had not been receiving disability aid for several years, June 29, 2004, Shahti.

PHOTO: ERRC

foreign nationals, persons without residence registration. Persons without permanent residence are not registered with official employment agencies. Being illiterate, most of the Roma do not even know about this opportunity to look for jobs.²⁸²

9.5 Discrimination in Access to Public Places

During field research the ERRC has documented cases in which Roma were denied access to public places on ethnic and national ground. This discriminatory practice occurs in both private and state-owned enterprises. In some cases, public officials have openly admitted their rejection of Roma. In a documentary film shown on the national coverage private NTV television on February 10, 2004, Ms Tatyana Petrovskaya, director of the public House of Culture in Kimry, stated that she does not allow Roma to enter the establishment. She explained that “Roma behave in an aggressive way, they can bring drugs to the discotheque, and take money out from Russian youngsters”.

In another instance, at approximately 9 PM on August 21, 2004, four Romani men, Mr Vasiliy Kutenkov, Mr Vladimir Limanskiy, Mr Valeriy Ogly, Mr Mikhail Lyubimov and Ms Tatyana Marchenko tried to enter a local billiard club called “Vosmyorka” located in Samara, 46 Kirova street. The manager of the club did not allow them to enter stating that the owner of the club prohibited admittance of Gypsies. He explained that some time ago there had been a conflict with some Roma involved in it. Two of the Romani men filed lawsuits against the club.²⁸³

The ERRC also documented a case in which a non-Romani woman, wearing traditional Romani clothes, was subjected to humiliation in public apparently because she was perceived of as Romani. At approximately 10 PM on August 21, 2004, a journalist of the Samara-based Samarskaya gazeta newspaper, Mr Tatjana Marchenko, an ethnic Russian, took minibus No.47 to drive her home in Samara. She was wearing

²⁸² See Moscow Helsinki Group. *Alternative NGO Report on Observance of the International Covenant on Economic, Social and Cultural Rights*. Moscow, October 2003, available at: <http://www.mhg.ru/english/2F7855A>.

²⁸³ The complaints alleged violation of international human rights standards, the Constitution of the Russian Federation and Article 426 of the Civil Code establishing that commercial entity shall not prefer one person in favor to another in concluding a public contract.

traditional Romani clothes. When Ms Marchenko entered the minibus, she was requested by the driver to get off. The explanation was reportedly that she was late for the bus and that the driver did not like the banknote with which she intended to pay for her ticket. Ms Marchenko offered a different banknote but the driver refused to take that one either. The driver insisted that Ms Marchenko get off the bus. According to Ms Marchenko, who reportedly never before experienced such treatment, the only explanation for the driver's behaviour was her Romani appearance.²⁸⁴

9.6 Conclusion: Turning a Blind Eye

Despite compelling evidence that Roma are at a serious disadvantage in exercising their social and economic rights, the government has failed to react to proposals by Romani activists for the development of a government programme to address the problems facing Roma in the Russian Federation. In April 2003, the non-governmental organisation Interregional Union of Public Roma Organisations "Romane phrala" sent a letter signed by 14 Romani organisations to deputies of the State Duma, urging them to adopt a programme for the integration of Roma.²⁸⁵ In their letter the Romani organisations underscored that in the absence of special measures on Roma and given the widespread discrimination of Roma at regional and local level, the community is faced with further marginalisation and even criminalisation. In particular, the letter raised the following issues: i) the need for elaboration of a programme for the integration of Roma; ii) integration of Roma into the Russian economy; iii) establishing centres for providing pro bono legal services; iv) support for Romani media (in accordance with article 21 of the RF Law on the Rights to National Cultural Autonomy), in particular, establishing newspaper and radio programs and other information services in Romani language; v) Support for Romani women with many children.

As of the date this report went to press, more than a year and a half after the submission of the letter by the Romani organisations, there was no response from the Russian legislators.²⁸⁶

²⁸⁴ ERRC interview with Ms Marchenko, August 22, 2004, Samara.

²⁸⁵ Government programs for the integration of Roma have been developed in the late 1990s in almost all countries of Central and Eastern Europe, including Ukraine.

²⁸⁶ The letter was registered in the State Duma on April 7, 2003.

More recently, in April 2004, the leadership of the Federal National Cultural Autonomy (FNCA) of the Russian Gypsies, wrote to the President of the Russian Federation, Vladimir Putin, to express concern about ongoing violations of the civil rights of Roma as well as discriminatory treatment of Roma.²⁸⁷ The Gypsy FNCA urged the President of the Russian Federation, among others, to initiate the development of a federal programme for the social and cultural development of Roma. This request was responded reportedly in several months by an official of the Ministry of Culture. No commitment to any concrete action towards the development of a comprehensive government programme for the Roma has been made by the authorities.²⁸⁸

²⁸⁷ Letter dated April 27, 2004, on file with the ERRC.

²⁸⁸ ERRC telephone interview with Ms Nadezhda Demeter, October 28, 2004, Budapest.

10. ABUSE OF ROMANI WOMEN'S RIGHTS

Romani women occupy a special place in the popular racist perception of Roma in Russia. Romani women are usually portrayed as possessing magic power used to beguile or otherwise victimise non-Roma. These racist stereotypes often translate into violent and abusive police actions targeting especially Romani women, regardless of whether they are practicing traditional fortune-telling in the streets or begging or selling goods in the markets.²⁸⁹ For example, according to the testimony of Mr Ivan Barvalovskiy, a Romani activist from Omsk, Siberia, on June 21, 2003, police officers from the Kirov district of Omsk were inspecting the Torgovy gorod marketplace, which is under the administration of the City of Omsk.²⁹⁰ In the meantime, the authorities used the loudspeakers in the marketplace to instruct the customers not to buy from the Romani stands. The police officers arrested approximately thirty Romani women selling goods and drove them away from Omsk in a police bus, to a place approximate-

²⁸⁹ In addition to breaching State's general obligations under international human rights law, violence against women also engages State's responsibility under the UN Convention on the Elimination of All Forms of Discrimination Against Women (in particular, guaranteed under Articles 2, 5, 11, 12 and 16). See Convention on the Elimination of All Forms of Discrimination against Women, available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>. In its General Recommendation 19 "Violence against Women" the Committee on the Elimination of Discrimination against Women stated: "The Convention in article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence." (paragraph 6) The Committee further specified that, "[the] Convention applies to violence perpetrated by public authorities" (paragraph 8) but "that discrimination under the Convention is not restricted to action by or on behalf of Governments (see articles 2(e), 2(f) and 5). For example, under article 2(e) the Convention calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise." (paragraph 9) See Committee on the Elimination of Discrimination against Women. General Recommendation No. 19 (11th session, 1992), at: <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19>.

²⁹⁰ Case summary based on ERRC/Romano Kher telephone interviews with Mr Ivan Barvalovskiy, June 2003, Omsk.

ly 50 kilometres away. The police reportedly told the Romani women: “Here is your place for trading!” After that the women were released and told to walk back to the city if they wanted, following which they were abandoned without any explanations. During a field mission to Omsk in 2004, the ERRC spoke with Ms T., one of the women who had been in the group of Romani women taken on the bus and driven away by the police during the June 2003 police operation at the market place. Ms T. said that it was all very humiliating; of all the many retail traders (the market place had more than hundred shops) only the Romani women had been taken. The police roughed them up, catching them violently; many of the women had bruises.²⁹¹

As described throughout this report, Romani women targeted by police on the basis of racist prejudice face serious risks to be subjected to torture and ill-treatment as well as to unfair trial procedures.²⁹²

Violence and abuse of Romani women, whether committed by law enforcement officials, racist groups or in the family is usually unremedied because victims do not report cases due to fear of reprisals and shame. In one incident, late in the evening of February 3, 2002, a 22-year-old Romani woman who requested that her identity not be disclosed suffered rape and violent assault at the hands of racist vigilantes in Pskov, in north-western Russia. While returning home late at night through a deserted area of town, she was approached by about eight young men whom the young woman described as skinheads. The young men started to harass and humiliate her, making derogatory remarks about her race. They then began kicking the young woman in the back, pushing her into a dark corner where they raped her. The woman was found much later, unconscious. She was taken to a hospital, where she spent one month. Out of shame, the Romani woman did not report the rape and assault to the police.²⁹³

In another case, on June 28, 2004, Z.S., 37-years-old Romani woman living in the village of Millerovo, near Rostov, told the ERRC that she was unemployed and

²⁹¹ ERRC interview with Ms T., July 21, 2004, Omsk.

²⁹² See, among others, the cases of Ms Fatima Alexandrovich under Chapter 4.3.; the case of Ms L.R. under Chapter 4.4.1.; the case of Ms Nadezhda Romaschenko under Chapter 4.4.2.; the case of Ms Natalia Pachkovskaya under Chapter 5.1. *supra*.

²⁹³ Case summary based on ERRC/Memorial interview with the victim, May, 2002, Pskov. Full name on file at the ERRC.

lived in extreme poverty. In order to earn for the food of her three underage children, she begged at the Rostov railway station. Police had expelled her from the station several times. In April 2004, police officers went to her again and took away by force 400 roubles (approximately EUR 11). About a week later, the same police officers demanded money again and when they understood that Z.S. did not have money they took her to the police station and ordered her to stay there for one day in order to clean the premises of the police. Z.S. refused to give the ERRC the police station address alleging that giving this data she could bring more harms to herself.

During field research in Russia, the ERRC heard many allegations of domestic violence against Romani women. The issue of domestic violence, however, is largely tolerated by both Romani men and women and in some instances even taken for granted. Romani women are as a rule reluctant to seek legal help. In one case documented by the ERRC, systematic physical abuse of a Romani woman by her common law husband was only communicated to the ERRC researchers in the context of that woman's complaint against her husband who prevented her from having access to their child. Ms R.M., a Romani woman citizen of Ukraine, told the ERRC that in 2003 she left the house where she used to live with her common-law husband and his family in Krasnodar in order to escape systematic violence against her by her husband and his relatives. Ms R.M. then returned to her parents in Ukraine where she was also hospitalised. Ms R.M. told the ERRC she believed that as a result of the beatings, her first child was born dead in 2000. When she was released from hospital, Ms R.M. made several attempts to take her three-year-old child with her in Ukraine but she was not even admitted to see her child who remained with her husband. In 2004 Ms R.M. filed a suit against her husband to obtain custody of the child.²⁹⁴

Romani women are also faced with serious obstacles in accessing other fundamental rights as a result of discrimination both within the community and in the larger society. Many Romani women are marginalised due to illiteracy and poor education. Such conditions are sometimes the result of traditional views among certain Romani groups, which do not favour education of women. Romani women are also disparately affected by the lack of personal documents depriving them from access to adequate and sometimes any medical treatment. For example, in the summer of

²⁹⁴ ERRC interview with R.M., April 3, 2003, Samara and ERRC telephone interview with R.M.'s lawyer, January 25, 2005, Budapest.

2003, a Romani woman, who lived in a shed in Ovochnoe village, Rostov region, and was in her last stage of pregnancy, was told that she had to pay 4,000 rubles (approximately EUR 110) in order to give birth in a hospital. Since the woman could not afford the amount, she gave birth in the shed. In addition to the threats on the woman's and baby's health, giving birth outside hospital, in many cases also results in failure of the Romani parents to obtain a birth certificate for the child. Lack of birth certificate then leads to obstacles in obtaining other personal documents and practically prevents the individual from accessing basic rights.²⁹⁵

²⁹⁵ Case summary based on ERRC/Amala interviews, June 30, 2004, Ovoschnoe.

11. ROMA RIGHTS IN THE CONTEXT OF THE NATIONAL CULTURAL AUTONOMY

11.1 The First Romani Public Associations: from the late 1980s to 1996

As stated by the artistic director of the Moscow Gypsy Theatre – Theater Romen: “An authentically Gypsy theatre is not only a means of staging dramatic performances but an instrument for shaping the conscience of the people... The theatre confers on us a special responsibility for strengthening awareness of our existence as a people and safeguarding our artistic and cultural identity.”²⁹⁶

The impetus for the current Romani movement in the Russian Federation can be traced, to a large part, to the creation over seventy years ago of the world’s first Gypsy professional theatre, the Theater Romen in Moscow. Until this day Romen represents one of the most famous and, arguably, influential Romani cultural institutions in Russia not only for the Roma but also for the general population. Undoubtedly, this institution inspired, if not, paved the way for the Romani intelligentsia of Moscow – and even in the Russian regions – to create, much later on, their cultural associations. The first manifestations of social organisation by the Roma emerged with the dawn of perestroika, which transformed Soviet political and social life in the latter half of the 1980s.²⁹⁷

The first Romani organisation to be registered in Moscow, and at that time, the whole of current day Russia, was Romano Kher, the Moscow Gypsy Cultural and Educational Association. Although it was officially registered at the Moscow City Ministry of Justice on October 20, 1992 it had begun its work on May 23, 1989 when, at the initiative of its founders, a meeting of Roma artists and intellectuals de-

²⁹⁶ Nikolai Slichenko, current artistic director, stage director and singer of Theater Romen. “From Campfire to Footlights: Gypsies in the Theater”. In *UNESCO Courier*, October 1984.

²⁹⁷ By the end of the 1980s, with the relaxing of control by the Communist Party, a plethora of legally recognised public associations were formed including those organisations of ethnic minority groups whose aim was to preserve and develop their cultures. It was no surprise that Moscow was the birthplace for the first Romani organisation in the Soviet Union as Moscow has always been home to a relatively large number of Romani intelligentsia. This was a direct legacy of the Soviet nationalities policy in the late 1920s and 30s, which supported the cultural development of national minorities.

cided to open in September 1989 a division on Gypsy Culture within the Soviet (now Russian) Fund of Culture. Subsequently this division transformed itself into Romano Kher. Its creation and subsequent successes have been thanks to the endeavours of the eminent Kalderash Romani family from Moscow, the Demeters. Professor and Doctor of pedagogical sciences, Mr Georgiy Demeter, and his daughter, Ms Nadezhda Demeter, then Candidate of Historical Sciences at the prestigious Department of Ethnology and Anthropology at the Russian Academy of Science.

Romano Kher adopted its articles of association at its founding meeting on September 25, 1992. The aims of the organisation are to develop the national self-awareness of Gypsies, preserve and develop their native tongue and the national culture of the Gypsy people, raise the educational and cultural level of the young generation, whilst strengthening the connections of Gypsies in Moscow with Gypsy organisations abroad.²⁹⁸ Romano Kher has carried out numerous cultural and educational activities including the festival the Days of Gypsy Culture held on May 16-18, 1995 carried out in cooperation with the Theater Romen and supported by the Ministry of Culture and Moscow Government. Furthermore, the members of Romano Kher have produced publications including a Romani-Russian dictionary and two editions of an eponymous newspaper. In comparison to the current activities of Roma NGOs, these early activities, which were coordinated by Romano Kher were predominantly concerned with teaching and artistic endeavours. Gilori, a children's ensemble was created under the directorship of Vyacheslav Demeter and Theater Romen artiste Olga Demeter in 1988. Although still a part of Romano Kher it has since transformed into the "Gilori Gypsy Theatrical School" which employs 12 teachers. 22 Romani musical salons have been created as part of Romano Kher including Gypsy Centre (Tsiganski Mir) under the leadership of George Zhemchushniy. As for educational activities the director of Gilori was responsible for initiating a Sunday school in Moscow International School, which taught the Gypsy language, culture, literature and music. According to the chairman of Romano Kher, Professor Georgiy Demeter, their main achievement has been that many like-minded people have been able to gather and thanks to their efforts have preserved Roma culture.²⁹⁹

²⁹⁸ Articles of Association of the Regional Public Association, Moscow Gypsy Cultural Educational Organisation Romano Kher, para 2, second edition, Moscow, 1999.

²⁹⁹ Nicky Torode's interview with Mr Georgiy Demeter in Romano Kher newspaper, No.1, 1998, p. 2.

Other Romani activists in the regions began to carry out small cultural events. In Tver there was a Gypsy club Romani Kroval, which taught Romani and had begun its work as early as 1989. In Sverdlovsk Region in the Urals the Centre for Gypsy Culture and Art was established in 1996 at the initiative of a young Romani university student. The idea occurred after a meeting with the famous Moscow Theater Romeni.³⁰⁰ The aims of the Centre included the protection of the rights of Roma and the provision of moral, material and legal help for those in need. It was not until the adoption of the federal law on national cultural autonomy in 1996 did a next wave of Romani organisations emerge.

11.2 Path to Cultural Autonomy: Reasons for Adoption and Expectations of Roma

The Federal Law on National Cultural Autonomy was adopted in June 1996 after a long, controversial journey through the State Duma. It is important to note that although the terminology is the same as that approach attributed to the works of Otto Bauer and Karl Renner,³⁰¹ who were writing during the twilight years of the Austro-Hungarian Empire, the Russian law on cultural autonomy has nothing in common with it. True, those Russian parliamentarians and scholars in charge with drafting the law from the mid-1994 onwards were Soviet scholars well versed in the ideas of Bauer and Renner. However, the Russian legislators did not set out with the intention of providing ethnic communities with the widely seen radical rights of cultural autonomy as proposed by Bauer. Why this was the case is understood better when we analyse the reasons articulated by the Russian authorities for adopting cultural autonomy.

Firstly, the Soviet nationalities policy had left a problematic legacy. The USSR's ethno-territorial structure had not provided a home for all: (53 out of approximately 160 nationalities) living in the USSR did not have their own territorial formation. Secondly, the hierarchical structure of these territorial formations – republics, autonomous regions, districts – had granted “privileges” for the majority group in that territory with

³⁰⁰ Nicky Torode's interview with Mr Alexandr Torokhov, “Gypsies and Negros Have Something In Common”. In *Komsomolskaya Pravda*, N.12 (11), 26 May, 2000.

³⁰¹ See Morag Goodwin. “The Romani Claim to Non-Territorial Nation Status: Recognition from an International Legal Perspective”. In the quarterly journal of the ERRC *Roma Rights*, 1/2004, *What Is Roma Rights*, pp. 54-55.

the consequence of denying the rights of those smaller numbered ethnic minorities residing there. President Yeltsin's State of the Nation address in 1995 confirmed this as the official motivation for adopting the autonomy law.³⁰² This 1995 message addressed to the plenary opening session of the Federal Assembly had called upon the legislator to work on the legislation necessary to introduce NCA.³⁰³ Cultural autonomy was therefore being adopted as a means of giving meaningful expression to national aspirations to preserve and promote cultural identity of non-titular groups. Thirdly, due to migration flows it was now evident that in the Russian Federation many ethnic minorities were living outside the borders of their autonomous entity. Only in 7 of the 21 ethnic republics do representatives of the title nationality (titular group) account for more than half of the local population. Numerically this represents over 17 millions citizens (made up of over 69 ethnic groups) living in diaspora in the Russian Federation. As a result of the legacy of the Soviet nationalities policy and the geographical settlement patterns it was expedient for the new Russian government to create a mechanism for the protection of so-called extra territorial minorities of which Roma are included. It was this vacuum which national cultural autonomy law sought to address.

A further reason for the adoption of cultural autonomy was the recognition that it could provide a pragmatic solution for the management of the plethora of national associations, which had existed since the late 1980s. With approximately 1,000 ethnic associations it had become increasingly difficult for the authorities to know with which organisation to work. Cultural autonomy – which had as its premise the uniting of existing ethnic organisations of one ethnic group at the regional and federal level – was therefore seen as a mechanism for order and, by extension, control. One scholar stated that it was in the interest of the state that there is a registered national organisation, which can have an influence on all representatives on national groups.³⁰⁴ In particular, the law is a mechanism, which allows the state to decide which activities are positive and safe and thus can be supported.³⁰⁵ As it was widely

³⁰² Codagnone, C. and V. Filippov. "Equity, Exit and National Identity in a Multinational Federation: The 'Multicultural Constitutional Patriotism' Project in Russia". In *Journal of Ethnic and Migration Studies*, Vol. 26, No.2, p. 274.

³⁰³ *Ibid.*, p.274.

³⁰⁴ Scholar at the Urals Branch of the Russian Academy of Sciences, conversation with Nicky Torode, March 30, 2003.

³⁰⁵ *Ibid.*

perceived there would be state financial support for the work of cultural autonomies the cultural autonomy approach can be considered as a kind of exchange between the minority groups and the state that is, cash for loyalty.³⁰⁶

Upon adoption of the law many ethnic leaders, including Roma, perceived this as a real opportunity for the promotion of their culture. The Roma FNCA certainly believed that the adoption of the NCA law marked a historic moment: “For the first time in the history of Roma in Russia we could expect state support in solving our problems on the basis of legislation.”³⁰⁷ Likewise, the Roma regional NCA saw cultural autonomy as a necessary link in a chain of development of civilised forms and mechanisms to preserve culture and as a means of Roma integration into modern society.³⁰⁸ Motivations for forming an NCA were, and this is not only typical for Roma, the perceived benefits of access to power and financial resources. The most important thing is that the law stipulates the right to special forms of political representation.³⁰⁹ One delegate at the Roma FNCA conference in 2000, occurring 9 months after registration as FNCA, summed up cultural autonomy as consisting of two parts – the first relies on social initiative by the Roma and the second part depends on state help. These laws are important for us as we can expect state help as a result.³¹⁰ For its part, the Russian government heralded cultural autonomy as “a break with the traditional approach to the question of inter-ethnic relations in Russia.”³¹¹

11.3 Analysis of the Provisions of NCA Law

Article 1 defines cultural autonomy as “the form of national-cultural self-determination which is the social association of citizens of the Russian Federation who

³⁰⁶ Ibid.

³⁰⁷ Questionnaire to Nicky Torode from the Roma FNCA, April 2003.

³⁰⁸ Questionnaire to Nicky Torode from the Sverdlovsk Roma NCA, June 2002.

³⁰⁹ Questionnaire to Nicky Torode from Roma FNCA, April 2003.

³¹⁰ Nicky Torode’s notes from conference on Roma rights organised by the Roma FNCA, August 29-30, 2000, Moscow.

³¹¹ Vladimir Kartashkin, Abashidze A.K. Study on the Use of Autonomy Approaches in the Russian Federation, Prepared for the Working Group on Minorities. E/CN.4/Sub.2/Ac.5/2001/WO.3/Seventh Session, May 2001, p. 17.

consider themselves to belong to certain ethnic communities on the basis of their voluntary self-organisation with the aim of the independent solution of the issues related to preservation of their identity, development of language, education and national culture.”³¹² The principles of cultural autonomy are enumerated inter alia as:

- free will of citizens
- self-organisation and self-management
- combination of public initiative with state support

The scope of the substantive rights of autonomy is defined in Article 4. For convenience these rights can be classified according to the following topics:

- political participation rights (Articles 7, 20)
- language (general preservation Article 9)
- education (language and history – Articles 11)
- culture (Articles 13, 15)
- media (Article 15)

The NCA law also states what cultural autonomy is not: “The right to national cultural autonomy is not the right to national territorial self-determination.” (Article 4). It is apparent from the above list of rights that the main focus of cultural autonomy, not surprisingly, is culture. However, the word culture may be misleading. Valeri Tishkov, former Minister of Nationalities and one of the main authors of the law, maintains that “cultural autonomy” determines the subject of the law, that is the ethnic community, but it is not only culture which constitutes the sphere of activity of the NCAs. It gives political representation. However, as the issues on which NCA leaders are invited to participate are mainly cultural then it is true to say that participation rights as conferred under the NCA law are only instrumental, that is, a means for achieving cultural goals. In fact, it is on this issue that the NCA law has been criticised by the Advisory Committee of the Council of Europe’s Framework Convention of the Protection of National Minorities. The Committee noted that the law

³¹² See Federal Law on National-Cultural Autonomy, July 5, 1996, Article 1, available at: <http://www.geocities.com/Athens/4280/avtonomija.html>. (Unofficial translation by the author) It is important to note that the definition uses the word community (obshnost) and not the word minority (men-shinstvo) which is used in international human rights law. The usage of the term national minority has had a long history of being considered derogatory in the Soviet period.

excluded political activities from the scope of activities available to national cultural autonomies. This restriction, in the opinion of the Advisory Committee, may hamper the legitimate activities, which can be pursued in accordance with Articles 7 and 15 of the Framework Convention.³¹³ One further criticism was the restricted membership of the Council, which includes only those ethnic groups who have created their federal level cultural autonomy. It was recommended to provide mechanisms within the federal Council to consider the views of the representatives of local and regional cultural autonomies of those minorities that have not established autonomies at the federal level.³¹⁴

It is important to note that the content of the substantive rights enumerated in the NCA law is derivative from universally agreed standards on human rights. The law does not confer special rights for ethnic minorities nor does it provide for collective rights. Although the term “autonomy” is used this law does not give exclusive powers or jurisdiction to the NCAs beyond those, which can be exercised by regular public associations. The rights do not go as far as international standards in that language rights do not extend to the use of mother tongue in public administration and judicial proceedings. Likewise, the remit upon which minorities are to participate in public affairs is narrowly defined in the NCA law. Another inadequacy of the NCA law is that it requires the personal scope of application of the law to be restricted to citizens of the Russian Federation only. Therefore, this does not comply with general international practice on minority rights as it excludes from its jurisdiction non-citizens.³¹⁵ This has

³¹³ Advisory Committee Opinion on the Framework Convention for the Protection of National Minorities. Opinion on the Russian Federation, ACFC/INF/OP/I (2003) 005, Strasbourg, 13 September 2002, p.20, para.70.

³¹⁴ *Ibid.*, page 14, paragraph 44.

³¹⁵ General Comment 23 of the UN Human Rights Committee which looked at the ambit of Article 27 of the ICCPR stipulates that “the terms used in Article 27 indicate that individuals designed to be protected need not be citizens of the State party...A State Party may not, therefore restrict the rights under Article 27 to its citizens alone.” In addition, the General Comment noted that “just as they need not be nationals or citizens, they need not be permanent residents.” See UN Committee on Human Rights, General Comment No. 23: The rights of minorities (Art. 27): 08/04/94, paragraph 5(1), available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/fb7fb12c2fb8bb21c12563ed004df111?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/fb7fb12c2fb8bb21c12563ed004df111?Opendocument).

Similarly, the Advisory Committee recommended that the NCA law and the 1996 Concept of State National Policy be brought in line with the inclusive approach so as to ensure that also non-citizens belonging to minorities concerned can benefit from the said law. See Advisory Committee Opinion

an impact particularly for the Roma who may be more likely than other ethnic groups to be without documents. In stark contradiction to this restricted approach to minority protection the Russian authorities upon ratifying the Framework Convention for the Protection of National Minorities deposited a declaration, which considers the State Parties' margin of appreciation to be limited in defining a national minority:

The Russian Federation considers that no one is entitled to include unilaterally in reservations or declarations, made while signing or ratifying the FCNM, a definition of the term "national minority" which is not contained in the Framework Convention. In the opinion of the Russian Federation, attempts to exclude from the scope of the Framework Convention persons who permanently reside in the territory of State Parties to the Framework Convention and previously had a citizenship but have been arbitrarily deprived of it, contradicts the purpose of the FCNM.³¹⁶

The provisions of the NCA law are compounded by minority rights provisions in a number of other laws.³¹⁷ To date there is no single, comprehensive law

on the Framework Convention for the Protection of National Minorities. Opinion on the Russian Federation, ACFC/INF/OP/I (2003) 005, Strasbourg, 13 September 2002, paragraph 44.

³¹⁶ See Framework Convention on the Protection of National Minorities. List of declarations made with respect to treaty No. 157. Russian Federation. Available at: <http://conventions.coe.int/Treaty/EN/CadreListeTraites.htm>.

³¹⁷ Language rights of national minorities are guaranteed by Article 26 of the 1993 Russian Constitution which allows everyone the right to use his or her native language, freely choose the language of communication, education, training and creative work. In addition Article 68 (3) guarantees all its peoples the right to preserve their native language and to create the conditions for its study and development. The Federal Law on Languages of the Peoples of the Russian Federation of July 24, 1997 in Article 16 provides that citizens have the right to address government bodies, organisations and enterprises and institutions of the Russian Federation with proposals, applications, complaints in the state language, native language or any language of the peoples of the Russian Federation which they know, and that the answers are to be given in the language of the address, unless this is "impossible". An adequate interpretation should be provided. According to the Criminal Procedure Code judicial proceedings are held in the Russian language or in the language of the republic or in the language of the majority of that population of that area. Article 18(2) ensures the right for those persons involved in judicial proceedings to make a statement, testify and speak in court in the native language and to use the services of an interpreter. Furthermore, Article 18(3) states that investigation and judicial documents are presented to the accused person translated to his native language or other language he knows. In reality this right is often refused on the grounds that the local or regional authorities did not know, whom to call upon to be an interpreter. There have been cases involving Roma in which their

on the rights of persons belonging to national minorities although a draft law has been debated in the State Duma since 1994 without passing a single reading. Although not a law it is worth noting the Concept of State National Policy, which

right to interpretation was denied. Regarding language of the mass media the Law on the Languages of Peoples, 1991, permits in Article 20 that national newspapers and magazines may be published in other languages at the discretion of the founders. According to official statistics, there are radio programmes broadcast in 56 languages, TV programmes in 69 languages and hundreds of newspapers and magazines in minority languages. (See Comments of the Government of the Russian Federation on the Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities in the Russian Federation, 21 February 2003, GVT/COM/INF/OP/I(2003)005, p. 3)

It is important to note the legal status of the Romani language. Roma were recognised as an ethnic minority in 1925 and Romanes, initially Latinised and then written in Cyrillic, as a language of an officially recognised group. However, its status can be disputed, as it is not listed in the official index of languages of the then USSR.

Education rights of national minorities are guaranteed in the Constitution in Article 68 as cited above. In addition, the Federal Law on Education of the Russian Federation of July 10, 1992 provides for the possibility to receive basic general education in the native language. Article 33 stipulates the procedures for the creation and regulation of the functioning of a private (non-state) educational establishment. These provisions are also enshrined in the Law on the Languages of the Peoples adopted in 1991. Article 9 provides that the citizens have the right to free choice of the language of upbringing and education and the right to receive basic general education in their native language, as well as to the choice of the language of instruction within the limits offered by the system of education. In addition, Article 11.1 grants the possibility to establish educational establishments, classes, groups as well as by creating conditions for their functioning. Official statistics from 2003 indicate that public education is available in 38 languages, that over 80 languages of native peoples are taught as a school subject and that there are approximately 9,000 ethnic schools.⁶⁹

Cultural rights of national minorities are guaranteed by the Constitution. Article 26 guarantees that everyone shall have the right to determine and state his national identity. A generic right to culture is provided for by Article 44, which states that everyone shall have the right to participate in cultural life, to the use of cultural institutions, and access to cultural treasures. In addition, the right to practise one's culture is enshrined in the Federal Law on the Fundamentals of Russian Legislation of Culture October 9, 1992. Article 6 provides for the equal value of cultures, equal rights and freedoms in the sphere of all nations and other ethnic groups living in the Russian Federation. In addition, Article 11 guarantees the rights of peoples and other ethnic entities to preserve and develop their cultural and ethnic identity, protect, reconstruct and maintain their native historical and cultural environment. Article 21 guarantees the right for cultural-national autonomy to all ethnic communities compactly living outside of their national-state formations or not having their own state systems. In addition, constitutions of some republics contain special provisions on the preservation and development of national cultures of the peoples that live in their territory.

was adopted by Presidential Decree Number 909 on June 15, 1996. The aim of the document was to determine the overall strategy and priority orientations of State policy regarding national minorities. National cultural autonomy was mentioned in Chapter V on National Cultural Development where it is described as a form of self-determination allowing citizens of the Russian Federation belonging to certain ethnic communities, in particular small, dispersed groups to settled national minorities to solve questions of the preservation and development of their identity, traditions, language, culture and education.³¹⁸ Unlike the NCA law, however, the Concept established the mechanism for the implementation of national policy, which was passed as a presidential decree No 217 “Upon Measures to be Taken for the Implementation of the Concept of National Policy in the Russian Federation,” and adopted on February 22, 1997. Currently a draft law (number 3619190-3) on “The Basics of State National Policy in the Russian Federation” is being worked out with the most recent discussion in the State Parliament on December 6, 2004. The aim is to create a precise formulation of the juridical and state mechanisms for the organs of state power and local self-government, ethnic associations and national cultural autonomy for the prevention of conflict, guaranteeing of constitutional rights of citizens and nations for national cultural development. Article 13 reaffirms that the right to self-determination is realised through cultural autonomy. In its draft form the bill does not seek to extend or improve the rights given to cultural autonomies or ethnic associations.

In summary, the cultural autonomy has to be considered as only one of the mechanisms for the protection of cultural rights of national minorities in the Russian Federation and its merits should be evaluated in the fuller legislative context as outlined above. However, despite the existence of legislative norms guaranteeing national minorities the rights and freedoms to develop their national identity often enforcement of these legal provisions is restricted by both lack of financial resources and, at times, lack of political will.³¹⁹

³¹⁸ State Concept of National Policy, Chapter V, June 1996, Presidential Decree No. 909, 15 June 1996.

³¹⁹ Regarding state financial support under the NCA law it is disputed as to whether the wording of the law imposes a legal obligation on the state. Lawyers note that the relevant articles are not stated in the imperative mood. Article 19 states that federal bodies of the legislative and executive powers and of the subjects of the federation envisage appropriations for supporting national cultural autonomies. Article 20 stipulates that financial support is provided under the condition that they are allocated for certain purposes and for concrete activities. Funding is provided on a discretionary basis.

National cultural autonomy is exercised by those organisations, which are registered as legal entities entitled national cultural autonomies (hereafter NCAs). In keeping with international minority rights standards members of ethnic communities are free to declare – or not to declare – their affiliation to an ethnic community. Cultural autonomy status is therefore not granted immediately to ethnic communities but merely recognises their right to achieve such status. Furthermore, the NCA law complies with international good practice, which refrains from naming those specific ethnic groups who are entitled to the protection of the law.

Cultural autonomy has as its operational basis territory, that is, an NCA can be established at the local level – understood in the original federal law as the administrative unit of town, district (rayon) or village – the regional level (region) and federal level. Interestingly, there appears to be a greater privilege bestowed upon those ethnic communities with their own autonomous territories. Article 5 states that those regional or federal NCAs which have a corresponding republic or autonomous district (okrug), autonomous region (region) are allowed to enter into mutual agreements and treaties with the government bodies of the corresponding subjects of the Russian Federation so as participate in the elaboration of federal and regional programs in the field of the preservation and development of national languages and national culture.³²⁰ This obviously puts at a disadvantage those ethnic groups, such as Roma, who have no territory.

11.4 Implementation of NCA: Roma NCAs and Their Achievements

According to governmental statistics released in 2004, there were 20 Romani national cultural associations registered in 60 areas of Russia (out of a possibility of 89).³²¹ Most active are those located in Ekaterinburg, Rostov, Omsk, Smolensk, Kalinigrad and Tver. Statistics from the federal NCA of Roma reveals a different picture: there are currently only 4 NCAs and 18 NGOs. The 4 NCAs include the federal NCA, Sverdlovsk, Komi and South-West Administrative Region of the City of Mos-

³²⁰ Federal Law on National-Cultural Autonomy, Article 5.

³²¹ Nikolai Bugai, Advisor to the Department of Regional Development of the Russian Federation. “Problems of Russian Roma”. In *Ethnosfera*, 4 (67) 2004, p. 20. This figure is believed to be a mistake and refers to the number of Roma NGOs not NCAs.

cow. Roma NGOs exist mainly in the European part of Russia: Samara Region, Volgograd, Rostov-on-Don, Astrakhan, Kaluga, Nizhniy Novgorod and St. Petersburg. In comparison to the statistics prepared by the Ministry of Federal Affairs, Migration and Nationality Policy for the roundtable on Roma issues held in St. Petersburg the number of Roma NCAs has decreased over the last three years.³²² The previously registered city level NCA of Krasnodar and the regional NCA of Tula are no longer active. However, this trend is not worrying in that it has been accompanied by an increase in the number of officially registered Roma associations and a perceived increase in the level of financial support and interest in Romani issues both within the Russian Federation and at the international level. In comparison to other ethnic groups, the Roma have a rather small number of NCAs.

It is important to note that the Roma were amongst the first ethnic minorities to register their federal autonomy.³²³ Registration of the federal Roma NCA (hereafter Roma FNCA) was accepted by the Ministry of Justice of the Russian Federation on November 26, 1999. At that time only 7 other ethnic groups had passed the necessary stages to achieve federal NCA status. The path to establishing the federal autonomy started with the initiators of Romano Kher registering a local Moscow NCA in July 1998 called the local NCA of the South West District of Moscow. In the summer of 1999, Romano Kher sought out contacts of existing regional Roma NCAs, notably in Sverdlovsk and Komi Republic so as to become founding members of FNCA. The constituent congress was held on November 26, 1999, which ratified the articles of association of the Roma FNCA. The first president of the Roma FNCA was Georgiy Demeter. The aims of FNCA as stated in its articles of association include the revival of national consciousness, the preservation of identity, the development of the Romani language, education and culture.³²⁴ A further aim is to establish and maintain cultural connections with Gypsies in other countries.³²⁵ Regarding the formulation of the articles of association there was unwanted intervention by the state bodies. As

³²² See Appendix 2, Consultant's Report N.Torode on the Council of Europe on the Roundtable on the Situation of Rome in Russia, 25-26 June, 2001, Strasbourg, November 6, 2001, MG-S-ROM (2001) 14 rev.

³²³ Currently, there are 16 ethnic minorities in the Russian Federation who have formed their federal cultural autonomies (there are 180 officially recognised ethnic groups in the Russian Federation).

³²⁴ Articles of Association of the Federal National Cultural Autonomy of Russia's Gypsies, Moscow, 1999, paragraph 2.1. (Unofficial translation by the author)

³²⁵ Ibid.

one founder of the federal NCA of Roma explained “We were suggested articles of association and we were forced to take away all the changes we would like to have added there.”³²⁶

Registration as a NCA by another Romani organisation has been difficult although it is not possible to say whether this experience has been worse or better for Romani organisations in comparison to other ethnic associations. In Rostov-on-Don the local Roma organisation has been trying for three years to register initially as an ethnic NGO with the ultimate aim of creating an autonomy. The regional branch of the Ministry of Justice demanded that the applicant present a copy of the rental contract of office premises for the intended NCA. This requirement is not prescribed by the law on public associations. When the founder did pay rent in advance for 3 months so as to comply with this requirement his request for registration was refused with the following explanation: “It is not clear how and for whom your organisation is going to work to protect the ethnic, cultural and social problems of Gypsies.” This was surprising given that the founder had copied the articles of association of the successfully registered Roma organisation in Moscow. According to the organisation’s representatives, “It means that in one region the same charter is registered, in another one it is not. That contradicts the law.”³²⁷

As mentioned earlier the passing of the NCA law stimulated the creation of not only Roma NCAs, but also Roma NGOs. The increase in the latter was mainly attributable to the widely understood belief that in order to create a local NCA there had to exist two NGOs of that ethnic group at the local level, which would then unite to form an autonomy. In the Urals the second Romani organisation, Revival, was therefore registered in 1997 with the view to later form a cultural autonomy. Revival aimed at preserving and developing the Roma culture and tradition and was led by the artistic director of a Romani ensemble. The two existing Romani organisations united and formed the Ekaterinburg Gypsy National Cultural Autonomy, which was registered at the Sverdlovsk branch of the Ministry of Justice on December 15, 1997. The articles of association, which were adopted at the founding meeting on the May 30, 1997, stated the aim as “the independent resolution of issues connected to the

³²⁶ Questionnaire from the Roma FNCA, March 2003.

³²⁷ Nicky Torode’s correspondence with Gypsy Association in Rostov-on-Don, November 11, 2004.

preservation of identity of the Gypsy nation, the development of the Gypsy language and education and Gypsy national culture.”³²⁸ On May 12, 1998, the city Roma NCA became the regional NCA.

As stated earlier the aim of national cultural autonomy is to unite existing organisations to work together as a common network for the resolution of their problems. In the case of the Roma the FNCA has actively supported not only those existing NCAs, but also those Romani associations wishing to participate in their activities and needing their assistance.

The question remains what do cultural autonomies do which is different from those activities of a public association? In actual fact very little. The difference is less about the content but rather about the status and access to resources that these bodies have. We can see that most NCAs carry out various cultural activities. Important historical dates for the Romani nation are increasingly celebrated. Notably, April 8, the International Day of Roma, has only recently started to be celebrated by the Roma in Russia. In 2003, for the first time the Sverdlovsk Roma NCA held a concert, which was supported by the Ministry of Culture. Another event widely celebrated by the Roma organisations was the 500th anniversary of Roma in Russia. Other displays of Roma culture have been financially supported by the Ministry of Culture such as FNCA’s festival carried out in September 2002, the Days of Gypsy Culture. This also included a roundtable on Roma rights. The Sverdlovsk Roma NCA has carried out a range of activities, which include a photographic exhibition *Roots of the Tabor*, a pre-school educational class for Roma and the publication of a community newspaper *Gypsies of the Urals*. They have also become involved in more traditional human rights areas including working with the police on the prevention of discrimination towards ethnic minorities and litigation on discrimination cases. In addition, the Roma NCA sees its role as twofold: working with the community in preserving and promoting their culture and informing the general population about the Roma community so as to break down stereotypes which are prevalent. Working with the external environment has included media monitoring and increasing coverage of Romani issues in the local and regional media, and raising awareness with authorities including a roundtable on the Roma situation in the Urals under the auspices of the Council of

³²⁸ Articles of Association, Ekaterinburg Gypsy National Cultural Autonomy, adopted founding meeting on 30 May 1997, paragraph 2.1. (Unofficial translation by the author)

Europe in July 2003. The Sverdlovsk NCA sees its role as creating a basis for understanding and articulating Roma identity.³²⁹ The latter is particularly relevant for the Roma. Roma identity and cultures are being lost, arguably more acutely, than some other ethnic groups as the transition from a nomadic life to a settled one inevitably results in loss of traditions and the very mechanisms of their transition.

It is true to say that human rights work is an area into which the majority of Romani organisations in Russia are now stepping thereby complementing the traditional cultural and educational activities. The FNCA has established a Roma Rights Information and Legal Assistance Centre, which carries out monitoring of violations of Roma rights and provides legal advice. In comparison to other ethnic organisations in Russia this direction of activities is progressive. Many, not all, ethnic organisations carry out cultural and educational work whilst anti-discrimination work is usually left to well-established, well-funded general human rights organisations. Both FNCA and the Sverdlovsk NCA have good working relations with the Russian human rights NGO networks thereby raising their own organisational profile and the urgency of working on Roma issues.

The main result of cultural autonomy in the words of the Roma FNCA is that “we have unified and brought closer together our nation.”³³⁰ In addition, the founders of the FNCA cite the creation of the Expert Group on Roma under the Government as the second biggest achievement. The possibility to lobby for its creation came partly as a result of the FNCA being a member of the Federal Consultative Council on Ethnic Affairs under the government, which was established pursuant to Article 7 of the NCA law.³³¹

³²⁹ Questionnaire from the Sverdlovsk Roma NCA, July 2003.

³³⁰ Questionnaire from the Roma FNCA, March 2003.

³³¹ Government Decree No.1517 on the Consultative Council of December 18, 1996 enumerates the tasks of the council, which: (i) carries out coordination of the activity of NCAs, facilitates the establishment and consolidation of relations amongst them; (ii) represents and protects cultural and social interests of ethnic communities in the bodies of the state government; (iii) participates in the preparation of the federal programmes in the field of preservation and development of national languages and national culture, drafts of normative legal acts, as well as in the preparation of other decisions concerning the rights and legitimate interests of the citizens of the Russian Federation who consider themselves belonging to a certain ethnic community – advises the Government of the Russian Federation, federal bodies of the executive power on national problems of the citizens of the Russian Federation who consider themselves belonging to a certain ethnic community. (Unofficial translation by the author)

In the words of one representative from the Ministry of Culture the Council is seen firstly as experts for lawmakers and secondly as partners for the executive power.³³² The Council has no decision-making authority and it is not a legislative body. To date this body is still in the process of working out and agreeing its regulations, which have changed four times since they were initially written in 1996. Despite the significance of this Council it has not, according to the Roma FNCA, been effective. “The council does not play any role in the life of the NCAs since it is not authorised to solve the important issues that the NCAs face in their activity.”³³³ The Advisory Committee on the FCNM, likewise, criticised the workings of the Council. In particular, meetings of the Consultative Council should be more regular and consultations expanded so as to improve the Council’s participation in the preparation of draft normative acts.³³⁴ In general, the Committee recommended that noted issues related to the effective participation...deserve increasing attention by the authorities.³³⁵ They urged that there is a need to improve consultation of national minorities and other organisations of national minorities in the decision-making processes.³³⁶

The major success of the Roma FNCA was the creation of the Expert Group on Roma Affairs in Russia, which is the result of the FNCA’s long term work in the Consultative Council and appeals.³³⁷ The 14th session of the Consultative Council in 2003 was devoted to the problems of Russian Gypsies.³³⁸ The member of the FNCA

The federal Consultative Council is chaired by the then Minister on Ethnic Affairs whose post was abolished in 2003. The deputy chair is chosen from the ethnic leaders. There are representatives at the level of deputy minister of various ministries including the Ministries of Justice, Education, Press and the Parliamentary Committee on Ethnic Affairs. The ethnic leaders have not changed since its inception in 1996.

³³² Nicky Torode’s interview with two representatives from the Ministry of Culture, November 2, 2004.

³³³ Questionnaire from the Roma FNCA, March 2003.

³³⁴ Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on the Russian Federation, ACFC/INF/OP/I(2003)005, p.14, paragraph 44.

³³⁵ *Ibid.*, p. 28, paragraph 107.

³³⁶ *Ibid.*, executive summary, p.3.

³³⁷ Questionnaire from the Roma FNCA, June 2003.

³³⁸ Work Plan of the Consultative Council on the Affairs of the NCAs under the Russian Government for 2003, appendix to the Protocol of the 12th session, February 18, 2003.

cited the main problems for the Roma as the lack of national educational institutions, teaching materials and textbooks, premises for cultural activities, centres for the studying of Gypsy history and culture and Romani media. Moreover, Gypsies are not represented in any branches of power. It was noted that “these tasks could only be achieved at the state level...by means of adoption and implementation of special programmes and the creation of a state body on Gypsy affairs.”³³⁹ Following this appeal the former Minister of Nationalities was tasked with creating the body on Roma Affairs. This is undoubtedly a remarkable achievement as previous requests had met with refusal on the basis that there were no significant problems faced by Roma in Russia. Of the 12 members of the Group, there are 5 Roma, including 3 representing the federal NCA, one leader from an ethnic NGO in Volgograd and the world famous artistic director of the Theatre Romen in Moscow. Federal ministries represented – ranging in ranks from main specialist to deputy director – include Culture, Foreign Affairs, Regional Development, Education and Internal Affairs. The aim of the Roma Expert Group is to “work out targeted diverse programmes for the national cultural development of Russian Gypsies, to balance the interests of the state and Gypsy community, to regulate interethnic relations, establish interethnic peace and civil accord in society.”³⁴⁰ The first meeting of the Expert Group took place on September 28, 2003 during which the work plan for 2004-2005 was adopted. This sets targets for research, publications, festivals, artistic exhibitions, meetings with ministries, roundtables, preparation for the teaching of the Roma language, and discussions on the confirmation of the adoption of the OSCE Action Plan on Roma and Sinti.³⁴¹ To date the Expert Group has failed to convene further meetings and the question of its future is yet to be determined.

The success of Roma NCAs, in the opinion of one NCA leader, has nothing to do with the form of the organisation. As the Sverdlovsk Roma NCA director notes all their achievements have resulted from their experiences and good opportunities. In many respects any type of Roma public association experiences to varying de-

³³⁹ Draft Appeal to the Consultative Council on the Affairs of the NCA under the Russian Government regarding the problems of the Gypsy population of Russia, prepared by the Roma FNCA, May 2003.

³⁴⁰ Ibid.

³⁴¹ Work Plan of the Expert Group on Roma Issues Under the Minister of the Russian Federation Mr V. Zorin (2003-2005).

grees both a distrust and misunderstanding about the role of such a public association amongst Roma. It is this problem – making the Romani community aware of their work and purposes – which has been one of the most acute for many Romani organisations.³⁴² This has an impact for the success of the Romani organisations, both the NCAs and the NGOs, in Russia today. However, it can be said that now awareness of the existence and work of the Roma FNCA is being significantly raised amongst the Romani communities as the FNCA is coordinating the distribution of region-wide humanitarian aid amongst Romani Holocaust survivors and relatives of victims many of whom, until this initiative, had been unaware of such a federal organisation.

A further disappointment in the implementation of the NCA law has been the lack of state financial support for the NCAs. This reality, as noted by the Roma FNCA founder, means that there is no difference between NGOs and NCAs. There have been numerous attempts to enforce the provision of financial assistance including an appeal to the General Prosecutor in 2001 by the State Parliamentary Committee on National Affairs. Although it was subsequently agreed to introduce into the federal budget classifier a separate line for cultural autonomy this was never realised. However, there have been funds made available for target programmes carried out by the NCAs in central and regional budgets through predominantly culture and education lines.³⁴³ In the case of the Roma, consistent lobbying efforts at the federal level has ensured that funding has been allocated to activities aimed at preserving their culture. According to statistics supplied by the Russian Ministry of Foreign Affairs in its report to the Council of

³⁴² Traditionally, Roma have preferred to solve their problems directly without appealing to intermediary bodies. Research carried out in the Ural region amongst Roma living in villages revealed that they were more likely to approach the local authorities than a Romani NGO. In the city the trend was the reverse although one third of those polled could not specify how the regional Roma NCA could help them. (Opinion poll carried out by public opinion agency Socium, with financial support from the Council of Europe. c/f Roundtable Report on the Situation of Roma in the Ural by A.Torokhov, N.Torode and O.Chashchikhina, July 2003, Ekaterinburg)

³⁴³ According to an assessment made by the Advisory Committee to the FCNM, the support provided by federal sources is rather limited and the budgets of the subjects of the federation are often the main sources of public funding. In their view this can create particular difficulties for persons belonging to dispersed minorities and therefore their initiatives should be given increasing attention by federal authorities in the framework of cultural autonomies and generally. See Advisory Committee on the Framework Convention for the Protection of National Minorities, Opinion on the Russian Federation, ACFC/INF/OP/I(2003)005, paragraph 46, p. 15.

Europe FCNM, the Russian government allocated 150 million roubles for the ethno-cultural development of Gypsies.³⁴⁴ The assistance was extended on an ad hoc basis to one of the Romani organisations in accordance with a special order of the Russian Federation.³⁴⁵ According to one former civil servant from the Ministry of Nationalities, this sum represented a higher amount than for other ethnic groups.³⁴⁶ Although it is virtually impossible to ascertain whether the full amount ring fenced in the federal budget concurred with the actual amount spent it is more important to note that governmental funding has supported numerous activities of the FNCA.

A further limitation on the Roma NCA, as with other ethnic groups, is the accusation that these organisations are not representative of the community and are self-appointed leaders who act in their own interest. This accusation is more acute towards Roma as stereotype and ignorance becomes mixed. One governmental representative, for example, criticised the Sverdlovsk Roma NCA for lacking authority with the Romani community. The Roma, as she saw it, “have their own barons who are respected. The situation can change only when the barons work to change this situation.”³⁴⁷ This limitation was acknowledged by the leader of the NCA himself: “To have this or that position in a public association is one thing and to become a leader in the local Romani community is another.”³⁴⁸ With the passing of time, however, the question of representation and mandate becomes less an issue as the work of the Roma NCA become more attuned to the real needs of the Romani community. This was evident with the increased profile and activities of the Sverdlovsk Roma NCA, which resulted in a number of requests for support and cooperation from Romani musicians, poets, students and village leaders to solve issues such as development of infrastructure of the Romani residential area.

In brief, it can be said that the cultural autonomy stimulated the growth of Romani organisations in the regions, helped Romani organisations to form a network

³⁴⁴ Report submitted by the Russian Federation Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR (99), paragraph 15, p.18.

³⁴⁵ *Ibid.*

³⁴⁶ Nicky Torode’s interview with former representative of Ministry of Nationalities, November 17, 2004.

³⁴⁷ Nicky Torode’s interview with the Sverdlovsk Regional Administration, April 30, 2003.

³⁴⁸ Questionnaire from the Vice-President of the Sverdlovsk Roma NCA, June 2002.

and cooperate on various levels, including exchanging information and experience. Through its participation in the Consultative Council on Ethnic Affairs for federal national cultural autonomies, the Roma FNCA has stood a chance of raising the profile of the Romani issue with the result of the creation of an Expert Group on Roma Affairs. It is true to say that some of these achievements may have occurred organically without the adoption of the cultural autonomy law as the so-called “national question” in Russia became a legitimate state interest. “We should remember that today we can plan and carry out events which 10-15 years ago sounded impossible. The Ministry of Culture no longer asks what do you need such and such for.”³⁴⁹ Other ethnic leaders, however, are more negative in their assessment of the cultural autonomy. “The federal NCAs came from the dissidents’ movement which already had their own organisations. This allowed them to become the official federal organisation but this did not affect the lives of the community. There was nothing new. We have schools and still have schools.”³⁵⁰ In some respects the main results are not necessarily quantifiable. According to one governmental official, the achievements of the cultural autonomy have been more about relieving tensions between the ethnic organisations and establishment of trust to the government from the ethnic leaders.³⁵¹ One NCA director, on the other hand, cited that “through the creation of the network of organisations it was only now that the Jews are becoming a real community. Before it was just some romantic and vague idea.”³⁵²

11.5 Amendments and Future of NCA Law

It is important to note that the notion of cultural autonomy is not entrenched in the 1993 Constitution. This obviously makes the law less stable as it can be amended and even abolished in the same order as it was enacted, that is, by a simple majority in the federal legislature. In its eight-year existence the law has undergone three stages of amendments. The first amendments appeared in 2002 (31-FZ) with subsequent

³⁴⁹ Nicky Torode’s interview with former leader of Sverdlovsk ethnic association, March 12, 2003.

³⁵⁰ Nicky Torode’s interview with Jewish local NCA, November 13, 2004.

³⁵¹ Nicky Torode’s interview with former representative of Ministry of Nationality Affairs, November 17, 2004.

³⁵² Nicky Torode’s interview with the Jewish FNCA, October 28, 2004.

ones adopted in 2003 (136-FZ) and 2004 (58-FZ). At the time of writing, there are new amendments to the law in light of the decision in September 2004 to establish the Ministry of Regional Development. It has not yet been decided what the remit and responsibilities of this ministry with regards to ethnic policy would be so how this body will affect the content and workings of the autonomy law is unknown.

It was the amendments adopted in 2003, which were, in the words of one NCA member, an attempt to make the law work.³⁵³ This general perception that the law didn't work had a negative impact on the autonomies, which had stopped working.³⁵⁴ The 2003 amendment qualified the subject of the law. This was largely seen as a response to the fact that ethnic Russians had set about establishing their NCAs – at the local and regional level, while their attempt to register at the federal level had been unsuccessful.³⁵⁵ According to Federal law No 136-FZ, adopted by the Duma on October 17, 2003, “national cultural autonomy is the form of national cultural self-determination which is the social association of citizens of the Russian Federation who consider themselves to belong to a definite ethnic community being in a minority at the corresponding territory.”³⁵⁶ Although it can be inferred that this qualification means numerical minority it is not explicitly stated in the revised law. Given that ethnic Russians are in some subjects a numerical minority then, by extension, there is no prohibition placed on them in forming their cultural autonomies. However, according to Russian legislation, the concept of sovereignty refers to the nation as a unified whole and not as individual territorial units.³⁵⁷

³⁵³ Nicky Torode's interview with the Jewish FNCA, August 6, 2004.

³⁵⁴ Ibid.

³⁵⁵ The Ministry of Justice had refused registration to the federal national cultural autonomy of Russians in 2000 which led to the subsequent appeal by the autonomy in a Moscow inter-municipal court. Although the court upheld the complaint of the applicant the Ministry of Justice applied for a cancellation of the court decision which was successful in April 2002. The autonomy law therefore, inadvertently, propelled the Russian question onto the political agenda.

³⁵⁶ See Federal Law on Amending Federal Law “On National-Cultural Autonomy”, No 136-FZ, November 10, 2003, available at: <http://www.akdi.ru/gd/proekt/086590GD.SHTM>. (Unofficial translation by the author)

³⁵⁷ Paragraph 1 of the Decision of the Constitutional Court of the Russian Federation of June 27, 2000, No.92-0 on the “Verification of the Correspondence of the Constitution of the Russian Federation with articles of the Constitution of the Republics of Adigei, Bashkortostan, Ingushetia, Komi, North Ossetiya, Alaniya and Tatarstan”.

This concurs with existing international standards.³⁵⁸ By extension, those ethnic groups who are in a position of minority at a sub-state level are not the subject of international minority rights protection.

The registration process was also amended pursuant to the 2003 law. Currently, a federal national cultural autonomy can be formed when no less than half of the registered regional NCAs consented. This amendment has as its aim, seemingly, to involve greater numbers in the formation of the federal NCA as previously the law required it to be formed from only 2 or 3 regions. In reality this new provision will affect more those ethnic groups who have larger numbers of regional autonomies as they will have to come to a consensus amongst a wider base of NCAs. Arguably, then, this amendment confers upon the federal autonomy more legitimacy. In addition, the previous provision in the law, which permitted a single local NCA to re-register as the regional one in the absence of a regional NCA or other local NCA, was abolished. Likewise, the rationale behind this amendment is to make the regional NCA more legitimate.

As yet the consequences of these new provisions regarding registration are indiscernible. It was also introduced into the amended law of 2003 that the NCAs should start to specify the number of citizens affiliated to the corresponding NCA who were in need of their cultural development. This requirement was considered alarming by one regional governmental representative.³⁵⁹ In reality it would be difficult to determine whether numbers declared were accurate and, equally undeterminable, is how ethnic groups are perceived to be “in real need of preserving their culture.”

The proposals made by President Putin in FZ-58 and adopted on June 29, 2004 transfer the responsibility of the Consultative Council from under the government to an agency within the Ministry of Culture (at the time of writing this is being reviewed given the aforementioned creation of the Ministry of Regional Develop-

³⁵⁸ The UN Human Rights Committee concluded that national minorities as referred to in Article 27 of the International Covenant on Civil and Political Rights are those ethnic groups who are in an overall numerical minority at the national level. See J.Ballantyne, E.Davidson and G.McIntyre v Canada, Communications nos.358 and 358/1989, U.N. Doc. CCPR/C/47/D/359/1989 and 385/1989/Rev.1 (1993).

³⁵⁹ Nicky Torode’s interview with the Sverdlovsk regional administration, March 13, 2003.

ment in September 2004). These proposals emanating from the President did not involve input from the NCA leaders. As one of them noted: “In June the President signed the law and I knew about it only in August.”³⁶⁰ This style of government mirrors the general political climate in which the lower house of parliament (Duma) is dominated by the pro-Kremlin political party United Russia with a 68% majority following the December 2003 parliamentary elections. There is a process of abolishing many of the democratic laws passed in the early Yeltsin years and of the 150 or so consultative councils under the government. Until very recently the national question seemed to be less of a political priority. This was seen, firstly, with the dissolution of the Ministry of Federation Affairs, National and Migration Policy by presidential decree on October 16, 2001. Then the Minister for Nationalities (without portfolio) was appointed in 2001 only to be liquidated in 2003. The ethnic leaders felt this as a serious blow as the Minister for Nationalities, Mr Zorin, was credited with having achieved much on ethnic policy. The creation of the new Ministry of Regional Development, if given the appropriate staff and powers, has ushered in a renewed optimism among ethnic leaders for the reinvigoration of ethnic policy. In addition, the current administrative reforms underway in Russia which is seeking to liquidate and amalgamate some of the ethno-territories may also lead to the cultural autonomy approach becoming more, and not less, relevant a mechanism as so-called titular groups lose their privileges.

In conclusion, it can be said that despite the limitations of the cultural autonomy approach it has brought with it some important achievements. For Roma, as for other ethnic groups in the Russian Federation, it has allowed ethnic groups to unite so as to work more professionally and effectively with governmental structures through the creation of consultative councils at the federal and regional levels. For the Roma, working through the Consultative Council for federal NCAs has succeeded in putting the question of the Roma situation on the political agenda of the government through the creation of the Expert Group on Roma Issues. The potential of this group is yet to be realised. The cultural autonomy approach has undergone various legal amendments, which arguably are starting to rob it of its original meaning. However, despite its many failings the achievements have to be measured against the broader political landscape in which it operates. It remains a significant law in that it recognises the principle that an individual can freely declare his belonging to an ethnic group; that

³⁶⁰ Nicky Torode’s interview with the Ukrainian FNCA, August 18, 2004.

those ethnic groups can freely create their ethnic organisations whose aim of ethno-cultural development is a legitimate interest of the state; that it provided the first legislative basis for the creation of ethnic organisations and their interaction with state structures and finally it aimed at removing the inherited hierarchical system of ethnic groups so that those peoples in diaspora are afforded the same degree of protection of their rights as those so-called titular groups.

In many respects, however, the effectiveness of the cultural autonomy mechanism is irrelevant if the general working of the state democratic institutions is ineffective.³⁶¹ Even the most liberal NCA law cannot guarantee equal opportunities for ethnic minorities unless democratic principles are well entrenched.³⁶² The current political environment, as detailed above, is potentially one of the biggest threats to the further successful implementation of the cultural autonomy. According to the opinion of the FNCA cultural autonomy is successful to an extent. More realistically they note that, at present, this is the only mechanism they have for the preservation of their culture.

³⁶¹ Questionnaire from the Sverdlovsk Regional Roma NCA, June 2003.

³⁶² *Ibid.*

12. CONCLUSION

In the end of 2003, the Russian Federation in its capacity of a Member State of the Organisation for Security and Cooperation in Europe (OSCE) endorsed the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area.³⁶³ The Action Plan includes detailed recommendations to states of the OSCE region aimed at prevention of police abuse and violence against Roma and Sinti people; developing policies and procedures to ensure an effective police response to racially motivated violence against Roma and Sinti people as well as eradicating discrimination against them in all fields of life. The elaboration and implementation of national policies addressing the situation of Roma – designed with the active participation of Roma and Sinti – is among the core elements of the Action Plan.

To date the government of the Russian Federation has largely neglected these commitments allowing gross human rights violations against Roma to continue unchecked. The government has done little to nothing to counteract racial prejudice fuelling both arbitrary acts by police and judicial authorities, as well as the popular pressure on public authorities to target certain ethnic groups for repressive measures. The result is an alarming pattern of human rights abuse of Roma and of perpetrators' immunity from justice. Abuses of the rights of Roma take place on a daily basis in the context of the administration of justice and the administering of public services partly or solely because of racism.

The government is not unaware of the egregious impact of racism on the lives of many Roma. In addition to expressions of concern regarding the situation of Roma in the Russian Federation by international and European monitoring bodies, a number of domestic human rights and Romani organisations have repeatedly approached officials at national and regional levels seeking intervention to ameliorate the human rights situation of Roma. Such attempts, however, have not prompted officials to undertake any serious action. The government still denies racial discrimination against

³⁶³ See Organization for Security and Co-operation in Europe, 27 November 2003, Permanent Council. 479th Plenary Meeting, Decision No 566, at: http://www.osce.org/documents/odihr/2003/11/1562_en.pdf.

Roma and apparently views its role with respect to this minority group mainly in terms of preserving Romani culture and tradition. In March 2003, for example, the then Minister for Nationalities, Mr Vladimir Zorin, reportedly stated before the UN Committee on the Elimination of Racial Discrimination (CERD) that Russia's 55,000 Gypsies had been fully integrated into modern society and were benefiting from various programmes intended to promote their rights, referring to such activities as publication of an encyclopaedia in Romani language, promotion of Romani culture and existence of renowned Romani scientists and artists.³⁶⁴

While support for the development of Romani culture is an outstanding duty of the state, and should be welcomed, provision of such support does not release the government from its obligation to ensure, respect and protect other fundamental rights of Roma. Examples of intense vilification of Roma in the public space, of racist assaults and other discrimination against Roma presented in this report, warrant a much broader range of government action to make good on the government's commitments under international human rights law.

The government of the Russian Federation must take urgent measures to combat anti-Romani racism, particularly among the police force and the organs of the judicial system. First and foremost, it must adopt comprehensive anti-discrimination legislation in order to ensure that individuals who have suffered the grave harm of racial discrimination have real recourse when their human rights are violated. The Russian government must also ensure that its laws are enforced without discrimination against Roma and undertake to punish public officials and others who discriminate against Roma. Denying racism and absolving individuals from responsibility for it is bound to undermine the democratic process in the Russian society.

³⁶⁴ See Press Release, Committee on Elimination of Racial Discrimination begins examination of reports of Russian Federation, CERD, 62nd session, 10 March 2003, available at: <http://www.unhchr.ch/hurricane/hurricane.nsf/0/5F7FC33CF2112573C1256CE6002B13BA?opendocument>.

13. RECOMMENDATIONS

On the basis of the findings of this report, the ERRC recommends that the authorities of the Russian Federation – at both federal and regional levels, adopt the following measures and policies in accordance with their competences:

- At the highest political level – and at all levels – condemn racial discrimination and human rights violations against Roma and others regarded as “Gypsies” – and commit to upholding human rights and the rule of law for all persons in the Russian Federation;
- Develop a comprehensive government programme addressing the critical human rights situation of Roma in the Russian Federation. Such programme should be in line with the 2003 OSCE Action Plan on Roma and Sinti and the General Recommendation 27 of the UN Committee on the Elimination of Racial Discrimination (“UN CERD”).

On Combatting Racial Discrimination

- Adopt comprehensive anti-discrimination legislation in line with General Policy Recommendation 7 of the Council of Europe’s European Commission against Racism and Intolerance;
- Establish an enforcement body capable of providing independent assistance to victims of discrimination in pursuing their complaints, conducting independent surveys concerning discrimination, and publishing independent reports and making recommendations on matters of relevance to the enforcement of anti-discrimination law in line with General Policy Recommendation 2 of the Council of Europe European Commission against Racism and Intolerance;
- Introduce specific legislation criminalising racist acts as well as racially motivated statements made by public officials in line with its obligations under the International Covenant on Civil and Political Rights (Articles 2, 20, 26) and the International Convention on the Elimination of All Forms of Racial Discrimination (Articles 2(1)(a), 2(1)(d), and 4(c));

- Amend legislation to enable public organisations to litigate cases in the public interest, i.e. widen the scope of representative actions to allow organisations to pursue cases on behalf of members or constituents whose rights are affected;
- Ratify Protocol 12 of the European Convention on Human Rights and Fundamental Freedoms;
- Ensure that the recommendations of the UN CERD are implemented through the development of comprehensive programs and the institution of mechanisms for monitoring of their implementation;
- Conduct systematic monitoring of access of Roma and other minorities to justice, and the effective realisation of fundamental human rights, including economic and social rights; establish a mechanism for collecting and publishing data disaggregated by ethnicity in sectoral fields of relevance to the realisation of fundamental economic and social rights;
- Conduct comprehensive human rights and anti-racism training for the national and local administration, members of the police force and of the judiciary;
- Conduct public information campaigns on human rights and remedies available to victims of human rights abuse, including such public information campaigns addressed to the Romani communities;
- At the highest levels – and at all levels – speak out against racial discrimination and make clear that racism will not be tolerated.

On Combatting Violence by Public Officials against Roma and Other Persons Regarded as “Gypsies”

- Amend legislation to incorporate the main elements of the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) – including its relevant jurisprudence – and other relevant international standards;
- Ratify the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment allowing thereby

visits to places of detention under the jurisdiction and control of the Russian Federation by an independent body;

- Implement in practice the prohibition of obtaining testimony by coercion under Article 302 of the Criminal Code and ensure that Article 9 of the Criminal Procedure Code, which prohibits anyone involved in criminal proceedings from being subjected to torture or other cruel, inhuman or degrading treatment, is respected;
- Ensure that evidence obtained by means of torture and ill-treatment is not admitted in any proceedings;
- Ensure that all detainees are guaranteed prompt access to a lawyer following arrest, as stipulated in the Russian Constitution;
- Establish an independent body to oversee the performance of law enforcement officials and review complaints of illegal acts committed by police and other law enforcement officials;
- Investigate promptly and impartially incidents of violence and abuse of Roma by law enforcement officials and prosecute the perpetrators of such crimes to the fullest extent of the law;
- Ensure that Romani victims of police violence and abuse who lodge complaints are effectively protected against intimidation and reprisals;
- Ensure that Romani victims of torture or ill-treatment have access to justice, including but not necessarily limited to due compensation, medical care and rehabilitation;
- Take swift action to stamp out corruption among law-enforcement authorities and members of the judiciary;
- Ensure that law enforcement personnel are trained in international law on the prohibition of torture and ill-treatment;
- Undertake a comprehensive survey of racial profiling issues by the Russian police and make the study available to the public;

- Introduce training for law enforcement officials and members of the security forces on the special needs and rights of children, as set out in the Convention on the Rights of the Child.

On Combatting Racial Discrimination in the Criminal Justice System

- Adopt effective measures to prevent, identify and, where occurring, punish manifestations of racial bias in the law enforcement;
- Develop and implement comprehensive training programs to ensure that law enforcement officials do not themselves act in a discriminatory way and are aware of their obligation to protect all people from such discriminatory action by others; Develop and implement training programs aimed at challenging racial bias in justice officials;
- Ensure that no one is detained except in accordance with procedures and for reasons established by national and international law and standards. Eliminate the widespread practice of keeping a person in custody without lawful grounds.
- Ensure that all detainees, are immediately informed, in a language they understand, of the reason for their detention; of their rights to lodge complaints about their treatment, to be brought promptly before a court and to have a judge rule without delay on the lawfulness of their detention;
- Ensure that Roma and others can in practice take advantage of their legal right to use an interpreter during court proceedings;
- Undertake a comprehensive review of racial discrimination in the criminal justice system, assessing matters including but not necessarily limited to: i) rates of remand into custody of suspects of crimes (ethnic Russians as compared with pariah minorities); ii) quality of evidence used to secure convictions (ethnic Russians as compared with pariah minorities); iii) rates of conviction and length of sentencing (ethnic Russians as compared with pariah minorities); iv) other. Make the study widely available to the public;
- Recruit Roma in the police and the judiciary.

On Combatting Racially-Motivated Crime by Non-State Agents

- Promptly bring those responsible for racially motivated crimes and other instances of violent human rights abuse against Roma to justice;
- Ensure that where there are reasonable grounds to believe that assaults are racially motivated, they are investigated and prosecuted as such;
- Publish detailed statistics, at minimum yearly and in a format readily understandable to a lay person, on the number of racially-motivated crimes occurring and prosecuted.

On Violence – In Particular Domestic Violence – Against Romani Women

- Without delay, assess policy and practice in the area of providing protection to victims of domestic and other gender-based violence and implement swiftly reforms aimed at ensuring that the interests of the victim are primary. Take proactive steps to ensure that Romani women have full access to services made available to battered women, and that no discriminatory impacts arise in the implementation of policies addressing domestic violence.
- Design and implement outreach programmes such that Romani women and other potential victims of domestic violence have access to detailed information in language that they can understand as to protection measures available for victims of domestic violence.

On Combatting Hate Speech against Roma in the Media

- Monitor mainstream electronic and print media at national and regional level and take adequate measures to investigate and prosecute those responsible for promoting hatred and ethnic tension through the print and audiovisual media;
- Develop training programmes to increase awareness among journalists, editors and programme managers about racism and discrimination, including an analysis of the manner in which the media disseminate prejudices and stereotypes;

- Encourage development of media monitoring mechanisms to avoid discriminatory and inciteful language.

On Ensuring Access to Personal Documents

- Facilitate access to citizenship of the Russian Federation for the Roma from the former Soviet Union residing in the Russian Federation who are stateless and provide the necessary legal documents (such as birth certificates and internal passports and other documents necessary for the realisation of fundamental rights, including economic and social rights) to all Roma not in possession of such documents;
- Undertake review of legislation, regulations and practices at federal, regional and local levels with the aim of removing any elements of the passport and registration process which impose restrictions on freedom of movement in contradiction to the Constitution of the Russian Federation and international human rights law, and/or lead to systematic discrimination against particular minority groups.

On Combatting Discrimination in Access to Social and Economic Rights

- Ensure that Roma and others are not precluded from exercising fundamental rights on the grounds of lack of personal documents, including residence registration.
- Provide free legal aid to members of disadvantaged groups, including Roma and the indigent and sponsor legal assistance projects aimed at providing legal services to disadvantaged groups as Roma;
- Without delay, ratify the Revised European Social Charter;
- Without delay, ensure effective implementation of the right to adequate housing, in particular:
 - Engaging to end racially discriminatory practices in this area;
 - Providing security of tenure for residents of Romani communities and informal settlements, and protect all persons from forced evictions;

- Ensuring effective remedy in cases of discrimination against Roma in the field of housing, and undertaking to implement effective measures to ensure that local authorities register all persons actually residing in a given municipality, without regard to race;
- Allocate adequate resources to social housing projects and ensure that Roma have equal access to social housing;
- Adopt policy measures ensuring that Roma – and particularly Romani women – are able effectively to realise rights to employment, health care, and access to social welfare payments and to public goods and services;
- In cases of reported abuses in the school system, such as physical or verbal assault, humiliating treatment, and failure by teachers and school administrators to protect Romani children from peer abuse, punish the parties responsible and implement measures aimed at prevention of further abuse;
- Undertake all measures necessary to ensure equal access to integrated education to Romani children and particularly Romani girls. Support Romani students in obtaining scholarships, books and travel expenses to attend school;
- Develop and implement catch-up adult education programs aimed at remedying outcomes of previous non-schooling;
- Develop curriculum resources for teaching Romani language, culture and history in schools, and make them available to schools;
- Strengthen involvement of the regional human rights commissioners in order to respond the needs of Romani population in due terms;
- Design and implement anti-bias training programs for teachers and school administrators. Anti-bias subjects should also be included in the curriculum of the teacher colleges and universities.

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15. SUMMARY IN ROMANI

Europako Rromano Čačimasko Centrosko (ERRC) manuš savo kerel monitoring pala Rromane čačipa (xakaja) ande Rusia arakhla pe but thana, sar si phagardine Rromane manuškane čačipa vaj čačipa avere manušengo save e gadže akharen “Gypsies”.³⁶⁵ Violencia savi kerel pes katar manuša save keren buti ande themeske institucie, paramilitare thaj nacionalo-ekstreme grupe, sar vi diskriminatoro tretmano e Rromengo ande relacia lenge civile, sociale thaj ekonomikane čačipengo (xakajengo) šaj žutil amenge te dikhas sar o them bilače kerel piri buti po drom te phagavel gasave pharipa/problemura.

Baro skepticizmo ande relacia e zakonosa sar vi bari korupcia pe sa levelura e governoske kerda te e situacia avel bilači po drom te vazden pes opre manuškane čačipa thaj fundamentale slobode ande Rusicko them. Varesave etnikane minoritetonge grupe, sar si vi Rromani grupa, šaj xatjaren pes sar kaj si ande but bilači pozicia vaš odi kaj pe lende kerel pes violencia (tortura), soske gindil pes kaj von ultimativo len than ande organizuime kriminalo, terorizmo thaj kin-bikinipe e drogako. Trin maj bare kampanje (akcie) save akana kerel o Rusicko them si “maripe mamuj terorizmo”, “maripe mamuj korupciako” thaj “maripe mamuj drogako”. Sa kadale opre sikadine kampanje si ande Rusicko societato phangline trine etnikane thaj nationale grupenca “manuša katar o Kavkazo”, manuša save si Židovura (bibolde) thaj e Rroma. O maripe “mamuj droga” lia te vazdel pes opre ande 90-te berša thaj e gadže sa maj but kerde peske ando gindo kaj tipiko manuš savo kerel buti e drogasa musaj te avel Rrom. Adjes identifikacia thaj egaliteto savo kerel pes

³⁶⁵ Ekspresia “Rroma thaj aver manuša saven akharen Gypsies” si utilizime ande kava raporto te kerel deskripcia pala minoriteta save si pe teritoria Rusiake Federaciako save aver kotor e komunitetosko akharel “Gypsies” (Tsygane pe Rusicko čhib). Maj baro kotor kadale manušengo si Rroma thaj vakaren (vorbin) Romani čhib. Šaj phenel pes kaj si pe jekh rig Rusicke Rroma thaj rromane grupe save bešen ande sasti Rusia sar (Kalderary, aka Kotlyary, Lovari, Krymy, Plashchuny, etc.), pal pe aver rig si cikni grupa save akharen Sint sar Boshia (aka Lomavtic); si vi grupa savi akharel pes Karachikatar kotor e Rusiako kasko anav si Caucasus; si vi Rroma andar Centralo Azia Lyuli (aka Mugat), save avile katar Tadžikistano sar vi andar aver regionura Centrale Aziako. Von šaj arakhen pes pe but thana ande Rusia ande maj palune deš berša vaš odi kaj aven sar sajekutne vaj pe vrama migrantura. Te sa xatjarel pes maj užes amen ando raporto utilizisardam termino “Rroma” pala sa e manuša save gadže akharen “Gypsies” thaj pala sa aver save si majoriteti vaj si bilače tretirime/dikhinde.

maškar droga thaj Rroma si kade baro thaj ande media kava lia te avel sinonimo. Rasizmo mamuj Rroma si adjes but buxljardo ande Rusicko them. Gindipe e gadžengo kaj e Rroma musaj te keren buti ando kriminalo kerel te phagaven pes sajekh fundamentale čačipa e Rromenge numaj godolese kaj si Rroma. Diskriminacia mamuj Rroma šaj dikhel pes kana e policia kerel racie save si pherde bilačhimasa (violenciasa) ande Rromane komunitetura/gava katar Rusicke themeske organura; Varekana e Rroma si mamuj zakono thaj zorasa šuvdine ande phanglipa; butivar šaj dikhel pes baro disproporcionaliteto maškar numbri e manušengo save si gadže save šuven pes (thon pes) ande phanglipa thaj numbri e manušengo save si Rroma thaj save šuven pes ande phanglipa; butivar šaj dikhel pes kaj e policia lel sama pala e personale dokumentura (lila) e manušengi save si Rroma numaj godolese kaj si Rroma; butivar katar e Rroma len pes zorasa e love; butivar kerel pes konfiskacia (lel zorasa o them) lenge phuvjako, barvalipasko; butivar keren pes kriminale kazura ande save si maj bange e Rroma vi kana von či džanen khanči pala godo. Kava raporto sikavel evidencia pala sajekutni presia mamuj Rroma katar e Rusicko them thaj leske bilače institucie (sistemo). Šaj phenel pes kaj maj bari racia savi sikada e Rromen sar bilače sasa kerdini katar rusicko policia ando fremo e opraciako savi akharda pes “Operacia Tabor” – sar vi anav e operaciako phenel kadi operacia sasa kerdini mamuj Rroma. Sa xoxavipa mamuj Rroma, ando Rusicko them, thaj keripe lenge imidžosko sar bilače manušen sasa kerdino perdal xoxavipe e themesko kaj von keren buti e drogasa. Rroma save si astardine katar e policia thaj saven “sasa droga” sesa krisinde katar o krisi po phanglipe vaj si mukline te aven slobode kade kaj si tradine lenge familie te phenen vareso so naj čačipe.

Manušikane čačimaski violencia mamuj Rroma butivar motivirime katar rasi-tikano čikamipe vi maj dur ačhel bi dromesko sar te phagavel pes. Violencia thaj dukhavipe savo si kerdino katar e policia mamuj Rroma sar vi gindipe e Rromengo kaj e gadže save keren tortura (dukhavipe) pe lende vaj keren buti pala them, našti aven astardine thaj tradine po krisi, ačhavel e Rromen te na vazden piro glasno mamuj gasave pharipa: butivar e Rromen naj voja (či kamen) te džan po krisi thaj kade te sikaven e policajcuren save keren mamuj lende tortura. Pe varesave levelura kaj e Rromen si zor te keren rovipaske lila mamuj policajcura save keren tortura pe lende, e rovimaske lila numaj čhuden pes pe rig vaj o them phenel sar naj evidencia kaj e policajcura kerde vareso bilače thaj vaš odi našti dikhel pes anglal o krisi kaj si godo varesavi ilegalo akcia. O rasizmo kerel pharipe e Rromenge vi kana pe lende kerel pes tortura katar private aktora/manuša. Dži kaj o barederipe (authorities) či kerda khanči po drom te phagavel rasizmo mamuj Rroma, pe varesave levelura e oficiale manuša

save keren buti zakonosa kerde sa te phagaven Rromane komunitetura. Rasistikani diskriminacia mamuj Rroma ande juristikano sistemo mamuj kriminalo kerel gasavo trujalipe (environment) ande savo vi e manuša save keren buti ande publike organura vi e manuša andar privato sektori šaj keren rasistikani violencia mamuj e Rroma thaj te džanen kaj maj palal či ka džan po krisi vaš odi kaj ka či avel len responabiliteto pala tortura thaj dukhavipe savo kerde mamuj varesavo Rrom.

O razismo maj dur opril but Rrmen te džan ande bare škole, te astaren sasipaski protekcia (health care), te astaren peske bešimasko than/urbanizmo, te astern butjarimasko than sar vi te avel len aksesu pala publike servisura. Diskriminacia mamuj Rroma ando aksesu/astaripe sociale thaj ekonomikane čačipengo intjarel ande peste duj forme: pe but manuša kerel pes direkto diskriminacia kade kaj si len maj bilačo tretmano numaj godolese kaj si len averčhando etniciteto. Pe Rroma kerel pes vi indirekto diskriminacia ande relacia pala astaripe sociale thaj ekonomikane čačipengi kade kaj phenel pe lenge kaj naj len personale lila vaj oficialo, registruime bešimasko than. O sistemo pala registracia bešimaske thanesko kerda bute Rromenge ande Rusicko them bare pharipa: Rroma našti te keren sekuritatu pala registracia bešimaske thanesko, kava si butivar rezultato faktosko kaj o barederipa či kamel te kerel lengi personalo registracia. Pe aver rig katar e Rroma rodel pes, disproporcionalo, ande relacia avere manušenca save naj Rroma, po dikhipel lenge personale lila/dokumentura katar e policia, thaj po drom te keren gasave lila pe Rroma butivar kerel pes tortura thaj dukhavipe. Kava raporto si skrinisardo pe baza ERRC-eske rodimasko ande Rusicko them katar čhon Juli 2000-te beršesko. E faktura save si sikadine sesa vi dokumentuime/lilardine ande vrama kana kerda pes ERRC-eski misia po tereno. O rodipe sasa kerdino katar ERRC-eski terenoski misia, katar ERRC-eske thanutne manuša pala monitoringo save bešen ande averčhande regionura thaj maj palal katar Rroma andar Rusicko them sar vi aver manušikane-čačimaske aktivistura. Ande vrama kana kerda pes rodipe po tereno, o ERRC astarda informacia katar Rromano viktimo pe savo sasa kerdini manušikane-čačimaski violencia, katar leski familia, katar advokatura/juristura sar vi katar aver manuša save žutisarde e viktimoske. O ERRC arakhada pes vi e manušenca save keren buti ande publike organura po drom te vazden opre kava problemo thaj te dikhen sar te arakhel pes drom te phagavel pes o problemo. Gindipa e manušengo save keren buti ande Rusicke publike organura thaj save vakarde e ERRC-eske manušenca si kotor kadale raportosko. Akana ka dikhen so si arakhadino ande relacia diskriminaciasa mamuj Rroma ande Rusicko them:

15.1 Rasistikani violencia thaj dukhavipe mamuj Rroma katar policia

ERRC-esko (Europake Rromane Čačipaske Centrosko) rodipe arakhla kaj policiaki violencia (tortura) mamuj Rroma ande Rusicko them si but buxljardini, pal pe aver rig na butivar kadale torture či džan anglal krisura vaj barederipa. Dži kaj si ilegalno (te khonik či džanel) violencia generalo problemno Rusicke juristikane sistemasko ande maj palune berša, mamuj Rroma thaj varesave aver etnikane grupe, keren pes maj bare torture vaš odi kaj ande rusicko societato kerda pes stereotipo kaj e Rroma keren buti ando krimionalo vaj e drogasa. Kava opre phendino trada vi e manušen save keren buti ande rusicke themeske organura te gindin sar vi aver. Gasave stereotipura sar rezultato traden te kerel pes rasako profilo e Rromengo katar policia; sar egzemplo varekana e policia kana trubul te kerel deciziji ko si bango pal ko naj, intjarel ando gindo ko si savo nacionaliteto vaj etniciteto. Rasistikane stereotipura putaren o drom pala tortura thaj bilačo tretmano e Rromengo pe save dikhel pes sar pe lačo kotor pala dukhavipe, tortura thaj violencia numaj vaš odi kaj si Rroma. E Rroma butivar keren raportura ande save sikaven sar gadže pe lende keren diskriminacia vi pe murša, vi pe džuvlja sar vi pe čhavore, sar ličharen pes (phagaven pes) lenge khera thaj aver barvalipa, specialo kana e policia kerel pire racie. E Rromane muršen thaj e Rromane džuvljen e policia butivar ačhavel (maj but deso averen) te pučel pala personale lila pala identifikacia thaj butivar pe lende kerel pes tortura thaj bilačo tretmano. Si varesave kazura kaj si e Rroma save si tradine ande policia kade but mardine sostar maj palal vi mule. Xoxavipe, na-čači evidencia maj pala kerda te katar Rroma len pes vi lenge love.

Gasave bare efektura savo kerda o rasizmo mamuj Rroma thaj mamu lenge manuškane čačipa vazda opre korupcia ando fremo juristikane thaj zakoneske organurenge ando Rusicko them. E korupcia kerda (vazda opre) maniškane čačimaski violencia, bilačo tretmano, xoxavipe, keripe xoxavimaske (na-čačimaske) evidenciako thaj maj palal e korupcia kerda te avel but phares te phagavel pes manuškane čačimaski violencia.

15.2 Diskriminacia e Rromengi ande kriminalo juristikano sistema

Bilače thaj kovle zakonura ando fremo juristikane sistemasko ande Rusicko them muken te ciknjrel pes šaipe pala lačo krisipe repektosa pala svako rig ando krisipe. Po drom te sikavel pes sode si kovlo juristikano sistema šaj phenas kaj si

but bilačhipa ande anglal krisipaski sar vi krisipaski procedura so maj but kerel te e rroma sar vi aver minoritetura xatjaren vi rasizmo ando fremo juristikane administraciako. Sajekutni utilizacia bilače čhibako ande savo xtatjarel pes či kamipe, katar manuša save keren buti ando juristikano sistemo, so o ERRC dokumentuisarda perdal pire rodipa save kerda ande Rusia sikavel kaj keripe kriminale procedurengo mamuj Rroma si ande relacia rasistikane či-kamipasa. Pe but levela kriminale rodipa (investigation) mamuj Rroma sar vi krisimaske procedure si kerdine po drom savo naj kompatibilo maškarmutne thaj kherutne manušikane čačimaske standardurenca pala lačo thaj patjivalo krisipe. E Rroma sesa krisime thaj došardine pe baza e evidenciaki savi butivar sasa xoxavni thaj streno. O krisi butivar lia e evidencia savi sasa kerdini kade kaj si dukhadine procedurake zakonura vi kana džangla kaj si gasave evidencie xoxavne varekana kana kerde pes krisimaske procedure e Rromenge si butivar linde lenge fundone čačipa sar te avel len translatori, te avel len jakhalo (witness) etc.

E Rroma pe save si kerdine manušikane čačimaske torture (dukhavipa) katar manuša save keren buti ande themeske organura vaš zakono sar vi katar gadže save či keren buti ande themeske organura (civila) (naj len aksesu) našti te dikhen so kerel pes lenge rovimaske lilenca. Baro numbri gasave rovimaske lilengo maj palal či kerde te e policajcura, save kerde tortura mamuj Rroma, džan po krisi thaj te kerel pes rodipe mamuj gasave manuša. Pe varesave levelura (numaj na butivar) kaj si kerdine rodipa mamuj gasavo kriminalo, e kazura si sajekh phangline kade kaj phenel pes kaj naj bari evidencia sar varesavo plicajco kerda tortura/dukhavipe mamuj varesavo Rrom. Kana e rovimaske lila varekana džan ande procedura atoska /atunči phenel pes kaj e policajcura vaj aver gadže save kerde tortura, či kerde khanči bilače thaj kaj naj bange.

15.3 Violencia mamuj Rroma katar civilura /manuša save či keren buti ande themeske organura

Ande maj palune berša, pe rig policiatar, civilura, sar džene/membrura nacionale-ekstremistikane grupengo sar vi membrura civile organizaciengo save keren aktivitetura mamuj droga vazden piro vast mamuj Rroma so šaj xatjarel pes sar rasistikani diskriminacia. Sar o nacionalo-ekstremistikano miškipe (movement) si sa maj popularo thaj maj baro ande Rusicko them sa si maj but atakura save mamuj Rroma keren e skinhedura, Kozakura thaj aver formale vaj na-formale grupe. E Rroma si

specialo atakuime (mardine) vaš odi kaj butiva bešen savore po jekh than so lokharel thaj žutil e bilačhe manušenge (gasave grupenge) te arakhen len. Rusicko Federa-cia lia pe peste sama te brakhil(protektuil) svakone manuše pe savo varesavo aver manuš vaj o manuš savo kerel buti ande themeske organura, kerel tortura,dukhavipe, bilačho tretmano. No, ando čačo trajo protekcia savo kerel o them mamuj manuša save dukhaven e Rromen,naj lači vaj či kerel pes. E Rusicko governo či kerda khanči te ciklnjarel rasizmo thaj či-kamipe mamuj Rroma sar vi te lel sama pe lenge manušikane čačipa. But atakura save keren pes mamuj Rroma si vi bi raportosko, thaj e polici či džanel kaj o atako sasa vaš odi kaj e Rromen si dar kaje polici ka kerel pala godo tortura mamuj lende.

15.4 Džungalo (na-kamipasko) vakaripe (Hate Speech) mamuj Rroma ande Media

Na tolerancia mamuj Rroma thaj varesave aver minoriteta si vazdini po maj baro levelo vi vaš odi kaj e media keren bilači buti. Sar phenel e statistika savi si kerdini katar NGO-ura andar e Moskva khonik či krisil džungalo (či kamipasko) vakaripe mamuj Rroma pe federalo thaj regionalo levelo.

Rusicke media len than po drom te vazdel pes opre anti-Rromano rasizmo kade kaj aeren zurali konekcia (phanden jekh averesa) e Rromen thaj o kriminalo thaj varekana den zor te kerel pes violencia thaj diskriminacia mamuj Rroma. E media sajekh identifikuin e Rromen sar šerutne manušen ande buti e drogasa thaj terminura “gypsy” thaj “drogako-dileri” varekana si egalutne.

15.5 Diskriminacia mamuj Rroma ande relacia astarimasa personale lilengo/ dokumentongo

Rusikano zakono rodel te kerel pes registracia bešimaske thanesko kade kaj godo kerel e policia. Andrutno (internalo) registraciako sistema sasa but kritikuime pala putaripe e dromesko vaš rasistikani diskriminacia. Kava si kerdino kade kaj sasa muklino te opril pes (či del pes) registracia varesave minoritetonge grupengo sar vi kade kaj e policia kerda but bilačho tretmano mamuj etnikane minoriteta ande relacia astaripasa personale dokumentongo /lilengo. E Rromendar maj but deso avere manušendar e policia roda personale lila vaš odi kaj kamla te kerel tortura thaj violencia mamuj lende.maj lačho drom e rromenge te našen

katar tortura thaj katar o phanglipe sasa te pokinel (del love) e policajcurenge te von muken len. Registraciake sistemo si implikacie pala pala aksesu fundamentele čečipengo. Ande praksa, e civilura saven naj adresa (bešimasko than) našti astarel sociale thaj ekonomikane čačipa (xakaja) sar čačipe pala buti, čačipe pala barvalipe (te avel tut varesavo barvalipe), čačipe pala socialo sekuritato sar vi čačipe pala serviso ando hospitalo. Si tendencia te kerel pes restrikcija vi pala civile thaj politikane čačipa sar čačipe pala prandipe, čačipe po privacia (privacy), čačipe te šaj astares varesavo zakono sar vi participacia ande politkane alosaripa.

But Rroma ande Rusicko Federacia ande akanutni vrama dživdinen (train) bi personale lilengo sar vi pasportosko, vaj bi bešimaske thanesko. Jekh numbri e Rromengo save gele (imigracia) ande aver thema andar purani Rusia si akana bi themesko. Diskriminaciaki praksa ,phari birokratikani procedura, sar bari na-edukacia maškar Rroma trada kadale manušen te aven ilegale so maj dur mukel than pala svako tortura katar e policia sar vi phagavipe fundone čačipengo/xakajengo.

15.6 Diskriminacia ande relacia astaripasa Sociale thaj Ekonomikane Čačipengo

ERRC-esko rodipe (research) savo sasa kerdino katar 2000 dži kaj 2005-to berš sikavel kaj baro Rromano komuniteto ande Rusicko them trail ando baro čorripe thaj kaj našti astaren fundone sociale thaj ekonomikane čačipa. But Rroma našti astaren (arakhen) butjarimasko than. Dži kaj pe jekh rig na-edukacia vaj cikni edukacia khelel bari rola ande ekskluzia (čhudipe pe rig) e Rromane minoritetosko katar butjarimasko (labour) marketo, o ERRC ašunda vi raportura pala direkto diskriminacia mamuj Rroma ande relacia astarimasa butjarimaske thanesko. Baro numbri Rromane komuniteturengo save o ERRC dikhla thaj lenge partner organizacie ande maj palune berša arakhen pes po agor e forosko, pe thana kaj si but cikno (vaj naj) publiko transporto sat vi na-adekvato (bilačo) šaipe pala komunikacia sar si o telefono.

15.7 Violencia mamuj Rromane džuvljikane čačipengo/ xakajengo

Rromane džuvljen si specio than ande popularo rasistikani percepcia e Rromengi ando Rusicko them. E Rromane džuvlja si sikadine sar manušnja save džanen bare magie savenca kamen te tharen vaj te keren varesavo bilačipe e gadženge. Kadale rasistikane stereotipura butivar keren sar rezultato te e policia kerel

akcie mamuj Rromane džuvlja,bi diferenciako keren von varesavi tradicionalo buti sar si drabarimata pe vulica vaj numaj bikinen vareso po marketo. Ande vrama kana sasa kerdino rodipe po tereno o ERRC ašunda but kazura pala kherutni(domestikani) violencia mamuj Rromane džuvlja. Kadi tema pala kherutni (domestikani) violencia si but tolerišime vi katar Rroma vi katar Rromnja.Rromane džuvlja si ande opre sikadine situacie bi vojako te roden legalo žutipe. Vi kaj si kava jekh tema savi kerel limitacia (opripe) pala Romano komuniteto (gav), mamuj kherutni violencia(dukhavipe,tortura), kana si e Rromane džuvlja dukhadine o barederipe (authorities) či kerel vareso te kava opril(phagavel). Sar pe Rroma o societato či gindil kade but sar khinik či protektuil lenge fundone (bazikane) manušikane čačipa (xakaja)- e Rromane džuvlja džanen thaj si len čačipe kaj naj barederipe savo šaj len arakhel (kerel lengi protekcia) kana pe lende keren violencia (kana dukhavel len) e membrura(džene) andar laki familia. Violencia thaj tortura mamuj Romane džuvlja,bi diferenciako si kodo kerdino katar manuša save keren buti ando fremo e zakonosko,rasistikane grupengo vaj si e violencia kerdini katar e familia či krisil pes vaš odi kaj o viktimo či del raporto, či džal ande policia vaš odi kaj si las dar, vaj kaj si lake ladžo.

15.8 Rromenge čačipa ande relacia Nacionale Kulturake Autonomiasa

Federalo zakono pala Nacionalo Kulturaki Autonomia (NCA) lindo (adoptuime) ando čhon Juni 1996-ti berš či del speciale čačipa (xakaja) pala etnikane minoritetura sar vi ni khetane (kolektive) čačipa.Trubul te phenel pes kaj ande varesave paragrafura utilizil pes termino “autonomia” kava zakono či del ekskluzivo zor vaj prerogativura e Nacionale Kuulturake Autonomiasa (NCA) deso kodola save šaj arakhen pes vi ande regulare publikane asociacie. Scopo (lungipe e terenosko) ande savo minoritetura šaj len than (participirin) nande publikane butja si definišime ande NCA zakono. Nacionalo Kulturaki Autonomia utilizil pes katar kodola organizacie save si registruime sar legale entitetura pindžardine sar nacionale kulturake autonomie. Ande praksa,diferenca maškar NCA thaj aver publike asociaciako naj ande relacia zorasa vaj si ande relacia statusosa thaj aksesosa pala barvalipa (resources) save kadale organuren si. Ande praksa but NCA (Nacionalo Kulturaki Autonomia) kerel kulturake aktivitetura. Na dumut,varesave regionale Rromane NCA lie te len than ande maj but tradicionale manušikane čačipaske aktivitetura sar vi ande buti e policiasa po drom te kerel pes prevencia e diskriminaciaki ande relacia etnikane minoriteturenca thaj krisipenca diskriminaciake kazurengo. Vi kaj si kerdini limitacia kulturaki autonomia anda pesa put neve droma. Pala e Rroma sar vi pala aver

etnikane grupe ande Rusicko Federacia, dindo si šaipe etnikane grupenge te te keren buti maj efektivo governoske struktura perdal kreacia konsultative konzilongo pe federale thaj regionale levelura.

ERRC raporto agorisarda pes rekomodaciencia e governoske Rusicke Federaciake save akharde barederipe (authorities) te del pakiv (te respektuil) obligacie telal nacionalo thaj maškarnacionalo manuškane čačimasko zakono sar vi te kerel so maj sigutne aktivitetura po drom te či del keripe e violenciako, torturako sar vi te vazdel opre lače reparacie pala violencie save sesa ande dumutani vrama. E Aktivitetura save trubun te keren pes si:

- Te phenel pes užes kaj si but bilači rasistikani diskriminacia thaj manuškane čačimaski violencia, po maj baro politikano levelo (strato) sar vi te nevljaren pes paragafura ande relacia manuškane čačimaske;
- Te buxljarel pes lačo governosko programo savo kamel te phagavel bilače manuškane čačimaske situacie ande relacia e Rromenca ande Rusicko Federacia. Kava programo trubul te avel po jekh drom/ egalutno 2003 OSCE Akciake Planosa pala e Rroma thaj Sintura sar vi Generale Rekomodaciasa 27 UN Komitetosa pala Phagavipe Rasistikane Diskriminaciako.
- Te kerel pes legalo fremo pala maripe mamuj diskriminaciako so si po jekh drom mangipasa thaj standardurenca maškarmutne manuškane čačimaske zakonurenca sar vi buxljarimasa po tereno anti-diskriminaciake zakonenca ande Europa;
- Keripe manuškane čačipengo thaj anti-rasizmoske treningura pala publiko administracia, pala membrura (džene) e pšoliciaki sar vi pala e manuša save keren buti ando juristikano sistemo;
- Te adoptuin pes (keren pes) aktivitetura pala prevencia, identifikacia, thaj kaj kodo sasa, te došarel pes rasizmo ando fremo e zakonosko;
- Te kerel pes rodipe (Investigate) so maj sigo thaj te arakhen pes ko kerda incidentura sar vi violencia, ko dukhada thaj kerda tortura mamuj Rroma ande relacia e zakonos, katar e manuša save keren buti ando juristikano sistemo;
- Te dikhel pes si e policiake torturake viktimura save bičhalde rovimaske lila (complaints) lače arakhadine (protektuime) mamuj represia save e policajcura šaj inke jekhvar keren mamuj lende;
- Te dikhel pes kaj sa rovimaske lila pala tortura vaj bilačo tretmano katar nathemeske manuša (civila) si so maj sigo rodinde, pal e manuša save kerde gasave bilačhipa kaj si tradine anglal o krisi;

- Te nevljarel pes e legislacia, regulacia thaj praksa pe federalo thaj regionalo lev-elo areslipasa te ispidel pes (traden pes pe rig) svako elemento e pasportosko vaj registraciake procesosko savo kerel disproporcionaliteto, vaj savo kerel sistematikani diskriminacia mamuj minoritetonge grupe. Te dikhel pes kaj si e decizja katar Konstitucionalo Krisi konstitucionale (lače) lokale regulaciasa ande relacia bešimaske thaneske registraciasa;
- Te kerel pes monitoringo (te dikhel pes sar kerel buti) main-stream elektronikane thja ramosarimaske mediengo po nacionalo thaj regionalo levelo thaj te keren pes lače aktivitetura po drom te kerel pes rodipe thaj došaren pes (traden pes anglal o krisi) kodola žurnalistura vaj media save vazden opre etnikane či-kamipa, rasizmo thaj nacionalizmo;
- Te dikhel pes kaj e Rromenge thaj averenge naj oprime te astaren pire manušikane čačipa ande relacia astarimasa personale dokumentongo(lilengo) sar vi astarimasa bešimaske thaneske registraciako;
- Te kerel pes rodipe (monitoring) thaj te dikhel pes sode e Rroma thaj aver etnikane grupe šaj astaren juristikano čači, sociale thaj ekonomikane čačipa (xakaja) thaj šaj vaj na keren mehanizmo pala kidipe thaj printipe bilače informaciengo po kava tereno;
- Adoptacia (linipe) policiake aktiviteturengo save ka den zor/ sekuritato kaj e Rroma, specialo Rromane džuvlja šaj lače te realizuin /keren čači pala astaripe butjarimaske thanesko, sastipaski protekcia,thaj aksesio pala socialo žutipe sar vi publike lačhipa thaj servisura.

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The European Roma Rights Centre (ERRC) is an international public interest law organisation engaging in a range of activities aimed at combating anti-Romani racism and human rights abuse of Roma. The approach of the ERRC involves, in particular, strategic litigation, international advocacy, research and policy development, and training of Romani activists. The ERRC is a cooperating member of the International Helsinki Federation for Human Rights and has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations.

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European Roma Rights Centre (ERRC) monitoring of Roma rights in Russia has revealed an alarming pattern of human rights abuse of Roma and other people perceived as “Gypsies”. The magnitude of the abuse is only comparable to that of the perpetrators’ impunity. Anti-Romani racism is widespread in Russia today. The law guarantees equal treatment and protection against discrimination of all people in Russia, yet Roma, among several other ethnic minorities, find themselves excluded from the equal protection of the law, or in fact frequently any protection of the law. Indeed, the authorities whose duty is to uphold human rights are often themselves implicated in gross human rights violations or acquiesce in them. Violence and abuse of Roma by law enforcement and judicial authorities, often motivated by racial animus, persists unchallenged and unremedied. Racism also effectively precludes many Roma from accessing education, health care, housing, employment, and public services.

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