



# HOME IS MORE THAN A ROOF OVER YOUR HEAD

ROMA DENIED ADEQUATE HOUSING  
IN SERBIA

HOUSING IS A  
HUMAN RIGHT  
**AMNESTY**  
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**AMNESTY**  
**INTERNATIONAL**



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*Cover photo:* A Romani human rights activist living under threat of eviction in Belvil informal settlement in Belgrade, Serbia, January 2011. © Amnesty International

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# 1. SUMMARY

“I wish that all the Roma here get adequate housing and work, so that they can educate their children and live their lives in a normal way - and live without fear. For me, I would like to have a little house to call my own, a house covered with flowers, just a little house. “It should not be too far away, as I have a plot in Bežanijska Kosa [graveyard] where I will be buried one day; it’s where my parents were buried. I am almost 60 years old, but for as long as I can stand on my feet I will preach the truth and fight for human rights”. Borka, Belvil settlement in Belgrade<sup>1</sup>

In this report, Amnesty International documents a pattern of forced evictions by the City of Belgrade of Roma communities living in informal settlements. The report describes how the Serbian government has failed to comply with its obligations to respect the right to adequate housing by failing to prohibit, and protect against, forced evictions.

This report documents some of the forced evictions, which have taken place since 2009, and which have violated international standards, which Serbia has guaranteed to uphold. It follows the fate of those who have been forcibly evicted, and the further human rights violations they have been subjected to. It documents the government’s failure to put in place procedures and safeguards required under international law to protect the rights of evicted persons; these include processes to ensure that people who may be evicted have proper access to all relevant information, that they are consulted about proposed evictions and alternatives to eviction and about relocation in cases where no alternative to eviction is possible. The government should also ensure people have the right to appeal against eviction, and to have the right to a remedy for the damages they may suffered as a result of the eviction.

Amnesty International’s research found that the resettlement provided to communities who have been forcibly evicted frequently does not meet international standards relating to the adequacy of housing, and has contributed to further discrimination against and segregation of these communities. Some evicted Roma have been moved into segregated settlements on the outskirts of Belgrade, where they live in metal containers. Others have been forcibly displaced to southern Serbia, in violation of on the government’s obligations to respect the rights to freedom of movement and residence, and where again their rights to adequate housing are denied. Others, in the absence of alternative housing, have no other option but to move to other informal settlements, where they remain at risk of further forced eviction.

Several forced evictions in Belgrade are taking place in the context of large infrastructure projects, which are financially supported by the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB). These international financial institutions are providing significant loans to the City of Belgrade for construction work on and around the Gazela Bridge and the Sava Bridge. The EBRD and the EIB are institutions of the European Union (EU), and have a responsibility to ensure that they do not support projects that lead to, or contribute to, human rights violations. To this end they must have effective safeguard policies and due diligence processes in place to ensure that the activities they support respect human rights. The report examines the role of these institutions in relation to their support for projects that have resulted, or are at risk of resulting, in forced

evictions of Roma communities and their resettlement in a manner that violates their right to adequate housing.

The forced evictions documented in this report have been carried out by city and municipal authorities. Amnesty International's research revealed that the lack of safeguards against forced evictions under national laws in Serbia has particular consequences for Romani communities who are at high risk of this human rights violation and disproportionately represented amongst victims of forced evictions. The organization considers that Serbia is failing to guarantee the right to adequate housing without distinction on the basis of ethnicity. The Serbian government has failed to ensure that municipal actors refrain from and protect Roma from forced evictions. Nor has the government taken action to put in place adequate systems to ensure that there is no segregation or discrimination in housing.

The report attempts to unravel the many and complex issues which both underlie and arise from the failure of the Serbian government to guarantee the right to adequate housing to Roma. It examines the violations of human rights, which have driven Roma communities to live in informal settlements, and the further violations experienced by those living in such settlements. Amnesty International found that Roma living in informal settlements face considerable difficulties getting access to personal documents, such as birth certificates, and in registering as residents. Consequently they are frequently denied access to services that are vital to human rights – including education, health, social insurance and employment.

Across Roma communities living in informal settlements Amnesty International has found that barriers to accessing personal documentation and the registration of residency have denied them access to a legal identity, which consequently denies them access to other rights such as education, health and work.

This applies particularly to Roma from Kosovo, who make up around 17 per cent of the population of informal settlements, and to Roma who are being forcibly returned from western Europe. Without homes or documentation, many have joined the population of informal settlements.

Amnesty International recognises that since 2009 some progress has been made by the government and by the City of Belgrade towards the adoption of some of the protections and safeguards set out in international standards. Amnesty International urges the authorities to ensure that any future evictions are conducted according to international standards, and that Roma are guaranteed their right to adequate housing.

This report is based on research carried out by Amnesty International in Serbia between 2010 and 2011, including interviews with: Roma affected by forced evictions in Belgrade, including those forcibly returned to southern Serbia; Roma and non-Roma non governmental organizations (NGOs) in Serbia; government and municipal officials; and international NGOs.

Roma communities, supported by local<sup>2</sup> and international NGOs, have taken action to challenge and prevent evictions, and defend their rights. This report seeks to build on these achievements. Roma living in informal settlements have been of pivotal importance in shaping Amnesty International's recommendations, which reflect the needs of members of Romani communities as well as international human rights standards.

## 2. BACKGROUND

### 2.1 ROMA IN SERBIA

The Serbian government has no accurate estimate of the numbers of Roma living in Serbia. Estimates vary between 250,000 and 500,000, including between 22-46,000 Roma who fled from Kosovo following the 1999 international armed conflict.<sup>3</sup>

While Roma are documented as living in Serbia from at least the 14<sup>th</sup> century, Roma were not formally recognized as a minority ethnicity in Serbia until February 2002, when the Assembly of the then Federal Republic of Yugoslavia (FRY) adopted the *Law on the Protection of Rights and Liberties of National Minorities*, which officially accorded the status of national minority, and in theory granted them the rights set out in this law.<sup>4</sup>

However, in practice Roma face systematic and widespread discrimination. Although some Roma have been able to escape discrimination, rising to positions of power within the government, in the Roma National Minority Council<sup>5</sup> or in municipal structures, or are active in Romani NGOs, the majority is excluded from participation in public life. Roma face discrimination in access to human rights, including the rights to education, to health, in access to employment and to adequate housing, and are amongst the poorest section of the Serbian population.

While members of some other ethnic groups may not enjoy the right to adequate housing, Roma disproportionately – indeed almost exclusively<sup>6</sup> – make up the population of informal settlements across Serbia. They include Roma driven into poverty and consequently made homeless; Roma women fleeing domestic violence; Roma from other areas of Serbia, particularly the south, seeking work in cities and large towns; internally displaced Roma from Kosovo; migrants from other former Yugoslav republics; and persons who have been deported from EU member states where they had migrated during in 1980s and after the collapse of the Socialist Federal Republic of Yugoslavia (SFRY).

### 2.2 A HISTORY OF FORCED EVICTIONS

In May 2009, the City of Belgrade authorities adopted a plan to resettle the Roma community living in an informal settlement <sup>7</sup> in the centre of Belgrade, located under the Gazela Bridge, which spans the river Sava. An amended version of the plan was approved on 25 August 2009<sup>8</sup> and on 31 August 2009, the city authorities demolished more than 200 homes and forcibly evicted over 178 Roma families without the safeguards required under international law.

Gazela was one of between 50-100 informal settlements across Belgrade, which are home to more than a third of Belgrade's Roma population who often have little other choice but to live in these informal settlements. The primary barrier to adequate housing is the widespread and persistent discrimination faced by Roma, resulting in the poverty of this community.<sup>9</sup> Roma also face discrimination in access to affordable or social housing. Economic deprivation in other areas of Serbia drives Roma to move to the capital's informal settlements in search of employment. In addition, Serbia's failure since 1999 to provide assistance to thousands of Roma displaced from Kosovo after the

1999 conflict, has given those denied assistance and shelter no option but to live in informal settlements.

Forced evictions of Roma from informal settlements in Belgrade are not a new phenomenon. Over the past decade, forced evictions have been documented by the Serbian non-governmental organisation (NGO), the Humanitarian Law Centre (HLC), by the European Roma Rights Centre (ERRC) and Amnesty International.<sup>10</sup>

In November 2003, the NGO Centre on Housing Rights and Evictions (COHRE) reported that more than 1,500 Roma in Serbia and Montenegro<sup>11</sup> were under threat of forced eviction, and that they faced "... *dehumanising discrimination and related housing rights violations... Serbia & Montenegro has failed to provide appropriate housing and to respect the housing rights of the Roma minority in the country. Roma communities are routinely forced to live in totally inadequate housing conditions, including garbage dumps such as Vuča Vrčevića in the capital, Belgrade... During 2002-2003, more than 1,500 Roma faced forced eviction in Serbia & Montenegro. Those evicted were neither offered nor provided with alternative accommodation, which constitutes a violation of international human rights law. To make matters worse, evictions of Roma have increased in 2003. Up to 20,000 Roma refugees from Kosovo face routine discrimination in their search for accommodation, forcing them into reside [sic] in totally inadequate housing conditions... Serbia & Montenegro continues to discriminate severely against the Roma, many of whom live in conditions far worse than many of the most horrendous slums found in the developing world*". COHRE awarded Serbia & Montenegro the joint prize (along with Indonesia and Guatemala) for Housing Rights Violator 2003.<sup>12</sup>

Those evicted also included Serbian Roma, as the HLC reported: "*With the onset of warmer weather, local authorities in Belgrade have started evicting squatters without providing them with any kind of alternative housing. By demolishing illegally occupied buildings on land earmarked for construction projects or apartments which are then allocated to others, municipal authorities are creating homeless people. A house which was home to two Roma families was demolished in the Žarkovo district on 26 March at the order of the Čukarica Municipality. Allocated as temporary housing to Zoran Memičević by the municipality in 1992, the house was located on land owned by the Stankom Corporation. After forcing the two families to leave their home, bailiffs and police carried out their belongings, leaving the 12 persons, including an infant, a disabled seven-year-old, and two children under five, out in the open without any kind of shelter. No one from social welfare or any other agency has been to see them*".<sup>13</sup>

*In 2004 Amnesty International reported to the Council of Europe: "Some 30,000 – 40,000 Roma in Belgrade alone continue to live in substandard unhygienic settlements without adequate, or in many cases, any services and this situation is repeated throughout the country for many Roma settlements. Roma are also vulnerable to evictions from their makeshift homes: six families were forcibly evicted in April 2002 in the Belgrade Autokomanda neighbourhood. Further forced evictions of Roma, predominantly Kosovo Roma, from unofficial sites in Belgrade occurred in September, October and November 2002. Evictions were carried out with minimal notice and no provision made for alternative housing. In May 2003 another unofficial Roma site in Belgrade was destroyed and its inhabitants - over 300 mostly Kosovo Roma (the majority of whom were children) - were forcibly evicted, again with no provision having been made for alternative housing".<sup>14</sup>*

On 4 June 2003, the then Mayor of Belgrade, Radmila Hrustanović, announced a €12.5m programme, drafted by the Belgrade municipal assembly, to clear "unhygienic" settlements, and construct 5,000 apartments for 50,000 Roma from 100 settlements.<sup>15</sup> This program was still underway as of mid-January 2004, but few apartments were actually built. Plans for the construction of social housing for 1,000 people in 2005 in New Belgrade were abandoned after protests from local residents.<sup>16</sup>



## 2.3 GOVERNMENT HOUSING POLICIES

The Serbian government has adopted a series of laws and policies and taken various measures to improve the right to housing, including that of the Romani community.<sup>17</sup>

In 2003 the government's Poverty Reduction Strategy (PRS) identified housing as a key area in the context of poverty reduction, prioritizing construction, the establishment of ownership (security of tenure) and the development of social housing. The PRS also noted the problematic development of spontaneous settlements.<sup>18</sup> In 2007, assisted by the Council of Europe, the Ministry of Environment and Spatial Planning issued municipalities with Guidelines for Improvement and Legalisation of Informal Roma Settlements.<sup>19</sup> At the same time the Ministry of Housing prepared a Draft Study of the Housing Sector of Serbia in which informal Roma settlements were identified as a priority for national housing policy.

The Serbian government refers to the process of regularization of tenure and buildings in informal settlements as 'legalisation' and hence Amnesty International has used this term in this report to refer to the authorities' plans, policies and initiative to regularize informal settlements.

Around two-thirds of Roma settlements are built on land not designated for housing in urban planning documents; other settlements have spontaneously grown, spreading into areas not designated for housing. Consequently they lack basic infrastructure – roads, piped water, sanitation and electricity. Under the 1992 Law on Planning and Construction (amended 2003), in order to start construction or other changes, the land on which such settlements are built has to be formally recognized or legalized in Urban Plans. In 2008 the Ministry of Environment and Spatial Planning took measures to fund eight municipalities to draft Urban Plans, with the aim of legalization of 10 Roma settlements, in accordance with the 2007 Guidelines.<sup>20</sup> At least three other municipalities are reportedly in the process of redrafting their Urban Plans. However, according to the Organisation for Security and Cooperation in Europe(OSCE), progress has been slow, with only two municipalities completing their plans by 2010; no settlements have yet been "legalized" under this scheme, although settlements have been regularized elsewhere in Serbia, including in Belgrade.<sup>21</sup>

New measures to provide social housing were made possible in 2009, with the adoption of a Law on Social Housing. It defines social housing as an "appropriate standard of living that is provided through the support of the state (...) for households that can not acquire flats in market conditions because of social, economic and other reasons." Article 10 provides for the housing needs of "persons who are homeless or persons without adequate housing. The criteria for assessment to determine the order of priority are: housing status, amount of income, health status, disability, number of household members and property, and additional criteria including belonging to a vulnerable group."<sup>22</sup>

Most recently, in 2010, the government's first draft report on Social Inclusion noted "the displacement of slums in major cities, [...] in some cases accompanied by forced eviction" as a particular challenge, but reported a record of "various, uncoordinated housing programs focused on specific vulnerable groups". The report also identified the need to "secure the funds to initiate a number of programs solving the housing problems of Roma, including measures to address property and planning status of the settlements and houses, improvement of infrastructure of settlements, and through the allocation of building materials and better inclusion of Roma in social housing programs".<sup>23</sup>

## 2.4 THE DECADE OF ROMA INCLUSION, 2005-2015<sup>24</sup>

On 1 July 2008, when the Serbian government assumed the year's Presidency of the Decade of Roma Inclusion, the Ministry of Human and Minority Rights (MoHMR) declared housing to be one of the government's four priorities. Commitments were made to address the legalization and improvement of Roma settlements, to relocate "slum" settlements and to provide low-cost housing.<sup>25</sup> In November 2008, a conference on the "Improvement and Legalization of Roma Settlements" included several case studies of housing projects underway in municipalities across Serbia.<sup>26</sup> These ambitions reflected those set out in the 2005 National Roma Strategy, which under the Decade of Roma Action Plan on Housing sought the improvement and legalization of existing settlements and informal settlements. Where this was not possible, it was proposed to "resettle" Roma living in "slums" (informal settlements); build "new apartments at appropriate locations"; and resettle "interested Roma [...] in depopulated villages in Serbia".<sup>27</sup>

In April 2009, the government adopted a new National Strategy for the Promotion of the Position of Roma (National Roma Strategy). A National Action Plan for its implementation was approved in July 2009, coordinated by the Council for the Improvement of the Position of the Roma Population and Implementation of the Decade of Roma Inclusion, jointly chaired by the Deputy Prime Minister for EU Integration and National Coordinator of the Decade of Roma Inclusion. The latter – the Office for Improvement of Roma Status (formerly the Office for the Roma National Strategy) became part of the MoHMR, in October 2009).<sup>28</sup> In common with other Decade strategies, the Serbian strategy included the four Decade priorities education, employment, health and housing, but also included sections on the status of women, information, culture, participation in public life and discrimination, and specific sections on documentation, social insurance, internally displaced persons and persons returned under readmission agreements.

Policy recommendations of the Roma National Strategy on housing included:

"The main goal of Roma settlement integration is the provision of basic facilities and equal access to basic social services, departments and infrastructure. This should contribute to the reduction and gradual elimination of social segregation.

Such a policy should create room for gradual integration of Roma into their environment. **It is worth noting that any possibility of solutions that imply force should be excluded.**

The main goal of improving housing conditions should be to **ensure the legal use of housing and property** in all aspects, enabling healthy life of family and individual, making the life of woman and child easier, providing adequate conditions for the way of life that is acceptable to Roma as well as fostering the housing culture that is accepted in the entire society.

These goals can be achieved, inter alia, by: improvement of the existing number of housing units and construction of new units; improvement and construction of infrastructure; provision of support through education; increasing employment and work engagement; provision of health assistance and relief; joint planning and implementation of activities oriented towards gradual development of the entire environment and efficient cooperation between Roma and the general population and changing stereotypical behaviour of both."<sup>29</sup>

The National Roma Strategy also includes specific recommendations for action with regard to the prevention of forced evictions:

**“Recommendations in connection with eviction”<sup>30</sup>**

The government should review the relevant laws in order to harmonise them with the international standards and ensure that they guarantee: a legal procedure harmonised with the international standards; the principle of non-discrimination and adequate alternative accommodation.

A large number of Roma live in illegally built settlements some of which have existed for decades. In some of these settlements the inhabitants are threatened with eviction and some were demolished based on the decision of local authorities and new land users, without providing alternative accommodation to their inhabitants. In order to avoid difficult situations, certain steps should be taken at the local level:

- competent bodies of the local self-government unit should act in a timely and preventive manner in cases of illegal occupation of space (land and structures) in order to prevent subsequent “forced eviction”. This is particularly important if it is noticed that illegal occupation could be of mass character;
- the bodies should constantly check the conditions under which it is possible to carry out eviction, find alternatives and provide special protection to socially vulnerable groups, and particularly the Roma, who are the most threatened by this practice;
- if there is a possibility for collective eviction, the government or the municipality or the city should provide adequate alternative accommodation prior to carrying out the eviction. In that case, the *Law on Expropriation* may be referred to, which allows expropriation of land for the purpose of resolving the problems of socially vulnerable persons;
- in the cases where moving of the most vulnerable groups to other locations presents a solution for eviction, social programmes and activities should also be provided for in addition to housing programmes;
- free legal assistance should be provided to poor and socially vulnerable Roma who are threatened with forced removal or who are victims of forced eviction. In the cases where the government did not organise legal assistance, civil associations should be encouraged to provide such a kind of assistance;
- accurate information should be provided to Roma on their rights and obligations in connection with housing. This should be done particularly by the municipal bodies and services competent for housing and associations that assist vulnerable groups, particularly the Roma, should be encouraged and supported in procedural matters and programmes concerning housing issues”.

Within the Strategy specific measures included the “comprehensive and sustainable reconstruction and improvement of the condition of living in Roma settlements” and “dealing with urgent situations in slums and evacuation of slums”. The Strategy envisaged the evacuation of around 30 settlements and the construction of flats for around 3,600 families, and again proposed to “solve housing problems of Roma by settling them in abandoned villages in Serbia”.<sup>31</sup> By late 2010, the Office of the Deputy Prime Minister reported some progress in the legalization of settlements (with regard to the adoption of urban plans), the production of a “Guide to the Legalisation of Informal Settlements” (supported by the OSCE)

and that 6 million dinars (€60,000) had been provided for reconstruction and other materials for 53 families returned to southern Serbia from Gazela Bridge.<sup>32</sup>

Serious questions have been publicly raised about the government's commitment and capacity to implement the National Roma Strategy, especially following the resignation in January 2011 of Petar Antić, Assistant Minister of Human and Minority Rights. A Roma member of the Ministry, responsible for the implementation of the Strategy, Petar Antić told media that the Ministry "had no strategic plan and that all the activities were carried out without a long term vision".<sup>33</sup>

Amnesty International considers that there is an enormous gap between these strategies – including the National Roma Strategy - which recognizes that forced evictions are incompatible with international standards - and the reality of housing rights for Roma. Since 2005 the government has made little progress in implementing these measures, and has thereby failed to guarantee the right to adequate housing of Roma.<sup>34</sup> The City of Belgrade has also taken few measures to improve Romani settlements, but has instead violated the right to adequate housing in a programme of forced evictions.

## 3. INFORMAL SETTLEMENTS

*“The city authorities have no respect for Roma people’s dignity and human rights. We have been suffering discrimination in this society for far too long. The authorities act as if it was our fault that we live in the settlements, that it is our choice. What other choice have we got? If you are Roma you haven’t got many choices.”* Borcka, Belvil settlement, Belgrade.<sup>35</sup>

The National Roma Strategy states that “in the cases where legalization of housing structures in the existing settlements is not possible, the competent bodies, through a dialogue of all actors, should find solutions for moving or displacement that will be acceptable to all parties (with inclusion of the inhabitants of these settlements in programmes of social support and care they are entitled to as citizens). In that regard, it is necessary to improve and legally strengthen mechanisms for [...] the implementation of relevant planning documents.

■ Basic living conditions (water, electricity, access roads etc.) should be improved in the settlements for which it is established that they cannot be legalised and improved, in the period until they are resettled or moved.”<sup>36</sup>

### 3.1 ROMA SETTLEMENTS IN SERBIA

According to the Serbian government, “[t]here are some 600 Roma settlements in Serbia and/or over 100 in Belgrade alone. These are mostly illegal and non-hygienic settlements and/or without a legal basis and in severely bad conditions”.<sup>37</sup> According to the Deputy Prime Minister, Božidar Delić, in 2008, out of 593 Roma settlements, 72 per cent were “partially legalised or not legal”, of which 43.5 per cent he considered to be slums. He stated that approximately 60 per cent of Roma lived in unhealthy and unsafe environments, with 30 per cent having no access to public water supply, and 70 per cent with no access to sanitation.<sup>38</sup>

These statistics deserve further consideration, as the often-quoted figure of 593 settlements represents the number of Roma settlements identified in Serbia in a survey by the Ethnicity Research Centre, published in 2002.<sup>39</sup> This, the most comprehensive survey to date, recorded all Roma settlements of more than 15 families or 100 Roma. According to the survey, 28 per cent of such settlements in Serbia were built in accordance with planning regulations, 34.6 per cent were built illegally (outside of areas designated for housing in Urban Plans), and 35.4 per cent were described as “partially legalized” in that they spread from core settlements which had been built according to planning regulations. Only 6.3 per cent of settlements consisted of what the survey described as “shacks and cabins”.

The survey identified 43.5 per cent of settlements as “unhygienic” or slums, referring to “settlements in which the social and environmental situation is so bad that it is harmful for the health, social and mental state of the inhabitants. Houses are small, built of waste or already used material, but often improvised of metal sheets, nylon or cardboard. Sometimes slums are formed around abandoned workers’ barracks, railway carriages or in dugouts and usually turn into permanent settlements which remain without public facilities: water, sewage, street electric lighting [,,] and in some cases, with garbage that public services do not remove”.<sup>40</sup> The definition of “slum” used in the 2002 survey differs from UN-HABITAT’s criteria, under which most informal settlements in Belgrade, including any settlement where people lacked security of tenure, would be considered “slums”.

The international definition of a 'slum' has been developed by the United Nations Human Settlements Programme (UN-HABITAT), including for monitoring progress on the Millennium Development Goals Target of improvement in the slums of 100 million slum dwellers by 2020. According to UN-HABITAT, a 'slum household' is a household that lacks any one of the following five elements:

- *Access to improved water* (access to sufficient amount of water for family use, at an affordable price, available to household members without being subject to extreme effort);
- *Access to improved sanitation* (access to an excreta disposal system, either in the form of a private toilet or a public toilet shared with a reasonable number of people);
- *Security of tenure* (evidence of documentation to prove secure tenure status or de facto or perceived protection from evictions)
- *Durability of housing* (permanent and adequate structure in non-hazardous location)
- *Sufficient living area* (not more than two people sharing the same room).<sup>41</sup>

The highest density of such settlements was found in Belgrade, the north-western part of central Serbia, Vojvodina and in districts of southern Serbia. Of 285 legal and informal settlements, 102 were located in Belgrade and 30 in its outlying municipalities.<sup>42</sup>

A mapping of informal settlements in Belgrade was proposed in December 2010 by the MoHMR. This exercise, to be conducted in 2011, aims to provide all settlements with a legal address, survey the welfare, educational and health needs of the population, and to establish whether settlements may be legalised or resettled.<sup>43</sup> Amnesty International welcomes this initiative and strongly recommends that the UN-HABITAT criteria are applied to identify the settlements in most urgent need of measures to provide for adequate housing solutions.

Informal settlements may comprise solid brick-built houses, but built on land which has not been designated for building. Other informal settlements, such as at Tošin bunar in New Belgrade, include abandoned properties, often built by previously state-owned enterprises, which have subsequently been abandoned and occupied without any or adequate security of tenure. The most appalling living conditions are found in informal settlements consisting of "barracks" (shacks or sheds) constructed on wasteland owned by the authorities, unused industrial land or near waste dumps. In such settlements homes are generally built from recycled bricks or other building materials, wood, plastic or cardboard, but there may be solid brick-built houses amongst them. The houses, called "barracks" by the Roma, are generally built by the residents themselves, but may be purchased ready-built from other Roma for between €50- €200. Most have at least two rooms, with an additional entrance room for dirty shoes and water-containers.

"Apart from employment [...] housing is the biggest problem of the Romany. The investigation has shown that they would give up their traditional way of life in ghetto-like sections of villages or cities if better conditions of living in other environments were offered them. What also encourages is the readiness of a large number of the majority population to accept and support an adequate institutional program for the improvement of the status of the Romanies, which implies reconstruction and displacement of their settlements. If such a program is elaborated, it should take into account that these are the settlements of the people whose vital needs do not essentially differ from

the needs of an average Serbian family. The largest difference between them is in the problems they are faced with and the possibilities to solve them. In this sense, the assistance and support the state would offer to the Romanies is nothing else but its duty to react to permanently bad living conditions of a numerous ethnic community for the purpose of ensuring an equal status to its members in the society... [t]he housing problem cannot be resolved by reconstruction of Romany settlements, their displacement or physical destruction, but by an institutional, well-planned, comprehensive and well-coordinated program of action which includes the application of measures of economic, social, educational, urbanistic and other policies".<sup>44</sup>

### 3.2 INFORMAL SETTLEMENTS – SUBJECT TO DISCRIMINATION

*"I was born in Belgrade, but I lived in Niš for 30 years until I fought with my husband and came to live in Belgrade with my mother. But she was 78 years old and she could not cope with all of us, so we rented a flat. I made some money selling things in the markets, but it was not enough to pay for electricity and we were fined for not paying the electricity. [When my mother died] I had to sell my share of my mother's flat to pay the fine and then we came to Belvil, three years ago ... I paid €200 for the house....My daughter told me to come here, and my son-in-law said it was a good place because you can sell stuff, but the unofficial market at Buvliak has been closed and now it is difficult to buy food."* Smiljana, Belvil settlement, Belgrade.<sup>45</sup>

While almost all Roma in Serbia experience discrimination, those living in informal settlements experience further discrimination over and above the violation of their right to adequate housing. This arises from the denial of their right to residency, and the negative impact that this can have on other rights, including to health, education and work.<sup>46</sup>

Many Roma now living in informal settlements previously either owned or rented their own homes, but were driven to live in informal settlements, primarily due to poverty and discrimination. Many Roma interviewed by Amnesty International had found themselves unable to pay the rent where they had been living, and were forced to find accommodation in the settlement for various reasons, including discrimination in employment and access to housing, and the lack of low-cost or affordable housing. Others were forced to flee their homes during and after the war in Kosovo, but received no support from the authorities. Still others, unable to find employment in other parts of Serbia, come to Belgrade to work. Another group finds themselves in the settlements after being forcibly returned from EU member states.

Interviews with Roma living in settlements illustrate some of the human rights violations that have driven people to live there, and those they experience living in informal settlements.

#### LIVING WITHOUT DOCUMENTS

The right to recognition before the law is set out in international standards, including Article 16 of the International Covenant on Civil and Political Rights (ICCPR). This right has been recognized by the UN Human Rights Committee<sup>47</sup>, including in their consideration of states' implementation of the Convention.<sup>48</sup> The right is enshrined in Article 37 of the Serbian Constitution, which under Article 38 also guarantees citizenship to all those born in Serbia. However, many of those living in informal settlements have no documentation, and as a result are "legally invisible" resulting in further human rights violations.

Amnesty International considers the failure to register Roma people and the obstacles they face in obtaining identity and residence documents as denials, or potential denials, of the right to legal personality. This lack of recognition before the law, referred to in Serbia as “legal invisibility” and resulting in the denial of the capacity to exercise other rights, has been condemned by various Serbian NGOs and international bodies, including the Council of Europe and the European Commission.<sup>49</sup>

In March 2011, the UN Committee for the Elimination of Racial Discrimination, in their consideration of Serbia's state party report expressed concern “that members of the Roma minority face difficulties and discrimination due to their lack of personal identification documents and birth certificates which puts them at risk of statelessness and affects the exercise of their rights”, and urged Serbia “to carry out the necessary measures, including legal amendments, to ensure that all persons lacking the required personal documents have access to registration and the necessary documents to exercise their rights. [...] and] to carry out campaigns to increase awareness of the importance of registration among the Roma, Ashkali and Egyptian population”.<sup>50</sup>

Recognition as a citizen of Serbia requires the possession of a series of documents including a birth certificate and, if relevant, marriage and death certificates of other family members, – on which the issuance of all other documents is predicated – an identity card (*lična karta*) and a document establishing residency (see below).

The right to proof of legal identity is not granted free of charge: an identity card costs 270 dinars (€2.70); registering residency costs 200 dinars and a certificate of residency 400 dinars.<sup>51</sup> Provision is made under Article 19 of the Law on Republic Administrative Fees for a 70 per cent discount for internally displaced people when obtaining documents, but others pay a fee of a few hundred dinars for the issuance of each document. In order to register, a person may need up to 17 documents, which in some cases need to be renewed every six months.<sup>52</sup> Without financial assistance many Roma find it impossible to afford to register. As a Romani woman living in Belvil told Amnesty International: “*I can either register or I can feed my child*”.<sup>53</sup> The current level of child allowance in Serbia is 1, 897 dinars (€18) per month per child.

Z. told Amnesty International: “*When we apply for social welfare [about 2,000 dinars a month], we have to re-apply for everything - including the documents - so we didn't get anything for six to seven months.*” Another woman explained: “*I applied for documentation and I got nothing until February. It took about six months because I did not renew my card. I lost some documents and then the deadline passed and now I have to apply again from 1 February. I need a birth certificate, an identity card, income confirmation, information about my housing situation, social security card and a whole other list. The costs of photocopying are expensive. I would have to go back [to my municipality of origin] and it would cost at least 5,000 dinars (€50) to travel to get the documents even if you don't have to pay for the documents themselves*”.<sup>54</sup>

Praxis, a Serbian NGO with years of experience in assisting Roma with registration, in February 2011 proposed that a simplified procedure for subsequent registration be included in the Law on Legal Subjectivity.<sup>55</sup> Praxis has also advocated for a model Law on the Procedure for Recognition of Persons before the Law (Law on Legal Subjectivity), which would provide for the registration of those living in informal settlements, and has urged the Ministry of Interior to include their registration into the new Law on Registry Books.<sup>56</sup>



If a child was not registered at birth, the law allows for “subsequent registration” of the birth. Although the majority of Romani women give birth in hospital, a birth may not be registered if the parents do not themselves have personal documentation or registered residency or cannot afford the costs of registration. In such cases the child may be registered under the names of the grandparents or other persons known to the family who have documentation.<sup>57</sup>

In addition to these barriers to registration, Roma may face discrimination when applying for subsequent registration (registration of a birth after the period of time set out by law). In 2010, Praxis filed a case on behalf of three Roma from Novi Sad who had been refused subsequent registration of the birth of their children in 2008. Praxis found no grounds for the prohibition, except that the family were Roma.<sup>58</sup>

Article 7 of the Convention on the Rights of the Child provides that children should be registered immediately after birth. The UN Committee on the Rights of the Child, after its examination of Serbia’s national report, stated: “The Committee notes that the State party has achieved close to universal birth registration in most areas, but is concerned at gaps and disparities among the rural population, in particular among the Roma and the internally displaced persons. The Committee is concerned that birth registration procedures are overly complicated and that children are at times not registered due to the lack of identification documents of parents. The Committee is concerned that this may place Roma and internally displaced children in a vulnerable position as undocumented citizens and consequently excluded from access to basic services.

In the light of article 7 of the Convention, the Committee urges the State party to continue and strengthen, as a matter of priority, its efforts to establish a system ensuring the registration of all children born within its territory - irrespective of the nationality and status of the parents. The Committee further recommends that the State party take specific steps to remove existing gaps and obstacles to universal civil registration and to ensure registration of the children of Roma and internally displaced persons, in order to enable these groups to exercise the full range of rights recognized in the Convention.”<sup>59</sup>

The situation for internally displaced Roma from Kosovo is even more complicated in that the Registry Offices in Kosovo, where those displaced would have originally registered their identity and residency, were transferred to registry offices in Serbia when Serb forces and government officials withdrew from Kosovo in 1999. Those registered in these books have to travel to those offices to confirm their registration; in some cases they may even have to travel to Kosovo to obtain certain documents.

The UN Refugee Agency [UNHCR] estimates that 14 per cent of Kosovo Roma - predominantly those living in informal settlements, especially in Belgrade and Vojvodina - do not have documentation. In 2010, of 2,000 households in informal settlements, 1,000 adults and 2,400 children were not registered, the majority of them displaced persons.<sup>60</sup>

In 2009, the UN Representative on the human rights of internally displaced persons highlighted his concerns that “ many Roma IDP also lack personal identification documents, including birth certificates, because they lost them during their flight or never had any in the first place. This renders them ‘legally invisible’ and prevents them from accessing a number of rights. According to the Guiding Principles [on internal displacement], the authorities are under an obligation that emanates from the human right to recognition as a person before the law to issue [internally displaced people] with all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates”. The Special Representative urged

the authorities to adopt the Draft Law on the Recognition of the Person before the Law (Law on Legal Subjectivity) stating that “this would mark a large step forward towards bringing many citizens of Roma, Ashkali and Egyptian ethnicity from the margins of society into its fold”. The UN Special Representative also expressed concerns that Roma displaced people living in informal settlements were unable to register residency: “This means they can not apply for certain social welfare benefits or participate in programmes of the National Employment Agency.”<sup>61</sup>

All Roma displaced people interviewed by Amnesty International possessed only an IDP card, which does not enable access to basic services. An internally displaced Roma living in Belvil told Amnesty International: “My son came here as a child and he doesn’t have an identity card. [For medical treatment] we can only go to the emergency hospital because we are still registered in Kosovo”.<sup>62</sup>

#### THE RIGHT TO RESIDENCY

Under the Article 1 of the Law on Permanent and Temporary Residence “citizens are required to report and register their residence and domicile”; this applies equally to both permanent and temporary residence (for example, moving to another town or staying in a hotel). The law, including in Article 5, provides that documents, which must be presented to the municipal police, include proof of identity and of an address (for example, a deed of contract or tenancy).<sup>63</sup> Because informal settlements are not legally recognized, Roma living there do not have a legally recognized address and are therefore unable to register their residency. Thus Roma living in informal settlements in Belgrade do not have residency in the city municipalities, unless they have use of a formal address where they do not actually live. Without residency, they are unable to obtain the documentation which would allow them to access municipal services; this includes those whose are registered as resident in another municipality.

Registration is the key to accessing rights: as set out below, without residency Roma may be denied access to other human rights, including to social assistance, to employment and, until recently, a health card; they may also sometimes be denied access to education.<sup>64</sup> Those whose residency is registered in another municipality, have to travel back there obtain documentation of access services. For example, Amnesty International interviewed a woman who had moved to the Belvil settlement after her house in another municipality was destroyed by fire, but has to travel back there to see a doctor.

Many Roma circumvent the problem by registering themselves at the legal address of a relative or pay for the use of an address; others are sometimes provided with an address by compassionate police or municipal officials, or may use someone else’s identity and residency to access public services.

#### ACCESS TO EDUCATION

While only 66 per cent of Romani children in Serbia enrol into primary school reportedly only 10.2 per cent of children living in Roma settlements do so.<sup>65</sup> The Law on the Foundations of the Education System (Article 90, para. 3), requires parents enrolling their children in school to provide a birth certificate, proof of residence, and a certificate of medical examination obtained at a health centre.<sup>66</sup> Without these documents, an estimated 20 per cent of Roma children, mainly those living in informal settlements including internally displaced people, do

not enrol, despite recommendations in March 2007 by the Ministry of Education to schools that they enrol children without complete documentation. Nevertheless, enrolment remains at the discretion of the school administration and schools are not obliged to communicate with the parents of unregistered children inviting them to enrol their children in school, or follow up on children who do not enrol.<sup>67</sup>

A study of children from the Deponija settlement in Belgrade found that only 10 per cent of the 193 children of primary school age attended the nearest primary school, 10 minutes walk from the settlement, where they faced “rejection and ethnic pressure” from other children, discrimination by teachers and protests by non-Roma parents. When 20 Roma children aged 9-13 years were expelled from the school, they were sent to an adult education school where they were taught for 90 minutes a day.<sup>68</sup> Although Article 90 of the Law on Primary Schools states that a child should be over 15 years of age to attend adult school, children aged nine to 17 from settlements in Zemun municipality and from the Orlovsko naselje container settlement are similarly “channelled into” the adult school by the municipal education authority, in clear violation of the law.<sup>69</sup>

Children returned under re-admission agreements from EU member states face particular problems in enrolling in schools. In addition to birth, residency and medical documentation the authorities require the verification of educational qualifications gained abroad before a child may be enrolled.<sup>70</sup> Parents are required to provide a completed application form, original certificates for classes completed abroad, two copies of translations testifying to the latest grade obtained by the child, translated and certified by a court interpreter, confirmation of attendance of supplementary classes in the Serbian language and proof of payment of administrative fees.

Article 13(2)(a) of the International Covenant on Social Economic and Cultural Rights (ICESCR), states that “primary education shall be compulsory and available free to all”.<sup>71</sup>

#### ACCESS TO HEALTH CARE

Until 2010 Roma without a registered address were denied access to health care services because of their lack of residency. Amnesty International therefore welcomes amendments to the Rules of Procedure for Exercising the Right to Obligatory Health Insurance, adopted by the Institute for Health Insurance on 9 July 2010. Article 7, paragraph 11 of the Rules now enables Roma to obtain a health booklet even if they do not have a registered temporary residence.<sup>72</sup>

In a survey of Romani children, undertaken in 2005, the under-five mortality rate for Romani children living in informal settlements was three times higher than the average for Serbia. Forty-two thousand children from marginalized groups of the population, the majority of them Roma, were not vaccinated. The majority were not registered at a health centre and 10 per cent did not have a birth certificate. The incidence of low birth weight within Romani communities was double the national average, a factor which the UN Children’s Fund (UNICEF) attributed to the mother’s health and nutritional status, and which contributed to the child’s chances of survival, growth, long-term health and psycho-social development.<sup>73</sup>

According to OXFAM, the Roma population of informal settlements in Belgrade have a significantly lower life expectancy than the average Belgrade citizen.<sup>74</sup> Reports by several

international NGOs have shown in particular that the health of women is significantly worse than that of the general population and that this is attributable to inadequate living conditions, substandard housing without running water and sewage, poverty and “the disadvantaged position of Romani women within their domestic setting”.<sup>75</sup> These factors disproportionately impact on women - responsible for the care of the household and the health of children - often to the detriment of their own health. Amnesty International, in their interviews also observed high levels of stress in Romani women threatened with forced eviction health; these observations were confirmed by the Romani women’s NGO, Bibija.<sup>76</sup>

*“I’ve had enough now: people are coming here and threatening us and it’s just too much. I haven’t been able to work for a while as I started getting epileptic attacks, and I also have a problem with my heart. I don’t know what is going to happen, and I’m afraid I will end up on the street. I’m afraid that if I go to hospital I will be constantly worried about my children and my husband. We are really in a very, very difficult situation.”* Esmā, living in Belvil.<sup>77</sup>

Indeed in at least one instance, health care expenses imposed a disproportionately high burden and thereby were a causal factor in the decision to live in the settlements. Gordana told Amnesty International: “We had to move to Belvil five years ago because we could not afford to pay the rent anymore. We had been registered in Belgrade for 20 years. In 1999 my son was admitted to hospital because of appendicitis. His appendix burst and he got septicaemia and thrombosis in both of his legs. The thrombosis caused three strokes in 2008, 2009 and the most severe one in 2010. He is now 29 and he cannot work. He is in a wheelchair, and can’t talk or take care of himself; one side of his brain is damaged and there are still blood clots in his brain. In the hospital, I had to buy all the drugs and pay for the injections and if they had done the operation he would be okay, but they wanted money from me. It was pure corruption.”<sup>78</sup>

The right to health is recognized in Article 12 (1) of the ICESCR, which recognizes “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.<sup>79</sup> Amnesty International considers that with respect to those living in informal settlements, Serbia has failed to ensure that “health facilities, goods and services are accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination.”<sup>80</sup>

#### THE RIGHT TO WATER

“The human right to water is indispensable for leading a life in human dignity.”<sup>81</sup> Access to a regular supply of safe water is a human right. It entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.<sup>82</sup>

A 2002 survey established that some 30 per cent of Roma settlements had no access to a public water supply; 70 per cent had no access to sanitation.<sup>83</sup> Informal settlements in Serbia are not provided with access to a public water supply; this is provided only to regularised settlements.<sup>84</sup> Nor are water-tankers or cisterns provided. In the several settlements visited by Amnesty International in 2011 the organisation found that the authorities did not provide the people with access to water. Instead, inhabitants had to rely on taking water from hydrants used by the city and municipal cleansing services.

A Roma coordinator told Amnesty International that her attempts to provide water to displaced people living in the Šuma settlement, in woods in Čukarica municipality, had failed; her proposals for a water cistern near the site or the delivery of water had been objected to by the authorities as too hazardous for delivery vehicles.<sup>85</sup>

At the Belvil settlement in January 2011 only one hydrant, used by the city to clean the streets, was still working. Several other hydrants had reportedly been cut off by the authorities, so that women now have to walk up about 100m from one corner of the settlement and 6-700m from the other to fetch water. Valdete told Amnesty International, "It is extremely difficult to live here. It takes 10 trips to get enough water; sometimes the standpipe works and sometimes it doesn't."

According to the World Health Organization (WHO) when the water source requires a walk of between 100m and 1,000m from the home or five to 30 minutes total collection time, the quantities of water collected are unlikely to exceed 20 litres per person daily and hygiene practise may be compromised resulting in a high risk to public health from poor hygiene.<sup>86</sup>

The right to water has been recognized as a right deriving from the right to an adequate standard of living contained in under Article 11 (1), ICESCR. The right to water is also protected under other international treaties, including the CRC and the CEDAW.<sup>87</sup> The CESCRC has emphasised that state parties should give special attention to those individuals and groups who have traditionally faced difficulties in exercising the right to water, including minority groups. It has highlighted that states should take steps to ensure that deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status.<sup>88</sup>

#### THE RIGHT TO WORK

Roma have consistently identified discrimination in employment as the primary form of discrimination affecting their right to an adequate standard of living.<sup>89</sup> Although the 2009 Law on Employment and Employment Insurance no longer specifically requires a certificate of completion of elementary education in order to register with National Employment Agency proof of residency is required to register with the NEA.<sup>90</sup> This means that the majority of Roma living in informal settlements are still unable to register with the NEA, which excludes them from, for example, receiving information about and participating in specific employment and training programmes for Roma.<sup>91</sup> Ilysen Durmis, whose family had fled from Kosovo, and who had managed to register his residency told Amnesty International in March 2010 that he when he had had tried to register: "[t]hey discriminate when they see you are from Kosovo. It's discrimination: I have three languages and I'm a driver and but they see I'm from Kosovo, they say I am uneducated...".

In October 2010, while the national unemployment rate was 19.2 per cent, more than 80 per cent of Roma were unemployed.<sup>92</sup> Despite this, only 13,731 Roma were registered with the (NEA) in 2010, 1.9 per cent of the total registered unemployed.<sup>93</sup>

The majority of Roma living in informal settlements in Belgrade earn a living collecting and selling scrap material. In 2009 and 2010 two new laws were adopted on the licensing of waste management, which have been cautiously welcomed by the Niš-based *Sindikata sakupljača sekundarnih sirovina* (Union of Collectors of Secondary Materials), a cooperative union established by Roma. The Law on Licensing of Waste Management (Article 17, para.3) enables people to register as municipal waste collectors, and provides exemption from registration for the disposal of specific forms of waste. The law recognises the contribution of collectors towards Serbia's as yet undeveloped recycling industry; provides for the payment of a regular fee and agreed prices for recycled goods; it also requires the payment of a contributory tax, deducted from the amount received for collected material.<sup>94</sup> According to Osman Balić,

of NGO YUROM in Niš, the law does not regulate the situation of registered collectors, and effectively exploits collectors in that they are not paid the market price for the material.<sup>95</sup> However, few Roma are aware of the law and the requirement to register as a collector in order to sell scrap material at registered collecting points.

A group of Roma now living in a container settlement told Amnesty in January 2011: “We found out about the new law on registration for rubbish collection from seeing it on television. Nobody has provided us with information about this. We just know that you have to register at the agency for employment”. Another man added: “We all collect rubbish but we haven’t registered yet. A couple of days ago in Buvliak,, 10 new Communal Inspectors came with a van. They did not ask for documents or anything. They closed the temporary market, and confiscated everything. Some people were fined. Before the law the police would close the market, but they did not confiscate stuff. If you are not registered as a collector then you cannot sell things. They said: ‘You cannot sell without being registered’. Nobody’s told me what I should do about applying for the licence and about the new law”.

While Amnesty International has some concerns that the new law may lead to the segregation of Roma into one particular form of employment, given their current exclusion from many other sectors of the labour market, and high levels of unemployment, the organisation considers that the initiative offers much needed employment, and formal recognition to the work already undertaken by many Roma living in informal settlements.

#### GENDER-BASED VIOLATIONS

Many women without any other housing options find themselves living in informal settlements. As the UN Special Rapporteur on adequate housing has noted Romani women are amongst those women particularly vulnerable to homelessness.<sup>96</sup> In addition women who have no other housing option more likely are forced to remain in a situation of domestic violence.<sup>97</sup>

*Borka had suffered years of domestic violence; she told Amnesty International: “I turned to an NGO in Belgrade – dealing with victims of domestic violence. I called their SOS line from Ub, asking for advice just after the incident. They said they could assist me and pick me up if I needed to get away. I just wanted to start new life, and said I wanted to go back to Belgrade. They helped me put a complaint together and I filed a divorce request at the court. When I got my divorce, I went to the centre for social welfare in Ub and told them I would leave and move to Belgrade. They sent all my documentation to the centre for social welfare in Belgrade. They only took my statement and said that was it. I told them I have nowhere to go, nowhere to sleep. The lawyer at the centre for social welfare told me about Belvil and told me to go and live there with my people. She said that the city shelter for women is too dirty for me, because I would get scabies there. So this is how I went to live in Belvil. I paid 100 Euro to one guy here to build me a “barracks” and I started living here in 2007.”<sup>98</sup>*

In 2005, following the examination of Serbia’s state party report, and based on evidence that other Romani women had been excluded from domestic violence shelters, submitted by the Romani women’s NGO Bibija, the Committee on the Elimination of All Forms of Discrimination Against Women requested “the State party to review and monitor the application of admission criteria used by safe houses for victims of domestic violence in order to ensure that these do not exclude Roma women”.<sup>99</sup>

### 3.3 INTERNALLY DISPLACED PERSONS FROM KOSOVO

"We lived in the Roma mahala [neighbourhood] in south Mitrovica. We came in 1999 during the [NATO] bombing. We came with lots of others and walked for 24 hours until we got to Kraljevo [in Serbia proper]; after that we came to Belgrade - my three brothers, my two sisters and my mother. We came first to Dorćol [municipality] where some Roma people helped us to get an empty flat. They asked us if we were IDPs and so we went to the Pinki building, where the IDP camp was. After about a year the owner of the Pinki camp told us to leave, and then we all came to Belvil. I don't have a good education so I don't remember when that was. We have IDP cards and in the past we got aid, we got oil and some other stuff but not any more. Nobody from UNHCR comes here. We don't get any social assistance – nothing – we only get money from collecting paper and cartons. I haven't got the money to get any new documentation. I can't go to Kosovo to get my old documentation. In order to do it properly I would have to unregister in Kosovo and then find someone here to register me at their address, but even if I do that, what happens if I can't register here. What would happen then?"<sup>100</sup>

Amnesty International is concerned that Roma, Ashkali and Egyptians displaced from Kosovo, have no other housing solution but to live in informal settlements, and – as outlined above – face significant problems with obtaining documentation. While recognizing them as internally displaced people, with the protections such a designation affords them under international law, the government has failed to afford them basic rights under the ICESCR, other treaties and protections set out under the UN Guiding Principles on Internal Displacement.<sup>101</sup>

Although displaced persons registered by the Commissariat for Refugees with the assistance of UNHCR in 2000, initially received assistance from UNHCR or other agencies, many have received no subsequent assistance in realising their rights to employment, education, health care, adequate housing or social welfare.

An estimated 22-50,000<sup>102</sup> Roma, Ashkali and Egyptians were forcibly displaced or fled the war in Kosovo in 1999 – more than 10 per cent of the 230,000 persons from Kosovo estimated to be displaced in Serbia. They make up an estimated 17 per cent of the population of informal settlements. In December 2010, another 950 displaced Roma lived in collective centres, and 1,459 Roma lived in "informal" (often former) collective centres",<sup>103</sup> where living conditions are often similar to those in informal settlements.<sup>104</sup>

*"I was born in Prizren, Kosovo. I was in the regular army based in Prizren during the [NATO] bombardment, and then I came to Belgrade in July 1999. We came on the Niš Express bus, which was stopped by the Kosovo Liberation Army somewhere near the border. They took everyone off the bus and beat us up. I was in hospital for two months. Then I rented a flat in Zemun, my wife and children came from Kosovo five months later, and we stayed at my uncle's house. We got IDP cards, and for about a year we got help from the Red Cross for the children and the baby. Then one day the Red Cross said they wouldn't help us anymore, but they didn't say why. So we went to Tošin bunar, made a house, and were there for three years. There were about 450 houses there. Then the [city] authorities destroyed them".<sup>105</sup>*

In 2005, the former UN Representative of the Secretary General on the human rights of internally displaced persons, Walter Kälin, reported that the Serbian government had failed to ensure the rights of Roma, Ashkali and Egyptian displaced people from Kosovo, and specifically recommended that the Serbian government "provide particular support in the areas of housing, access to livelihoods, and education to Roma, Ashkali and Egyptian IDPs, in particular those living

in irregular settlements".<sup>106</sup> In a subsequent report published in 2009 the Representative found that conditions had not improved, including in access to education, health and in particular housing, reporting that "[a]lmost a third of all Roma IDPs (32 per cent, compared to 6.9 per cent for non-Roma IDPs) surveyed were reported to live in an object not intended for housing".<sup>107</sup>

Amnesty International therefore welcomes the 2010 "Survey on IDP vulnerability and their needs assessment" conducted by the Serbian Commissariat for Refugees, but notes that the government has, for political reasons associated with the contested status of Kosovo, as yet refused to consider the option of local integration. However, the numbers of internally displaced people prepared to return to Kosovo are declining.<sup>108</sup> As J.K., living in Bevil told Amnesty International: "*Last year I went back to Kosova and I saw how Roma live there. There is nothing there- nothing for Roma there – nothing. I've got no idea what is going to happen. I don't want to go back to Kosova. I'm afraid to go to Kosova*".<sup>109</sup>

#### FORCED RETURNEES

Jasco and his wife Dobrička are both from Vladičin Han in Southern Serbia. "We have been married for 30 years and came to Belgrade 28 years ago. The children were small then.. We went to live in Šume .. we didn't have any water or electricity and the children were unable to go to school because they were covered in mud. I worked in ŽitomiIn, but I was fired at the end of the 1980s when the firm went bankrupt. We received a notice (to leave the house in 1991- I asked what shall I do? Where shall I go?

The police and people from the municipality came, and we were evicted. That's why we went to Germany. We tried to claim asylum. We had no money. We were living in the street. We went to a place called Butsbach where we lived for about three months. They gave us food and clothes for the children. Then the Centre for Social Welfare gave us a flat in Limburg. We received an identity card and social assistance but I could not get any work. We stayed in Germany for 10 years, until 2001. Lots of other people came then because of the war. We were told that if we returned to Belgrade we would have everything. My wife had diabetes but they told us that if we returned to Belgrade we would receive everything - and that my wife would get hospital treatment - and then they put us on the plane. We came back and stayed with my sister. We registered with the Centre of Social Welfare but we have not had any assistance since we returned.

Two years ago our house on the other side of the settlement was destroyed when the people who were using the land evicted us. The police and social workers did not help. We asked them for assistance but they said that a tennis court was going to be built there. They were going to evict us from this house, but it hasn't happened yet. We survive with money from our children in Germany but they are going to be deported within the next three months. The grandchildren are all at school in Germany. We have filed a request to the city authorities for social housing for the family when they come back, but we don't know what will happen."<sup>110</sup>

Like many other Roma, this family is locked into a cycle of eviction, flight and deportation, and often have no option on return to live in informal settlements.

There are no reliable estimates of the number of Serbian Roma living in the EU, or the numbers likely to be deported or otherwise returned to Serbia.<sup>111</sup> According to the Serbian Commissariat for Refugees, in 2009 "at least 65 per cent of the returned belong to the Roma minority".<sup>112</sup> The Commissariat reported that 81 people (10 families- 54 adults and 27 minors) were re-admitted in January 2011, 59 of whom were Roma, deported from Germany, Sweden, Switzerland, Denmark and France, returning to Belgrade or nearby municipalities.<sup>113</sup>



Those being returned include Roma who migrated for employment in the 1970s under agreements with western European states, primarily Germany; Roma who, following the collapse of the SFRY, were dismissed from former state-owned enterprises, and left the country looking for work. They also include Kosovo Roma, Ashkali and Egyptians, who were afforded temporary protection status after fleeing the war, but whose temporary protection having been withdrawn, are being forcibly returned to Serbia rather than to Kosovo.<sup>114</sup> More recently many Roma have left Serbia since the liberalisation of visa agreements with the EU, some seeking asylum. It is likely that the majority will be summarily returned to Serbia, and that those who have tried to claim asylum will be returned without access to a process to determine individual protection needs.

In November 2010, the European Commission reported that “[e]ffective implementation of the migration management strategy<sup>115</sup> is lacking due to poor capacity and insufficient coordination [...]. An action plan has not yet been adopted. Conditions in reception centres have not improved due to a lack of funding. [...] Reintegration of returnees needs to be improved.”<sup>116</sup> In the absence of capacity – and funding – to ensure the reintegration of persons forcibly or otherwise returned to Serbia<sup>117</sup>, many Roma returnees have had no option but to living in informal settlements.

## VIDIKOVAC

At the end of March 2010 between 20 and 25 returned families were among 35 Roma families who had been forcibly evicted without warning from a settlement in the Vidikovac area of Čukarica Municipality; they were not provided with any assistance or alternative housing. They were not consulted in advance of the eviction or provided with any alternative accommodation, assistance or compensation by the City of Belgrade authorities. Without alternative accommodation, many of the families collected what was left of their houses and their personal belongings and moved to a settlement on the other side of the road, joining other families who were already living there. This group had been returned from Germany in 2003.

In mid-June 2010, they again received eviction notices, stating that their houses would be demolished in early July. While eviction had not taken place at the time of writing, Amnesty International understands that this may take place imminently. Again, the he residents have not been consulted

When the families attempted to return to their former homes in the village of Tibužde, in Vranje municipality, after their deportation from Germany, they found that their houses had been razed to the ground and that the building materials had been taken away by the local Serbian community. Despite seeking assistance from the municipality and other authorities, they received no help in moving back to their village, and subsequently moved to a site in Čukarica municipality in Belgrade, from where they were evicted in early 2010.

Amnesty International spoke to Mustafa Ismailović<sup>118</sup>, originating from Tibužde in January 2011, then living in Vidikovac. “We left Tibužde with the children. It was some time in the 1990s. We had family in Germany.. We had the Duldung [temporary leave to remain].The children were able to go to school. Then we were deported in 2005. We came to Belgrade and then we went back to Tibužde, where I had lived for 20 or 30 years. I had three houses in Tibužde, with water and electricity from the proper authorities. I have documents from the municipality, and they should have copies of the contracts. But when we got back we found that the whole settlement of about 50 houses had been destroyed. I don't know if there is a legal process for compensation. We left and we went to Vidikovac and we have been here for the last five years. We received notice to leave the barracks in June”.

Since October 2010 the settlement at Vidikovac - due for eviction since June 2010 – has been more or less empty. Those remaining told local NGOs that the group from Tibužde had gone to Germany "for a few months"... "to get some work". Reportedly they had no intention of applying for asylum, but having been threatened with forced eviction, and with no prospect of alternative accommodation, had decided to leave Serbia.

On return re-admitted persons are provided with a travel document, valid for three months, which, in the absence of other documents, may be used as a personal identification document, enabling them to apply for basic services. Returnees are also provided with a free one-way bus ticket to Belgrade, but few receive assistance to return to their place of origin or in applying for documentation.<sup>119</sup> Thus many returnees remain in Belgrade, without documentation, and often end up in informal settlements.

Officials from Čukarica municipality's Department of Social Welfare told Amnesty International that they had received no information or support from the authorities to assist an estimated 200 returned Roma who had come back to Čukarica in 2010. Most returned to Sremčica, a settlement in the process of legalisation, or informal settlements where, according to the officials, they "live like refugees"; without any official assistance programmes including for the reintegration of children, many of whom do not speak Serbian.<sup>120</sup>

The 2010 National Roma Strategy recommends that "returnees should be included in [all] programmes of housing provision [...]. Local self-government units with a significant number of returnees under the readmission agreement should be provided with additional funds for the purpose of facilitating the resolution of housing issues and improving the living conditions in the communities into which the returnees are being integrated".<sup>121</sup>

#### SEGREGATION

Amnesty International is concerned about the failure of the Serbian government to monitor and address trends, which have resulted in racial segregation in housing, particularly of Romani communities in informal settlements. Further Roma communities forcibly evicted from informal settlements have been resettled in "container settlements" away from the majority population leading to further racial segregation and discrimination (see Chapter 4).

The 2010 National Roma Strategy calls for the integration of Roma settlements, and the reduction and elimination of social segregation.<sup>122</sup> To date, few ministries have gathered data segregated by ethnicity or on segregation.<sup>123</sup> Moreover, while the Strategy's Proposed Monitoring Framework includes the municipal mapping of Roma settlements as an indicator of progress,<sup>124</sup> there is no mechanism in place to monitor patterns of housing and residence, or identify and address housing trends, including the existing pattern of racial segregation.

The CERD has clarified the obligation of states to develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing (see Chapter 4).<sup>125</sup> In order to meet their obligations under Article 3 of the ICERD to prevent, prohibit and eradicate all practices of racial segregation, governments are required to monitor all trends which can give rise to racial segregation and to work for the eradication of any negative consequences that ensue.<sup>126</sup>

## 4. THE LEGAL FRAMEWORK

### 4.1 THE RIGHT TO ADEQUATE HOUSING

As a state party to the ICESCR, Serbia is legally obligated to respect, protect and fulfil the right to adequate housing as provided by Article 11(1). This requires refraining from forced evictions, protecting people from interferences with their rights by third parties such as landlords, and adopting appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to adequate housing. The government must prioritise the realisation of minimum essential levels of housing for all persons and prioritise the most disadvantaged groups in all programmes and while allocating resources. The government is also required to guarantee the right of people to participate in and be consulted over decisions that will affect their lives, and to provide an effective remedy if any of these rights are violated.

The UN Committee on Economic, Social and Cultural Rights (CESCR) has emphasized that “the right to housing should not be interpreted in a narrow or restrictive sense which equate it with, for example, the shelter provided by merely having a roof over one’s head or which views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.”<sup>127</sup>

The Committee has identified seven elements to determine the adequacy of housing: 1) legal security of tenure; 2) availability of services, materials, facilities and infrastructure; 3) location; 4) habitability; 5) affordability; 6) accessibility; and 7) cultural adequacy.<sup>128</sup>

The right to adequate housing is also set out in the Revised European Social Charter. When ratifying the Charter, Serbia has not accepted Article 31, which aims to ensure “the effective exercise of the right to housing”.<sup>129</sup> However, Serbia accepted Article 16, which provides that, “the family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development” and which in the view of the European Committee of Social Rights includes obligations in relation to housing. The European Committee of Social Rights has stated that “in order to satisfy Article 16 states must promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and include essential services (such as heating and electricity)”. The Committee has stated that “adequate housing refers not only to a dwelling which must not be sub-standard and must have essential amenities, but also to a dwelling of suitable size considering the composition of the family in residence. Furthermore the obligation to promote and provide housing extends to security from unlawful eviction”.<sup>130</sup>

### 4.2 SECURITY OF TENURE

The CESCR has clarified that security of tenure is one of the crucial elements to determine adequacy of housing. The Serbian government is under an immediate obligation to take measures aimed at ensuring a legal degree of security of tenure, at the very least, sufficient to protect people from forced eviction, harassment and other threats.

According to the CESCR, “legal security of tenure takes various forms, including, rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. *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*” (emphasis added).<sup>131</sup>

#### 4.3 PROHIBITION OF FORCED EVICTIONS

Serbia is obliged under a range of human rights treaties, including the ICCPR, ICESCR and the Revised European Social Charter, to refrain from and prevent forced evictions.<sup>132</sup> The CESCR defines a forced eviction as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection.”<sup>133</sup>

The CESCR has emphasized that evictions may only be carried out as a last resort, once all other feasible alternatives have been explored.<sup>134</sup> It clarified that evictions can only be carried out when appropriate procedural protections are in place. These include:

- an opportunity for genuine consultation with those affected;
- adequate and reasonable notice for affected people prior to the eviction;
- 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;
- government officials or their representatives to be present during an eviction;
- everyone involved in carrying out the eviction to be properly identified;
- evictions not to take place in particularly bad weather or at night unless the affected people consent otherwise;
- provision of legal remedies;
- provision, where possible, of legal aid to people who are in need of it to seek redress from the courts.<sup>135</sup>

The CESCR also emphasized that when an 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”.<sup>136</sup>

The prohibition against evictions does apply to evictions which are carried out in accordance with the law and in conformity with the provisions of international human rights standards. Hence if a government has put into place processes such as genuine consultation to explore all feasible alternatives, providing adequate notice, remedies, adequate alternative housing

and compensation and puts in place all other procedural requirements, the eviction or if necessary, use of force in a proportionate and reasonable manner to carry out the eviction, would not amount to a forced eviction prohibited under international law.

The CESCR clarified that states that have ratified the ICESCR must pass laws banning forced eviction. It stated: "Such legislation should include measures which: (a) provide the greatest possible security of tenure to occupiers of houses and land; (b) conform to the Covenant; and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it." The CESCR added that "states parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant."<sup>137</sup>

Moreover, the UN Special Rapporteur on Adequate Housing developed Basic Principles and Guidelines on Development-based Evictions and Displacement (the Basic Principles), which reflect existing standards and jurisprudence on the issue of forced eviction.<sup>138</sup> They include detailed guidance on steps that should be taken before, during and after evictions in order to ensure compliance with relevant principles of international human rights law. Adequate alternative housing and compensation for all losses must be made available to those affected, regardless of whether they rent, own, occupy or lease the land or housing in question. Evictions must not "render individuals homeless or vulnerable to the violation of other human rights".<sup>139</sup> The Basic Principles detail this further:

"At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions."<sup>140</sup>

#### 4.4 NON-DISCRIMINATION AND EQUALITY

The duty of states to guarantee the right to housing without discrimination is set out in Article 5(e)(iii), read in conjunction with Article 2 of the ICERD and Articles 2 and 11(1) of the ICESCR.<sup>141</sup> The CERD, in General Recommendation 27, emphasised the obligations of states parties "to develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing", "to act firmly against local measures denying residence to and unlawful expulsion of Roma" and "to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities."<sup>142</sup>

In December 2010, Amnesty International submitted a briefing to the CERD for their consideration in advance of its examination in February 2011 of Serbia's initial report, submitted under Article 9 of the ICERD.<sup>143</sup> The briefing summarized Amnesty International's assessment of Serbia's implementation of Articles 5 and 6 of the Convention, focussing on its failure to guarantee the right to adequate housing to Romani people in Serbia without discrimination.<sup>144</sup> In their subsequent consideration of the state party report, the CERD expressed concern that:

"[T]he Roma population, in many cases, lives in segregated settlements and experiences discrimination in respect of adequate housing and, in particular, is often subject to forced eviction with no provision of alternative housing, legal remedies, or compensation for damage and destruction of personal property. While noting with interest the Law on Social Housing, the Committee expresses concern about the particular difficulties faced by the Roma when applying for social housing programmes, resulting in a perpetuation of discrimination (arts. 2, 3, 5 (e) (iii) and 6 ).

The Committee urges the State party to ensure that any resettlements do not involve further forced evictions and that procedural protections which respect due process and human dignity be put in place. It recommends that the State party strengthen the measures aimed at improving the housing conditions of the Roma, and in this regard, recommends that it accelerate the implementation of the National Plan for Housing of Roma adopted in 2009. In light of the Committee's general recommendations 27, paragraphs 30-31 (2000), on discrimination against Roma, and 32 (2009) on the meaning and scope of special measures, it also recommends that the State party intensify efforts to avoid residential segregation of minorities and encourages it to consider developing social housing programmes for the Roma.<sup>145</sup>

At a regional level, Article 14 of the European Convention on Human Rights and Fundamental Freedoms, (ECHR), signed and ratified by Serbia, provides that all rights guaranteed by the convention should be granted without discrimination. This is amplified in Article 1 of Protocol No. 12 to the ECHR, which prohibits discrimination in the "enjoyment of all rights set forth by law".<sup>146</sup> The European Court of Human Rights has found that evictions, without the necessary safeguards including the right to appeal, to be a violation of Article 6 of the ECHR, (right to a fair trial); also in interpreting Article 8(1) in its reference to "home", the Court has held that the concept of home is not limited to instances when the dwelling or the land would be legally occupied or owned.<sup>147</sup>

Serbia is also a signatory to the Council of Europe Framework Convention for the Protection of National Minorities, which at Article 4 prohibits discrimination against persons belonging to a national minority.<sup>148</sup>

#### RIGHTS TO PARTICIPATION AND CONSULTATION

The right of everyone to participate in decisions that affect the exercise of their human rights is strongly grounded in international human rights law and standards. Both the Universal Declaration of Human Rights and Article 25 of the ICCPR guarantee the right to take part in the conduct of public affairs. The Human Rights Committee has clarified that the "conduct of public affairs... is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels."<sup>149</sup>

The CESCR has emphasized that the full enjoyment of other human rights, such the right to participate in public decision-making "is indispensable if the right to adequate housing is to be realized and maintained by all groups in society."<sup>150</sup> In relation to the development of national housing strategies, the Committee has stated that "both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives".<sup>151</sup>

Specifically in respect of the prohibition of forced evictions, the CESCR has stated: “States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force.”<sup>152</sup> Essential procedural protections to avoid forced evictions include “an opportunity for genuine consultation with those affected... 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...”<sup>153</sup>

The Basic Principles, developed by the UN Special Rapporteur on Adequate Housing, state that “all potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have **the right to relevant information, full consultation and participation** throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate” (emphasis added).<sup>154</sup>

#### RIGHT TO AN EFFECTIVE REMEDY

Under international law, everyone has the right to an effective remedy when their human rights are violated. Without access to remedies, human rights mean very little. The processes or mechanisms for claiming remedy must be accessible, affordable and timely; the remedy itself may be costly on the duty bearer.

Under the ICCPR and ICESCR, Serbia must ensure that all victims of forced evictions have access to effective remedies. The CESCR has specified that one of the key procedural protections in relation to evictions is the provision of legal remedies and, where possible, legal aid to people who need it to seek redress in the courts.<sup>155</sup> When granted, the remedy must be enforced by a competent authority.<sup>156</sup> The Basic Principles state, in relation to forced evictions: “Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation...”<sup>157</sup>

In the specific case of the duty to prohibit and prevent forced evictions, the CESCR has identified a number of areas, including “(a) legal appeal 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...”<sup>158</sup> The CESCR has also clarified that the competent authorities must ensure that concerned individuals have a right to adequate compensation for any property that is affected, both personal possessions and immovable property.<sup>159</sup>

#### 4.5 DOMESTIC LEGISLATION

“The problems in connection with forced removal from flats (eviction) and demolition of Roma houses and informal settlements are related, in the majority of cases, to the unregulated legal status of ownership of land and buildings. In the case of evicting a tenant from a flat or property, current legislation provides no protection or guarantees for persons illegally settled on the land or in the building, so in the majority of cases these persons are left to themselves. According to the international law on human rights, individuals have the right to protection against

forced eviction, which includes certainty of the right to property and legal protection against forced removal".  
National Roma Strategy.<sup>160</sup>

#### THE RIGHT TO ADEQUATE HOUSING

While the Constitution does not provide for the right to housing, the 1992 Law on Housing calls for "measures for the creation of favourable conditions for housing construction and to ensure conditions for solving housing problems of socially vulnerable persons in accordance with the law". Under the 2009 Law on Social Housing, Roma are one amongst 14 priority groups eligible to be allocated social housing.<sup>161</sup>

However, the construction of social housing remains problematic in that all construction land in Serbia is categorised as state property, which has a detrimental impact on the ability of municipal governments to finance social housing and indeed limits the construction of privately owned property. Under the 1991 Law on Territorial Organisation and Local Self-Government municipalities have the responsibility for planning and regulating the use of construction land, including through urban plans, the legalisation of additional land for housing; and in budgeting for and developing social housing. Under the 2004 Law on Local Self-Government, municipalities were granted additional financial powers and the ability to receive central government subsidies to build houses. However, progress in implementing the provisions of the law has been very slow.

Given the state control of ownership of urban building land the number of illegal constructions – estimated in 2004 at 600,000 – is not surprising. In the absence of measures to make state land available, many settlements (Roma and non-Roma), houses, supermarkets and other buildings have been built on agricultural and other land. These "illegal constructions" are prohibited under the 2003 Planning and Construction Law but until recently penalties have not been imposed. Under Article 160 of the Law it is possible to legalise buildings constructed without a permit and Article 163 provides for a fee for what is described as "remedial registration". However, few Roma interviewed by Amnesty International had been able to take such measures to register their properties.

#### FORCED EVICTIONS

There is no law in Serbia that defines and prohibits forced evictions, nor do the relevant civil laws and administrative procedures include the mandatory safeguards for evictions identified by the CESCR.<sup>162</sup> While the National Roma Strategy calls on the government to review relevant laws to guarantee "a legal procedure harmonised with international standards" in accordance with "the principle of non-discrimination" and "adequate alternative accommodation" no such measures have yet been taken. To date, challenges to forced evictions have been brought under various provisions of the civil and administrative law, in conjunction with international standards.

Serbian civil law and administrative procedures set out the requirements for a private individual, municipality or company to evict people from their premises or land. Article 5 of the 1992 Law on Housing states: "Residential buildings and apartments are used by rights of ownership of the apartment and for rentals. If a person moves into the apartment or common areas of residential buildings with no legal basis or a dwelling without the contract or has annulled the legal basis under which the contract is concluded, the owner or person having legal interest, can request the municipal body responsible for housing to ask for his eviction.



An appeal against the decision to evict a person who moved into an apartment or common area of residential buildings without legal basis, does not prevent the enforcement of the decision.

In the first instance, there must be a decision to evict. The affected individuals should then be given a notice of the decision to evict, which should include the legal grounds for eviction; they should subsequently be issued with a written decision (rešenje). This document should include the date or deadline by which the individual or family is required to move out, which may be within three, five or seven days etc. However, if for some reason the eviction does not take place on the stated date, a new official notice should be issued, even if the legal ground for eviction remains the same. No advice or information is routinely given to enable persons at risk of eviction to challenge the decision, nor is there any specific provision made in law.<sup>163</sup>

In the amended Resettlement Action Plan, under which the Gazela Bridge eviction and resettlement were carried out, the City Assembly took the view that the Law on Expropriation “ t here are no legal obligations to resettle the Gazela Bridge families, either at a city or a state level as all are treated as illegal owners [...]”.<sup>164</sup> This policy is contrary to Serbia’s obligations under the ICCPR, ICESCR, and Revised European Social Charter to provide adequate alternative housing to all those who are not able to provide for themselves, before carrying out an eviction.

#### NON-DISCRIMINATION

The right to non-discrimination is enshrined in the Constitution, which provides for equality under the law and constitution, and for special measures to address discrimination against a particular group.<sup>165</sup> It also provides for the protection of national minorities and the direct application of international standards related to human and minority rights.<sup>166</sup> The prohibition of discrimination is further elaborated under the 2009 Anti-Discrimination Law (ADL), adopted in March 2009.<sup>167</sup> Under the ADL, all public bodies are required to provide services and guarantee rights, without discrimination.<sup>168</sup>

Amnesty International, however, is concerned about serious shortcomings in guaranteeing non-discrimination in practice, including the failure to establish adequate monitoring and complaints mechanisms. In this regard Amnesty International notes with concern that the Commissioner for Equality, charged with receiving and adjudicating on complaints submitted under the law, in a public meeting held in Belgrade reportedly stated that forced evictions of Roma did not come within her mandate.<sup>169</sup>

#### THE RIGHT TO REMEDY AND COMPENSATION

The right to a remedy and redress, including to international bodies, is guaranteed under Article 22 of the Constitution.<sup>170</sup> However, the constitutional guarantees have not been effectively implemented in national law or in practice..The Law on Expropriation is limited to the compulsory purchase of land and the payment of compensation to the legal owners of land from which they are evicted, but there are no provisions to compensate for loss or damage to personal possessions.

Consequently, lawyers are forced to seek redress through other avenues, for example, through the Law on Obligations (Law on Torts). Article 16 of the Law on Obligations provides that

“ e everyone is obliged to refrain from any act which can cause other damage”, the definition of damage (in Article 155) allowing a complainant to seek compensation not only for the damage of material possessions but also for other violations associated with evictions.<sup>171</sup>

Furthermore, Article 157 of the Law on Obligations makes it possible to seek to prevent an eviction as the law provides that “ e everyone has the right to request the court or other competent authority to order the cessation of operations which violate the integrity of the person, personal and family life and other rights”. It may also be possible under Article 270 to appeal against the execution of an administrative decision to evict.<sup>172</sup>

However, this inadequate framework cannot replace the enshrinement in law of a prohibition against forced evictions, alongside an effective right to appeal as required by CESCR, including effective avenues to enforce the right to adequate compensation for loss of personal property.

Furthermore, Serbia lacks a mechanism by which accountability of city authorities is ensured. Under international law, a state cannot invoke internal law to justify a failure to perform its obligations under international treaties. As a consequence, city and municipal officials - like all public officials - must act in a manner consistent with Serbia's international obligations. The state is responsible if an official – by their action or inaction – breaches an international obligation.

#### **The City of Belgrade**

Belgrade is the largest city in Serbia, with a population of 1,576,124, according to the 2002 census, organized in 17 separate municipalities. Belgrade is defined as a district under the 1992 Law on the Territorial Organization of the Republic of Serbia, and afforded territorial autonomy under Article 2.<sup>173</sup> In an interview with the Mayor of Belgrade , he informed Amnesty International that there was no mechanism to hold the city authorities accountable to the state of Serbia.

The Serbian government has failed to ensure compliance of city and municipal authorities with its obligations under ICERD, ICESCR, ICCPR and the Revised European Social Charter. It has also failed to hold public officials, including city officials, accountable when they carry out forced evictions or when resettlement does not comply with international standards. The government does not have an adequate monitoring and institutional framework to combat discrimination against the Roma, including by city and municipal authorities, and has not provided effective remedies for victims.

## 5. FORCED EVICTIONS IN BELGRADE

### THE GAZELA BRIDGE REHABILITATION PROJECT

On 31 August 2009, at around 10am, the Belgrade authorities began forcibly evicting the residents of the Romani settlements underneath the Gazela Bridge. By 1pm almost 200 homes had been destroyed. Few of the 178 families due to be “resettled” had enough time to rescue their belongings before the bulldozers moved in. Most took with them only what they could carry,

Around 114 families were bussed to the outskirts of Belgrade and given accommodation in metal containers. Another 64 families were transported to municipalities in southern Serbia. The eviction of the Gazela settlement was carried out without the safeguards required under international law. Consultations held with the communities were inadequate, no compensation was provided for loss of and damage to personal property, no legal remedies were provided and the resettlement options failed to meet international human rights standards.

The settlements were evicted by the City of Belgrade authorities, in order to carry out repair works on the dilapidated Gazela Bridge, which is part of the redevelopment of Serbia’s motorway system. Several other Roma communities in settlements in Belgrade and across Serbia will be evicted as part of this massive infrastructure project.

Amnesty International is extremely concerned at the rising number of forced evictions conducted by public officials, of Romani communities living in informal settlements in Belgrade. If such evictions continue to be carried out without required safeguards in place, they will violate the rights of the residents of an estimated 50 settlements within the City of Belgrade.<sup>174</sup>

Since April 2009 at least seven forced evictions of informal settlements have taken place. At the time of writing Amnesty International is aware of at least one scheduled eviction, and of the planned “resettlement” in early 2011 of the residents of a settlement at Belvil in Novi Beograd (New Belgrade). This will take place in advance of construction work on infrastructure development which is financially supported by loans from the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB).

The first section of this chapter summarises some of the forced evictions conducted by the Belgrade authorities since April 2009. The second section examines violations of the rights of Roma, including to adequate housing, before, during and after the forced evictions.

Some, but not all, of these forced evictions are being carried out within the 2007 City of Belgrade’s Action Plan for the Inclusion of Roma, which included a number of measures for the “rehabilitation of emergency situations and resettlement of slums, including the relocation of ‘slums’; ‘slum housing construction’ and specifically the ‘relocation of settlements near Gazela Bridge’”. An annex to this plan identified measures required for the relocation of 300 families at settlements under the Gazela Bridge.

## 5.1 A PATTERN OF FORCED EVICTIONS OF ROMA SETTLEMENTS

### **BLOK 67**

On 5 April 2009, a group of around 150 Romani people, including children, the elderly and infirm, many of them displaced from Kosovo, were forcibly evicted from an informal settlement on Blok 67, a portion of wasteland in Novi Beograd (New Belgrade). There was no consultation with the community to identify alternatives to eviction and inadequate notice: they had received notices that they would be evicted in 15 days time, but were actually given less than 24 hours official notice. They were not provided with adequate alternative housing. They were removed in order to build an access road for the 2009 Student Games (Univerzijada), which took place later in the year.

Bulldozers escorted by police officers arrived to forcibly evict the residents and demolish their houses early in the morning. The dwellings were torn apart and their occupants were not given adequate opportunity to retrieve their personal property or moveable goods, and in some cases were prevented from doing so. Temporary alternative accommodation in the form of containers had apparently been prepared by the City of Belgrade in the suburb of Boljevcı. However, the convoy of buses which took the residents of Blok 67 to Boljevcı was met with protests from local residents, some of whom attempted to set fire to three of the containers, causing some damage. Faced with such opposition, the city's plans to accommodate the Roma from Blok 67 were abandoned at around 1am. The authorities offered temporary accommodation to women and children at a social care centre. Some accepted, but because this was not offered to the men, other women refused, not wishing to be parted from the adult male members of their families. Many thus spent the night – and several successive nights – in the open, sleeping on the ground or mattresses recovered from the rubble or provided by local NGOs.

According to the Mayor of Belgrade, Dragan Đilas, who was responsible for the eviction, only Roma who were “citizens” of Belgrade would be provided with alternative accommodation, a policy which continues despite the fact that Serbia is required to provide adequate alternative housing to all persons who require it, prior to carrying out an eviction, without distinguishing between people on the basis of origin or place of residence.<sup>175</sup> Many of those living at the settlement were internally displaced people from Kosovo, who did not have residency in Belgrade. Some 15 families evicted from Blok 67 were finally provided with accommodation in metal containers by December 2009. The remainder moved to other informal settlements, and remain at risk of further forced evictions. According to the European Roma Rights Centre (ERRC), the local municipality had not been consulted or informed in advance.<sup>176</sup>

Around the same time as the forced eviction of Blok 67, around seven families were evicted from a house at 19 Vojvodjanska Street. In August 2009, in the largest eviction to date, around 220 families were evicted from the settlement under the Gazela Bridge, as part of a “resettlement” in advance of infrastructure work co-funded by the EBRD; this eviction is described more fully below. At the end of March 2010, between 20-25 families were evicted from an informal settlement in the Vidikovac area of the Čukarica municipality. On 20 April 2010, around 38 Romani families (more than 100 individuals) were evicted from an informal settlement in Lazar Kujundžić Street in Čukarica municipality, and then subsequently sent back to southern Serbia. In mid-June, Roma living at another site in the Vidikovac area of Čukarica received eviction notices and remained at risk of forced eviction as of March 2011. Another forced eviction of three families took place on 13 July 2010, although it was temporarily prevented by the appearance of a local Roma NGO. Then in October 2010, another 36 individuals were evicted from housing units in 25 Vojvodjanska Street, and on 26 November and 15 December 2010, another group was evicted from barracks on the corner of

Milutina Milankovića and Omladinskih brigada in New Belgrade. Amnesty International also documented an attempted forced eviction of the Sremčević family from their home in Dalmatinska Street in central Belgrade (a legal property, but which they lived in without adequate security of tenure) in November and December 2010.

## ULICA DALMATINSKA:

Until August 2000, the Sremčević family lived in a flat owned by the Technorad company. Mr Sremčević had worked for Technorad between 1989 and August 2000, the company had provided the flat to him as one of its workers. When the company went bankrupt in August 2000 everyone who lived in the building there was evicted and it was destroyed. Danica, Mr Sremčević's daughter, told Amnesty International:

*"The Belgrade Land Agency [Beoland] came to evict my parents. They brought lorries and they did it very quickly. The employees hired to carry out the eviction damaged some of our property. Beoland provided us with a new flat in Dalmatinska Street as a temporary place to live and told us that they would find a permanent solution later. We did not sign an agreement for occupying the flat. We were only given an inventory, which enabled my parents to register under this address so that they could pay for electricity and other services. They told my parents that they would get the rest of the documentation, but my parents have never received it. When we entered the flat and saw the state of it my parents were really reluctant to live there. But Beoland said if we didn't accept this flat we would get nothing else. It was blackmail. So we stayed and renovated the flat as much as we could. We have always paid all the bills on time. When I grew up I moved out of the flat together with my sister so it's only my parents living here.*

*"In 2001 my parents [aged 70 and 63] received the first eviction notice for the flat in Dalmatinska Street from the Municipality of Stari Grad (Old Town). The eviction was requested by Beoland. We managed to delay the eviction by writing complaints and using administrative procedures requesting a delay. From 2001 this happened annually until October 2010, when the Stari Grad Municipality sent us an eviction notice that we could no longer object to – as we had exhausted all the possibilities.*

*"In 2008 my parents filed an application to the court to legalise their tenancy rights. But despite the ongoing proceedings, on 22 November the municipality and Beoland came to evict us. They were assisted by the police. However we were lucky because people from the Youth Initiative for Human Rights were here protesting against our eviction.<sup>177</sup> It was all very confusing and in the end the police broke into the wrong flat.*

*"We have no security of tenure. This is the problem. My father has a heart disease and angina, and it is very stressful for him. He was very upset and threatened to set himself on fire when he heard about the last eviction. He worked legally all his life. He really earned the flat. We can't find out why they want to evict us but they have sent us a document, saying we have to pay 700 dinars (€7) for the costs of eviction."*

On 22 December 2010, another attempted eviction was prevented by an NGO-organised e-mail action to the Belgrade Land Agency and Stari Grad Municipality. On 23 December, the family, accompanied by a lawyer and the YIHR held a meeting with the Belgrade Land Agency, at which it was agreed that administrative procedures would be stopped, for now, but nothing was given to the family in writing.

Each of these evictions of small settlements and individual properties, was a forced eviction, or an attempt to conduct a forced eviction (where the community continues to live under threat of forced eviction), in that the safeguards and procedures defined in international standards were not applied. These violations are described in more detail below and in

selected case studies of forced evictions, which have taken place over the last two years, documented by Amnesty International or Serbian NGOs.<sup>178</sup>

## MILUTINA MILANKOVIĆA AND OMLADINSKIH BRIGADA

On 26 November 2010, without notice, the Construction Inspectorate from Novi Beograd municipality pulled down one property owned by the Ratko Mitrović company, where three Roma families were living. They had been served with eviction notices in April and June 2010. In the meantime, there was no consultation with the community to identify feasible alternatives to eviction or to offer resettlement options.

The buildings were demolished in order to build a new headquarter for fire-fighters. They had been built, as was the practice of socially owned enterprises to house the company's workers, some of whom – both Roma and non-Roma – had lived there since the buildings were abandoned by the company. By the time the evictions took place, the residents also included one Roma family displaced from Kosovo.

Most of their belongings were destroyed during the eviction by municipal workers. They spent the first night out in the open, but were subsequently provided alternative accommodation in container settlements in Makiš and Rakovica, although they had not been provided with heaters or beds by 15 December, when, in sub-zero temperatures, another group of families were evicted from the four remaining Ratko Mitrović buildings, in violation of prohibitions in international standards against evictions in bad weather.<sup>179</sup>

The Roma families were again offered alternative accommodation at the Rakovica container settlement and two families subsequently accepted. The non-Roma families were not offered any alternative. This raises concerns about both the apparent discrimination against non-Roma who were left to fend for themselves, and the practice of resettling Roma communities in the container settlements,<sup>180</sup> which leads to racial segregation.

## 5.2 FAILURE TO COMPLY WITH LEGAL SAFEGUARDS BEFORE EVICTION LACK OF ADEQUATE NOTICE AND GENUINE CONSULTATION

“... in the cases where legalisation of housing structures in the existing settlements is not possible, the competent bodies, through a dialogue of all actors, should find solutions for moving or displacement that will be acceptable to all parties (with inclusion of the inhabitants of these settlements in programmes of social support and care they are entitled to as citizens).”, *Roma National Strategy*, p.24,

In all but one of the forced evictions (Gazela Bridge), the authorities failed to set up any kind of a consultation with affected communities in order to identify feasible alternatives to evictions and on other resettlement options in advance of the eviction. This requirement has been identified by the CESCR and in the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, which calls for genuine (adequate and informed) consultations by the party conducting the forced eviction with the affected population.<sup>181</sup>

In some cases the residents of affected settlements were not provided with any advance notice of the proposed eviction.<sup>182</sup> In others, where eviction notices were issued, no information was provided on the date of the eviction. In yet other cases, where a date was given, the eviction did not take place on the date indicated in the (initial) official notice, but the eviction subsequently took place without a new official notice being issued, contrary to the relevant administrative law.

## ABANDONED CONSULTATION

In the majority of evictions described in this report, no consultation of any kind had taken place. In the case of the eviction of the settlement at Gazela Bridge, the city authorities had, as part of the conditions imposed by the EBRD, embarked on a programme of consultation with the affected population, contracting a Roma-led NGO to conduct the process. Plans were drawn up in consultation with the then-residents for the construction of social housing, and a site identified in the Ovča area of Belgrade. In 2008 the City of Belgrade allocated 159 million Serbian dinars (approximately €15.9million) for “housing estate and road construction” at the site; a further 50 million dinars was to be allocated in 2009 for further construction, equipping of the housing units and the provision of services. A further 8 million dinars was to be provided in each year for the associated NGO consultation and resettlement project.<sup>183</sup>

The site at Ovča was chosen after three proposed locations had been rejected, following opposition by non-Roma residents in those areas. However, the Ovča site was also abandoned in October 2008 after further demonstrations by local residents opposed to Roma living in their community. Following the city’s withdrawal of the plans for Ovča the Roma Union of Serbia accused the city of treating the Roma as second-class citizens.<sup>184</sup>

In February 2009, without any further consultation, Deputy Mayor of Belgrade Milan Krkobabić announced a new plan for Gazela. Some 114 Romani families – Belgrade residents and those displaced from Kosovo – would receive “new accommodation” in municipalities around Belgrade. The remaining families would be returned to southern Serbia from where they originated.

Tomica, from Kosovo, who had lived in Belgrade for 20 years, told Amnesty International: “They came with trucks and police and vans. We all had to leave in 20 minutes. I lost my house, TV, DVD, new beds, mirrors, fridge, everything. I wasn’t even there when the house was taken down. [Dragan] Đilas [Mayor of Belgrade] and others came from the municipality – I was arguing with them about our destination. My family [wife and two children] was listed to go to Mladenovac, but we wanted to go to Barajevo. While I was talking, they took my house down.”

After the Ovča plan was abandoned, no genuine consultations were held with the community on resettlement options or alternatives; the Action Plan was never discussed with the community. About six weeks before the eviction, they were informed that they would be resettled in metal containers. Those included on lists drawn up in 2007 were merely asked to identify which of the container sites - and with which other families - they wanted to live.

Gordana, in an interview by the NGO Bankwatch in 2009 said: “We knew that we had to be resettled, but we didn’t know that it would happen in two hours. We thought that it would take two or three days. First 20 families, then another 30 families.... We didn’t know the police would surround everything, and we would just be pushed onto a bus. They did not keep their word, and in the end they did it arbitrarily.” After being told about the resettlement, her group elected to stay in Zemun, part of New Belgrade, so they would have access to work. “So we filled in this paper for Zemun, then we waited and waited until a few days before the demolition, and then Đukic invited us to a meeting at 9 o’clock in the evening ... on the street! And he took out a stopwatch to count how long he spoke to each: one, two, three minutes’ conversations. He said there was no location in Zemun. To be honest, we got angry with him – we’d been waiting for so long and now a few days before resettlement, he’d changed everything.” On the day of eviction, Gordana received papers stating she would be resettled at a container site in Mladenovac (47 km south): “Đukic said, ‘What I have I’ll offer you. If you accept it, you accept. If not, I have nothing to do with you. Go out into

the street.' My son said 'Take what he offers, just to get off this street.' Another official said there were two empty containers at Barajevo – 'Take it because I don't have anything else'."

As highlighted above, in the vast majority of forced evictions conducted by the city or by the municipal authorities, where no international financial institutions have been involved, there has been no consultation at all.

### 5.3 FAILURE TO COMPLY WITH LEGAL SAFEGUARDS DURING EVICTIONS SECURITY OF PERSON

Physical attacks by state officials have been reported during evictions.<sup>185</sup> In the absence of investigations into such allegations, such complaints have been taken to regional and international treaty bodies. In May 2009, for example, the UN Committee against Torture (CAT) found that Besim Osmani, in June 2000, was subjected to cruel, inhuman or degrading treatment or punishment during the forced eviction of a settlement in Belgrade. The CAT noted that the "infliction of physical and mental suffering [was] aggravated by ... his Roma ethnic origin..., a minority historically subjected to discrimination and prejudice." The authorities had failed to open an investigation, denying Besim Osmani the rights to have his case promptly and impartially investigated and to receive compensation.<sup>186</sup>

#### DESTRUCTION OF PERSONAL PROPERTY WITHOUT COMPENSATION

The UN Basic Principles and Guidelines on Development-Based Evictions and Displacement provide that states and their agents must take steps to ensure that no one is arbitrarily deprived of property or possessions as a result of demolition, arson and other forms of deliberate destruction, negligence or any form of collective punishment. The Serbian authorities are also required under international human rights law to provide fair and just compensation for losses of property resulting from the eviction<sup>187</sup>, but, as outlined above domestic law does not provide for such compensation for the loss of or damage to personal possessions.

An eviction notice issued for Barrack No. 280 in the Gazela settlement on 1 June 2009 stated: "On 31 May 2009 an inspection was made and investigations concluded that the object [the house] will be destroyed in two days after receiving the final decision". The final decision dated 27 August 2009 stated: "Based on the previous decision, we are now demolishing the house. The authorities pay the costs of demolishing the object, but will not take responsibility if things are destroyed during the demolition".<sup>188</sup>

During the forced eviction of Roma from the Gazela Bridge settlement, although the city authorities provided buses and other vehicles to enable the affected population to move their possessions to their new homes, Roma told Amnesty International that they had little opportunity to gather their personal possessions. The majority of people lost most of their personal goods and possessions either because they were not given time to collect them, were prevented from doing so or were not present when the eviction took place. They had not been given the opportunity to make an inventory of their possessions prior to the forced eviction, and were thus – in violation of international standards - unable to claim compensation for the destruction of what for most amounted to their only possessions. Many lost their vehicles or carts, which they used in collecting scrap, their sole source of income. In addition, residents had been informed prior to the eviction that they would not be allowed to bring with them any of the scrap materials that they had collected for resale. Further, according to the NGO the Regional Centre for Minorities, women had



been told not to bring any household goods as everything would be provided. However, on arrival at several sites, containers had not been equipped with stoves or refrigerators, and on some sites women initially had to cook over an open fire.

## 5.4 AFTER EVICTIONS

“[e]victions 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.” CESCR, General Comment 7, paragraph 16. Amnesty International considers that the Serbian authorities have failed to protect evicted Roma from further violations of their rights or take measures to provide them with adequate alternative housing.

### 25 VOJVODJANKSA STREET

On 7 October 2010, Amnesty International witnessed a forced eviction carried out by a private company acting on behalf of the City of Belgrade authorities. Some 36 individuals, including 17 children<sup>189</sup> and one pregnant woman were forcibly evicted from premises at 25 Vojvodjanska Street in the Bežanije area of Belgrade.

Most of the 36 individuals had been provided with accommodation in Vojvodjanska Street in 2003, after they had been forcibly evicted from an abandoned factory at Betonjerka in the Dorčul area of Belgrade (owned by the Belgrade Land Development Agency (Direkcija za gradjevisko zemljiste i izgradnju Beograda).

The city authorities issued the residents of 25 Vojvodjanska Street with their first eviction notice on 24 August 2010, giving residents one day to leave the site, but the eviction was temporarily suspended following protests by local NGOs. On 28 September 2010, residents received a final eviction notice following interviews by the city officials with each family giving them nine days notice of the eviction. During these interviews, the eviction process was not explained to the families. Residents were not consulted, but were reportedly told by officials that they would not receive any alternative accommodation or assistance. The purpose of the interviews appeared to be to establish who lived at the buildings and to check their documentation.

City officials were present at the start of the eviction, accompanied by 12 police officers and employees from the City Department of Social Welfare.<sup>190</sup> By 11.30am the residents had collected most of their belongings, which they piled up in the communal square. Employees of the company contracted to conduct the eviction then broke the windows of the houses to prevent anyone from returning. By 1.30pm all the houses had been demolished, but people had been able to gather most of their belongings.

Although they had been given no reason for the eviction, the Roma told Amnesty International they believed that it had been carried out in order to make way for a new road and apartment building. Later, the organization was able to establish that the forced eviction had been carried out at the request of the Belgrade Land Development Public Agency.<sup>191</sup>

The then Assistant Minister for Human Rights and Minorities, Petar Antić, who was present during the eviction, told Amnesty International later that he had made an intervention on behalf of the evicted people requesting that they be provided with accommodation. A local Roma politician led the residents to a protest outside the City of Belgrade building, calling on officials to come out and speak to the affected people.

By the evening the Assistant Minister had arranged temporary accommodation for women and children at social welfare centres/shelters in the city. The majority of the men slept at the site to protect their belongings. According to D.D., one of the evicted women, “ *t hey said there could only be women and children at the shelter. They said we could have something to eat and have a bath and they gave them some milk and some bread. The children were really tired. They had been outside all day, they were cold and they needed to pee but the staff told us that we had to stay in our rooms and to keep the children quiet, so we just sat there waiting for the morning to come.*” The women told Amnesty International the following day that they did not want to return to the shelter.

The demonstration continued outside the city offices throughout the following day. At around 3pm, accompanied by Petar Antić, the Deputy Mayor Milan Krkobabić, requested that one person come with him to be informed of the arrangements for the group. There was no consultation, no explanation, and no attempt to provide individuals with information. The Deputy Mayor chose one woman to act as the “representative” and informed her that the city had decided the group would be provided with metal containers at an existing container settlement in Makiš; the costs, including the transportation of their belongings, would be covered by the Ministry of Human and Minority Rights.

As noted above, containers were also provided on Makiš and Rakovica for Roma families evicted in November and December from the corner of Milutina Milankovića and Omladinskih brigada streets in New Belgrade.

#### RIGHT TO A REMEDY

*“All persons threatened with or subject to forced evictions have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation, and should comply, as applicable, with the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Humanitarian Law”.*<sup>192</sup>

Serbian law does not provide such specific remedies in cases of forced eviction, including for an individual or group to challenge a proposed eviction or to apply for compensation for the destruction or damage to personal property during an eviction.

However, a notice of eviction issued by the Čukarica municipality on 4 June to a family living in Ibarsku Put No. 66, stated that the affected individual was entitled to file a complaint to the Belgrade authorities at a cost of 30 dinar (€3). When Amnesty International asked the individual if he had complained, it was clear that he was unable to read, and had no knowledge of his right to appeal. He said: *“A bunch of people including the police brought the notice. Nobody has told me about this appeal. I don't know why we are going to be evicted. I haven't been offered any alternative accommodation.”*

The Resettlement Action Plan for Gazela provided a complaints procedure. However, this document was never made publicly available, nor – as far as Amnesty International is aware – were the affected population informed of it. Amnesty International has not been able to find instances of formal complaints made under this procedure.<sup>193</sup>

Following the eviction in October 2010 from Vojvodanska Street an appeal was lodged by a lawyer granted power of attorney by four of the families. The appeal was made on the basis of Article 5 of the Law on Housing, which states that a body or person has to have a legal interest in the property in order to request an eviction.<sup>194</sup> This first successful legal challenge to a Belgrade eviction was made entirely on an administrative basis, to the Secretariat for

Property Rights. The onus lay on the municipality, which had conducted the eviction, to demonstrate that the City Development Agency (Direkcija), which had requested the eviction, had a legal interest in the property. The appeal initially received a negative decision but on a subsequent appeal, in two cases, a positive reply was issued stating that the eviction had been illegal on the basis that “ t here was no evidence that the Direkcija has a legal interest in the property”, meaning that the agency had no documentation stating that they owned or had any other legal interest in the property. The families had in 2003 been allowed to move to Vojvodjanska Street and some but not all were given a document (izjava, or statement), which provided them with the ability, if not the right, to live in the building. The decision was made on the basis that under Serbian law a “statement of will” can constitute an agreement.

The families concerned are uncertain as to whether they wish to continue with this legal case as they fear this may have a negative impact on their prospects of being re-housed. They have three years in which to make the appeal.

## 5.5 VIOLATIONS OF THE RIGHT TO ADEQUATE HOUSING AFTER EVICTIONS

Amnesty International is particular concerned that following forced evictions, the affected populations have not been provided with alternative accommodation compliant with international standards of adequacy of housing. In the majority of the forced evictions investigated, the affected population have not been offered, let alone provided with, any alternative accommodation, (for exceptions, see 25 Vojvodjanska Street) and have no choice but to move to other informal settlements. In other cases, they have been moved to temporary container settlements, as in the case of Gazela Bridge (see below), or returned to southern Serbia (see Chapter 6). Despite Serbia’s prioritization of housing within the Roma Decade, the government has failed to adopt laws or policies setting out requirements in terms of resettlement of communities post evictions.

### CONTAINER SETTLEMENTS

Following the eviction of Gazela Bridge settlement in August 2009, 114 Roma families were provided with accommodation in metal containers in settlements scattered around the outskirts of Belgrade in Barajevo, Čukarica (Makiš), Lazarevo, Mladenovac, Obrenovac, Surčin and Zvezdara (Orlovkso naselje).

The City of Belgrade had been required, as part of the funding conditions imposed by the EBRD and the EIB, to provide the affected population with “adequate permanent housing”. Instead the city authorities, apparently supported by the government, failed to respect these conditions and resettled the Roma in metal containers. These metal containers do not meet the criteria of adequacy, habitability or location of housing as required by the CESCR.<sup>195</sup>

Although the residents have signed contracts with the city to occupy the containers and do not have to pay rent for five years, they have no safeguards or guarantees assuring them security of tenure beyond this date.

### HABITABILITY

Resettled families with up to five members were allocated containers measuring a 5.77m by 2.44m (14m<sup>2</sup>); larger families are supposed to have two containers, but this is not always the case. The containers are not insulated (despite winter temperatures of minus 10°C), poorly ventilated, and often damp. In winter, water leaks through the roof and the containers are damp

with condensation caused by the number of people in such a small space, and from cooking. When the families first arrived, at some sites there was nowhere to wash clothes and one of the 'sanitary units' (a container equipped with running water, sinks, showers and toilets) was not working.

During the summer, the residents suffer because of a lack of ventilation in the containers. Residents at one site visited during the summer months were prohibited by the city authorities from erecting canopies or sun-shades outside the containers. The problem with damp continued when Amnesty International visited the settlements again in January 2011; in one container water was actually dripping onto an electrical junction box. Unstable footings for the containers noted by Amnesty International in 2010 had not been repaired at Orlovsko naselje by January 2011 leaving some of the containers unstable. In the Barajevo settlement a weak electricity supply means that it is impossible to turn on more than one appliance per container at a time; all heating is electrical. In January 2011 residents expressed concern that they had heard rumours they would be required to pay for electricity.

#### LOCATION

*"We came here in a bus and with every kilometre we went we got more and more frightened the further we went from the city and it looked so horrible. We had to sleep on the floor - all of us in two containers. There was no electricity. It was all such a mess. We just didn't know how things worked...."<sup>196</sup>*

CERD's General Recommendation 27 calls on state parties "to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities." Further, the CESCR has highlighted that "a dequate housing must be in a location which allows access to employment options, health-care services, schools and other social facilities".

The container sites established on the margins of Belgrade are isolated from other communities and in some cases, far away clinics, schools, municipal offices, shops and other amenities. Children are required to move to new schools, and at some sites have faced difficulties travelling long distances to school, or integrating into local schools.

There is no work available near the container sites, which are far from the city centre, where many of the Roma collect and re-sell scrap or recyclable materials.<sup>197</sup> Further, under the Gazela Resettlement Action Plan, Roma were prohibited from taking any of the scrap materials they had collected with them. In order to continue to collect and re-sell or recycle such materials, they now have to find somewhere in the centre of Belgrade to store materials. Many women who had worked as cleaners are now unable to find employment locally. Some adults have reportedly been offered work by the city authorities, but most still work collecting waste materials.

Amnesty International therefore welcomes the World Health Organisation's Sustainable Waste Initiative for a Healthier Tomorrow (SWIFT), which has recently opened a recycling centre near the Orlovsko naselje container settlement in Zvezdara municipality.<sup>198</sup> The SWIFT Project is envisaged as a cooperative to which Roma living in the municipality will be able to take the cardboard and other materials they collect, and for which they will receive payment. Full-time jobs will be also offered to Roma re-settled from Gazela and a café within the SWIFT will be open to all during working hours.

*“Containers! I can’t imagine living in a container. Maybe we did make some mistakes, but we do have some results: 120 children are now in schools. It has been hard to change the lives of the parents but they now have better homes. Seventy-five per cent of the biggest problem is unemployment.”* Dragan Đilas, Mayor of Belgrade interviewed by Amnesty International in January 2011.

In an interview with Amnesty International in January 2011, the Mayor emphasized positive aspects of the resettlement, including access to documentation, the enrolment of children in pre-school (which few Roma children living in settlements previously attended) and the enrolment of children in primary school, more than 77.7 per cent of whom now regularly attend school, an increase of 20 per cent on the previous year.<sup>199</sup>

However, the organization welcomes the Mayor’s acknowledgement that the containers do not constitute adequate housing. In September 2010, the city formed a Commission for Implementation of the Action Plan, which sought to improve conditions at the settlements, including instituting a social care programme in the absence of available employment for the former Gazela residents, the majority of whom continue to collect waste material in the centre of Belgrade. In addition, the Commission will also, for the first time since 2002, map all Roma settlements in Belgrade, in order to inform the city’s policies and practice in improving – or resettling - settlements. Amnesty International welcomes such measures.

## 5.6 DIFFICULTIES IN ACCESSING SOCIAL HOUSING

Amnesty International considers that the Serbian government needs to take immediate measures to ensure the provision of adequate housing to Roma evicted from settlements in Belgrade.

All of those forcibly evicted from Gazela Bridge and resettled in containers were told they would be able to apply for places in the 900 social housing units to be built by the end of 2010. According to the RAP, “ f amilies currently settled in a mobile housing unit under the auspices of this plan and in accordance with the regulations on distribution of flats, will have equal rights and opportunities to compete to move into the flats equal to any other socially vulnerable citizens of Belgrade.”<sup>200</sup>

In June 2010, residents complained that they had not yet received any assistance in applying for such housing, including in obtaining the documents required for an application.<sup>201</sup> By January 2011 Amnesty International was only aware of only one family from Gazela who had been allocated one of these social housing units, on the basis that one of the family members was severely disabled.<sup>202</sup>

Others had not even received assistance in applying by January 2011 (after the deadlines for applications had passed): *“Nobody has come to talk to us about social housing. I didn’t know about the deadline or what documents I needed. I heard there was an application process, but nobody can provide us with information. I went to the [City Department of] social welfare at Tiršova with my children and I saw a call for applications on the wall. I saw what the process was, and I needed so many documents I just thought I would not qualify”*.<sup>203</sup>

Even those who did apply were discriminated against on the basis of the system of allocation, in which points are awarded based on the applicant’s satisfaction of different criteria the

criteria set out by the city in the “competition” for social housing.<sup>204</sup> These criteria were challenged in a complaint submitted to the Serbian Constitutional Court in October 2010 by the Minority Rights Centre, and the ERRC. The complaint asked the court to assess the constitutionality and legality of the regulation,<sup>205</sup> arguing that several of its articles were not compatible with Articles 14, 21, 69 and 76 of the Constitution of the Republic of Serbia, with the 2009 Anti-Discrimination Law and relevant articles of the ICCPR, ICERD, ICESCR and Protocol No.12 to the ECHR, to which Serbia is party.<sup>206</sup> They argued that the absence of criteria to provide points on the basis of family size was discriminatory, given the large size of Roma families; they also argued that the awarding of points on the basis of educational achievements and possession of a work book for a specific number of years also discriminated against Roma who had been unable to complete their education or compete in the formal market for employment. Even before the court had made a decision the City of Belgrade took the decision to change the criteria by which persons might be awarded social housing.

According to Dragan Đilas, Mayor of Belgrade “ t here were 82 social flats they could apply for and only one [resettled Roma] family was able to get the housing so now I have changed this. I have changed the points system. For example, it did not have disability in it and by March there will be new criteria. There will be 100 points to do with disability. This was a 50-year-old law and we have now started again and now more people will be eligible.”<sup>207</sup>

These changes, if implemented, will address one of the barriers faced by Roma in accessing social housing. Yet, several other barriers remain, including the lack of available social housing, access to documentation and to information about application procedures. Given the high illiteracy levels amongst adult Roma, an appropriate means of informing them of such procedures needs to be established.

Because Roma have frequently been subjected to forced evictions on this scale, and noting that the housing deficit across Serbia is estimated at 100,000 units, Amnesty International considers that the Serbian government needs to prioritize the housing of Roma, as one of the most marginalized groups in the country. Further, the government needs to ensure that the September 2010 National Strategy for Social Housing needs to reflect more adequately the housing priorities expressed in the National Roma Strategy.

“... in defining the housing policy of the Republic of Serbia as well as in secondary regulations that will develop the provisions of the Draft Law on Social Housing in more detail, special attention should be paid to the housing problems of poor and socially vulnerable Roma. As part of the measures for implementation of the national housing policy, special attention should be paid to the development of the system of transparent monitoring of implementation of the housing programmes arising from the housing policy and relevant strategies and the widest possible inclusion of the stakeholders and the public in the implementation of these programmes, whether they concern support in the provision of housing or improvement of living conditions in Roma settlements”. *National Roma Strategy*, p.21

## 5.7 HOMELESSNESS

Most of the forced evictions conducted by municipal authorities have resulted in homelessness. As with the forced eviction of 16 Devičića Street (below), Roma evicted from an informal settlement in Vidikovac in Čukarica municipality in March 2010 were similarly offered no alternative accommodation, and had no option but to move to another informal settlement across the road, where they remain at risk of another forced eviction. Many Roma

living in informal settlements have been evicted five or six times within the last 10 years; in many cases their only option is to move to another informal settlement or leave Belgrade altogether. Only in evictions conditioned by the EBRD and EIB (Gazela Bridge), or under pressure from politicians and NGOs, have evicted families been provided with accommodation in containers (see for example, 25 Vojvodjanska Street).

## 16 DEVIČIĆA STREET

On 13 July, at around 9am workers from a private company started to forcibly evict three Romani families (17 individuals including nine children, two pregnant women and a woman of 79 years of age) from an abandoned building at 16 Devičića Street in Čukarica municipality. The families believed they had informally been given permission to use the building, owned by a construction company, but abandoned since 2008. They had managed to renovate the apartments, and provide themselves with basic accommodation.

The families told a representative of DUR, a Roma NGO, that they had not been provided with any formal notice of the eviction; nor had they been given a copy of any decision relating to the demolition or eviction. No consultations had taken place to identify feasible alternatives to evictions or any resettlement options.

Employees of the private company forcibly entered the building and reportedly began to break things and smash windows on the first floor, where the Roma had been living. The residents pleaded with them to stop and allow them to collect their personal belongings. The eviction then ceased to allow them to collect their belongings, when the workers saw that the eviction was being photographed by the NGO, but not before over half their personal belongings were damaged or destroyed.

The evicted Roma subsequently sought assistance from the Roma representative in Čukarica municipality and the Roma National Council, but have received no help or offers of alternative accommodation.

## 6. RETURNED TO SOUTHERN SERBIA

*“I was sent back to Vranje on the bus. We had nothing – we didn’t get the 30,000 dinar, we didn’t get anything. I stayed in the centre for social care when I got there. They gave me nothing – they said if you are on the list you will get it – but they didn’t have the money. People from Belgrade decide if you get something. I have lived in Belgrade for 22 years – my children and grandchildren were born here. I got married here. I have an identity card from Vranje, but I don’t have a registered address”. Interview with Nebojša Samistarević, who had returned from Vranje to Belgrade, June 2010.*

In January 2009 the City of Belgrade authorities refused to resettle 240 people (53 families) living at the Gazela settlement who were identified by their documents as originating from seven of the poorest municipalities in southern Serbia. Although they had originally been informed that they would be included in the Gazela Bridge resettlement plan, in 2009 they were returned to southern Serbia.<sup>208</sup>

The majority had lived in Belgrade for between 10 and 20 years, moving there to work, but because they lived in an informal settlement, they had been unable to register their residency in the city. The families were not in a position to find or afford adequate alternative housing. Amnesty International considers that the refusal to provide alternative housing and support with resettlement to these families in Belgrade on the basis of their residency status violates Article 11 (1) of the ICESCR.

Allowing no other option than to go back to southern Serbia also violated their the right to freedom of movement, set out in Article 12.1 of ICCPR, which provides that “[e]veryone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence”. The right to freedom of movement and residence without discrimination within the border of the state is also guaranteed under Article 5 (d)(i) of the ICERD. Further, Article 39 of the Serbian Constitution states that “ f freedom of movement and residence [...] may be restricted by the law if necessary for the purpose of conducting criminal proceedings, protection of public order, prevention of spreading contagious diseases or defence of the Republic of Serbia.”<sup>209</sup>

Amnesty International also considers that the government of Serbia failed to ensure in advance that these families had adequate housing to return to following their forced eviction. In the original 2007 Gazela Resettlement Action Plan these families were registered for resettlement in Belgrade, but in January 2009 the city announced that they would no longer take responsibility for this group. Responsibility for them was then undertaken by the Ministry of Labour and Social Welfare (MLSW), which then took measures for their return to the southern municipalities, ensuring that they would have access to housing, social protection, health and employment.

None of those returned to Bojnik, Leskovac or Vranje interviewed by Amnesty International considered that they had had any choice as to whether or not they returned. Although some had regularly visited their homes in the south, using money earned in Belgrade to build their properties, none of them anticipated that they would have to return permanently to half-built houses in informal settlements where they had no access to running water, sanitation and



other amenities. Indeed around a fifth of the group reportedly left Gazela before the eviction, because they knew they would be returned to the south.

One man who had returned to Belgrade told Amnesty International in June 2010 "I told them, we don't have a house in Vranje, please don't send us there but they still sent me back on the bus".<sup>210</sup>

Few were able to take many belongings with them. Zoran Martinović, State Secretary of the Ministry of Labour and Social Welfare, told Amnesty International in February 2010: "*The trucks and buses were parked there; they had enough time to pack and prepare, but many hesitated... [and] the police prevented them from getting to their houses.*" Julieta Ramizi told Amnesty International: "*We didn't have much time, the children were at school when they came. The inspectors took my things while I was at the school with the children - to work out how to register them in Vranje, and while we were there our house was destroyed. I wasn't able to bring the push-cart, children's books, it was all gone.*"<sup>211</sup>

N.S. told Amnesty International: "*They didn't respect the date that they gave, I thought it would happen in 15 days and then they came two days later. We did not have time to take our things. They did not ask us – they just did it. They told us to take what we could, to take my identify card, my children and then to go. There were seven buses and four lorries and we had to put our things on them ... We had no time, the police were there. They did not hurt us or say bad things but they did not help us.*"<sup>212</sup>

Another man C.A, now living in Bojnik, told Amnesty International: "*I wasn't even at Gazela when the eviction happened because I had to come to Bojnik to see my son who was doing his civilian service. They gave me some papers a few months before, but I didn't know when the eviction was going to happen. I had a house in Gazela with an address and I paid the electricity bill and now I have nothing here. My daughter told me that the house had been destroyed.*"

In June 2010 and January 2011, Amnesty International visited some of the 26 families who were returned to Vranje,<sup>213</sup> and some of the 15 who returned to Bojnik. The organisation also met with some returnees who had sought the assistance of a human rights NGO in Leskovac, having faced violence, including allegedly from the police, and discrimination since their return.<sup>214</sup> Vranje has a population of 80-90,000 of whom 7-8,000 are Roma, the majority living in five informal settlements. The city of Leskovac is around the same size with around 4,000 Roma. The small municipality of Bojnik had a recorded population of around 13,118 in the 2002 census, 10 per cent of whom were Roma. Conditions for returnees appeared to be generally better in Leskovac than in Vranje and Bojnik.

In the absence of legal provisions for compensation, each returned family on the official list was given a one-off assistance payment of between 30-50,000 dinar (€3,000-5,000), and in some cases, received a further grant of 10-12, 000 dinar, disbursed by the municipality, for the refurbishment of their house.<sup>215</sup> They were also to receive assistance from the destination municipality in obtaining documentation, access to social benefits and education, including books and school materials.

However, based on interviews with the MLSP, municipal officials and returnees, Amnesty International found that there were significant differences in each municipality, with respect

to the financial, material and other assistance which returnees received. The NGO CEKOR reported that of the 50 families returned to the Leskovac region (including Bojnik), only 20 had received the full package of assistance from the MLSW. Three families who had received no assistance after the initial payment, returned to the informal settlement at Buvljak in Belgrade.<sup>216</sup>

By June 2010, after initial allocations of money and/or building materials had been made, it was clear that the funding provided to Roma families in Vranje, for example was insufficient to rebuild their houses adequately. J.Z. told Amnesty International: *"The municipality do not come and talk to us. Some people from Belgrade [from the MLSP] came and asked us if we are working, and then some NGO from the German office came with an NGO from Vranje, but we haven't had any real assistance"*.<sup>217</sup>

*"Even when they were talking about flats in Ovča, they said we would not get a flat. We received a second eviction notice in 2009. Then they said there would be a deportation and we would have to go back to Vranje, and that we would receive help with our house and other things, the children would go to school and the municipality would legalize the house"*.<sup>218</sup>

Evidence gathered by Amnesty International, including interviews with returnees, municipal officials and NGOs, and reports published by the EIB, suggests that the Gazela families were returned to a situation of systematic discrimination and segregation, particularly with regard to the right to adequate housing. Amnesty International considers that in the light of the criteria identified by CESCR, almost 18 months after their forcible return, the Serbian government has failed to ensure that the resettlement of the families who were returned to Vranje and Bojnik meet international standards on adequacy of housing.<sup>219</sup>

#### HABITABILITY

*"I built the house on my own, from my work in Belgrade. I have a door and a window; no one gave them to me, they are old ones I got from other houses I bought materials so that I could finish building the house so that we can have another room, [her "kitchen" at that time consisted of a wood stove in the half-built other room] but I only had money to build half the house. The UNDP gave me some furniture and some other things for the house", Akia Iljazović, Vranje in June 2010.*<sup>220</sup>

The majority of those returned to southern Serbia returned to homes that were often in partial ruins or incompletely built. One house just outside Vranje, visited by Amnesty International in June 2010, had a massive hole in the roof and no windows or doors, leaving areas of the house open to the elements; only one room was habitable and the elderly man who lived there had not received any assistance from the authorities.

In January 2011, Amnesty International re-visited settlements in Vranje and Bojnik and found that while repairs had been carried out on the returnees' houses, the work had not been carried out properly. In two settlements, the organisation found that where new roofs had been provided they had not been weather-boarded, and the roof space was open to the elements, so that snow was entering the roof space. As a result houses that had been warm and dry in June 2010 were now damp with black mould growing on ceilings and walls affected by the damp. Roma in both Vranje and Bojnik told Amnesty International that the building companies contracted by the municipalities to carry out the construction work had told them that there was not enough money available to finish the roofs. According to

CEKOR, an NGO monitoring the situation of those returned to the south, the building company contracted by Bojnik municipality to repair the houses had requested additional payments of €200-500 from some Roma families, to finalise the roofs and houses to a decent level. When Amnesty International challenged the EIB Complaints Team about this, they stated that “ t hese people wanted differences and changes. Anything else they want is extra.”<sup>221</sup>

CEKOR made a formal complaint to the EIB in 2009 about the failure to meet with its performance standards and requirements in terms of transparency in the resettlement of communities who were evicted as part of the Gazela bridge project.<sup>222</sup> The Complaints Team has since been regularly monitoring progress in ensuring the habitability of the returnees’ houses. As of October 2010, according to the EIB, action by the MLSW to improve the housing in Vranje and Bojnik so as to achieve at least minimum standards, due to have been completed by April 2010, was still “ongoing”. Further measures to ensure the provision of infrastructure (access roads, water, and electricity) to houses inhabited by persons returned to the south, anticipated by 31 May 2010, were also “ongoing”, pending the legalization of the properties.<sup>223</sup> Measures to identify employment opportunities were also “ongoing”, and it was envisaged that the implementation of the Resettlement Action Plan as a whole would continue until the end of 2012. However, in December 2010, CEKOR reported that, “ t he living conditions of the PAPs [Project Affected Persons] in Bojnik are generally much worse than that of the PAPs from the Belgrade based “container settlements”. None of the houses had a legal electricity supply, drinkable tap water (which they had to obtain from neighbours), or sanitation facilities. More than a year after their forced return to southern Serbia improvements to the houses included only “poor quality doors and windows, and poor and unfinished roofs” and “[s]ome of the houses have already become wet inside due to poor protection by the roof.”

Amnesty International is therefore concerned that the EIB’s updated status report dated 11 January 2011 stated that actions required in southern Serbia, including the improvement of housing in Vranje and Bojnik, the provision of infrastructure (excluding electricity) and the identification of employment opportunities, were described as “substantially completed”.<sup>224</sup>

#### AVAILABILITY OF SERVICES, MATERIALS, FACILITIES AND INFRASTRUCTURE;

*“We received financial assistance and a door [for the house], and social assistance of 7,000 dinar (€70) each month. The children go to school. But we have just one pump for water and five taps in the whole village and the social services are asking us to pay for the water supply”. J. Z. in Vranje, June 2010*

None of the settlements visited by Amnesty International has paved roads, or drainage or a sewage system to carry human waste away. Electricity is often unlawfully tapped off the mains. Although close to settlements with piped water, in these settlements water has to be carried into the house from pumps or standpipes, and when Amnesty International visited the Ciganski rit settlement in Vranje in January 2011, two recently installed standpipes had still not been connected to the mains supply. Legalizing the settlement would ensure the provision of roads, running water, sanitation and a legal electricity supply.

Measures are being taken to legalize the settlements to which people were forcibly returned. According to Zoran Martinović (MLSP), in January 2011, some houses had already been

legalized, as part of an ongoing programme; the municipality will bear the costs of legalisation for those who have been returned. Zoran Martinović estimated that some properties might be legalised by the end of 2011, but that the process would take between 10 and 20 years. A plan to legalise informal settlements in Vranje was initiated in 2009, but has not yet been implemented.

R.S., in Bojnik, told Amnesty International in January 2011: "I bought this land a few years ago from the neighbour and built the house with the money I earned in Gazela, but I haven't registered it yet because it would cost 20 to 25,000 dinars. You have to go to the court with the previous owner of the land and she has to sign the document, which says that she has given you the land. I have got a contract, which has been confirmed by the court. The municipality wants to legalise the land: in October I got a notice that I could legalise the house in 30 days, but I haven't gone to court yet. Once I have been to court and they've taken a decision then the municipality has to come and measure the house, and then based on the number of square metres I will have to pay an annual tax."

Roma in Vranje told Amnesty International that they had received a letter from the municipality about legalization, and had signed an agreement with the Centre for Social Work. They had been informed that the process would take between two and three months but said that nothing had happened since October 2010.

#### SECURITY OF TENURE

Security of tenure is inextricably linked with legalization. None of the Roma returned to informal settlements - the majority of whom have built their own houses - have security of tenure. Houses built on land that has not been legalized are not included in the register of property. The occupants have no legal title to the properties, and again remain at risk of forced eviction. One family told Amnesty International: "*We are really worried. They say that this place is military land, and we are afraid that they will destroy our houses. So legalisation is really important because then they won't be able to evict me anymore. We need a sewage system. We need a connection with the mains supply. We need proper electricity - there isn't enough electricity here, 20 to 30 houses are on one base. We want to live like normal people but all we have had is promises. Otherwise what can we do, we will have to go back to Belgrade.*"

Another woman told Amnesty International: "*I just want to have a document for the house, sewage, water supply and electricity, just the basic conditions for living. The most important is electricity, the kids are so small I just worry that they are going to get electrocuted by the loose wires.*"<sup>225</sup>

#### 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.<sup>226</sup>

"*My daughter is twelve years old but she has had to repeat the year three times and it's because she has no books. It's very sad when you have to send your children to school without any books and they can see that all the other children have books and food and we don't have them. They wanted to send her to a special school, but the special school refused because she is not retarded.*" Akia in Vranje, 2010.

According to the agreement with the MLSP the RAP provided that children would be enrolled in school, be provided with transport to school and receive assistance with materials. While many returnee children do attend school, it is clear that some parents, living in the circumstances described above, find it difficult to send their children to school. A child living in an informal settlement in Vranje told Amnesty International that she found it very difficult at school because other children continuously pointed out her shabby clothing and lack of books. CEKOR also found that children in Bojnik had similarly not received books or other schools materials as promised, and that many children had been unable to go to school because of the costs of transportation. In Leskovac, the municipal Roma representative reported that some children had faced difficulties integrating at their nearest school, and had to enrol in a school on the other side of the town. The school was effectively segregated after non-Roma parents had, over the years, withdrawn their children from the school.<sup>227</sup>

In January 2011 the MLSP informed Amnesty International that while the majority of children were enrolled in school, not many attended, adding that there was no mechanism to force them to go to school, apart from conditioning social benefits, in particular, child allowance, on school attendance.. However, one parent informed AI that she had been fined on three occasions for not sending her children to school..

*“I went to Belgrade 12 years ago. When we were evicted from Gazela I was not able to bring anything – just some stuff for the children, the TV and hardly anything else. When I came back to Vranje there was no roof on this house, no door, no windows, no water, no electricity. When the children went to school the teacher said that they were stinky. She said: “You must be clean, you must wash their clothes”. But we had nowhere to wash. I didn’t even have a bowl to wash them in. When I was working in YUMCO [textile factory, see below] the police and the Centre for Social Work came and said they wanted to take the children into care, so that they would have better conditions. I wanted to stop them, and they put handcuffs on me, but I fought for them with my love. So they compromised and agreed that I could send the children to the Centre for Social Work on their way to school, so that they could wash.”<sup>228</sup>*

#### EMPLOYMENT

*“It’s only the old who are left here now. In every family, at least one man has gone back to Belgrade and is working collecting the cartons.”* S.R., Bojnik, January 2011.

International standards require that no one should be materially worse off as a result of an eviction. Yet in relocating the Gazela Roma to economically deprived southern municipalities, they have been denied access to a means of earning a living - the reason they moved to Belgrade - collecting and recycling scrap materials.

Unemployment levels in Vranje are high with some 6,000 persons receiving social assistance.<sup>229</sup> In Bojnik, the Director of the Centre for Social Affairs (CHECK) informed CEKOR that there was no possibility of their employment in public works or in any public companies because of the very high level of unemployment. In Leskovac, E.V. told Amnesty International that although he had been able to register his address in Belgrade in 1996, he had nevertheless been evicted, as his identity card stated he was born in Vranje. Without a home in Leskovac, he now lives with relatives and although he had no work, could not claim social assistance, as he was still registered at his Gazela address.<sup>230</sup>

In accordance with conditions set out by the EBRD, work was to be found for those returned, for example on motorway construction projects, but had not been made available. As a consequence, by May 2010, men from at least 22 families in Vranje had returned to informal settlements in Belgrade in search of work. Some 16 individuals from 12 families – like Akia Iljazović - were offered work at the YUMCO textile factory, but many Roma, used to working for money on a daily basis, left when they – like all other employees at the factory – did not receive their salary for two months. In Leskovac and Bojnik, some returnees had registered with the National Employment Agency – but according to the MLSW in January 2011, there was no work currently available.

Members of the EIB Complaints Team, who had just visited the south in January 2011, agreed that promises of employment had not been realised. Indeed, work promised by the Minister for Infrastructure and Spatial Planning for at least one member of each returned family on the Corridor 10 motorway building project south of Leskovac, had not yet started although according to the EIB Complaints Team, contractors were already working on that section.<sup>231</sup>

Despite the lack of employment opportunities, families dependent on social assistance told Amnesty International that they had received social assistance payments for six months out of the past year, irrespective of their age or ability to work, on the basis that they would be able to get employment during the agricultural harvest season.<sup>232</sup>

S.R. told Amnesty International in January 2011: *“I worked for thirteen years in Slovenia working for a building company. I had the status of a “Master Builder” but then the war started so I had to come back here to Vranje to work. After the war I moved to Gazela. I worked all night collecting material; I'd sleep until 9 o'clock and then I'd do another three hours collecting material and I could earn between 18 and 20,000 dinars (€180-€200) a month, sometimes even more. Now I go to the forest to cut wood and then I sell it and sometimes I can make about 1,000 dinars (€100) a month. I register every six months at the employment office. We both go [S.R and his wife, also S.R]. We want to work, and we can clean the street. We can both do that, but they're employing other people. If I just had somewhere to work... That is the biggest problem... In Belgrade I would be able to work.”*<sup>233</sup>

## LAZAR KUJUNDŽIĆ STREET

Gazela Bridge was not the only eviction where Roma have been forcibly internally displaced to southern Serbia. On 20 April 2010, between 7 and 8am, some 38 Romani families (150 individuals) were forcibly evicted from an informal Roma settlement in Lazar Kujundžić Street in Čukarica by municipal employees. They were denied further access to their homes. They were not given adequate time to gather their possessions, and were prevented from going back to collect their belongings, taking only the few belongings they could carry in their hands. Their homes were destroyed.

According to a local NGO, the forced eviction took place without any official notice of the actual date of the eviction, or any consultation, although the Roma had been aware for some time that they would be evicted.

Members of the NGO, the Democratic Union of Roma (DUR), reported that municipal officials and representatives of the Roma National Council promised to provide the evicted population with temporary shelter and food until they were removed to their places of origin in southern Serbia. However, these commitments did not materialize; instead

the Roma were provided with temporary accommodation at a nearby Roma Cultural Centre where they slept on a concrete floor, as few had been able to rescue any bedding material.

On 21 April 2010, municipal representatives and the Roma National Council promised that a bus would be provided to transport the Roma to Vladičin Han and Surdulica in southern Serbia, where some of them were reportedly registered. They were told that they would be provided with financial assistance to rebuild their homes, and assured that they would be provided with adequate social protection by municipal Centres for Social Work.

On 22 April 2010, at around 6pm municipal officials, including a Roma representative appointed by the municipality, arrived with a bus. All those prepared to get on the bus were promised financial assistance of between 10,000 to 20,000 dinars. (The current monthly amount of social assistance for a five-member family is 11,016 Serbian dinars (€110). The evicted families felt that they had no choice but to accept this offer.

Seven remaining families with residency registered in Belgrade remained at the Roma Cultural Centre. They were promised, but were not provided with alternative accommodation. By mid-July 2010, six families had moved to other informal settlements in Belgrade; one family remained in the Roma Cultural Centre.

## 7. RESPONSIBILITIES OF INTERNATIONAL FINANCIAL INSTITUTIONS

### SAVA BRIDGE PROJECT

#### Roma communities in Belvil under threat of forced eviction

On 30 March 2010, Belgrade's Deputy Mayor publicly announced that 300 families living in Belvil, Buvliak and Tošin bunar would be evicted at the end of April/early May 2010, to make way for an access road for a planned new bridge over the River Sava. The Roma community in Belvil had suspected that they would be evicted, after city officials had conducted a survey of their homes, but they had not been informed officially by the authorities about the eviction when this announcement was made. The authorities had also made no attempt in advance to consult with the affected community on feasible alternatives to evictions or on resettlement options. Nor had they been informed of, or offered, any alternative adequate housing. Instead, the Deputy Mayor merely announced that the families would be housed in metal containers.<sup>234</sup> Following pressure from various organisations, the city authorities temporarily suspended the plans for evictions.

The European Bank of Reconstruction and Development (EBRD) and the European Investment Bank (EIB) are providing loans to the City of Belgrade for the construction of the new bridge across the river Sava, as well as the construction of access roads to the new bridge.

In January 2011 the EIB informed Amnesty International that it had been assisting the city in developing a Resettlement Action Plan for those who would be evicted as a consequence of the construction works. In October 2010, EIB consultants had held a meeting with the inhabitants of Belvil to explain the route of the access road, and which areas of the Belvil site would be affected. At that time the residents were informed that the eviction would take place some time in spring 2011. However no further information was provided and by March 2011 they had not been informed about when and how the eviction would take place. Not have they been consulted about the Resettlement Action Plan, or officially informed of any alternative accommodation options. Most assume that they will be moved into the container-settlements.

Both the Gazela Bridge Rehabilitation project, which resulted in the largest forced eviction of Roma settlements in Serbia to date, and the Sava Bridge project, are financially supported by the European Bank for Reconstruction and Development (EBRD) and European Investment Bank (EIB). This section of the report focuses on the responsibilities of the EIB and EBRD, and EU member states, which are owners or shareholders respectively (see below), to ensure that they do not support projects which cause or contribute to human rights violations. It describes the failures of these institutions to ensure that they have robust safeguards and due diligence processes in place; that such safeguards and processes are based on - and explicitly refer to - human rights principles and standards, and are applied to all stages of a project. It also describes some of the steps that the institutions have taken since the Gazela Bridge eviction to ensure that those who were forcibly evicted are provided with adequate



alternative housing, and to learn from previous mistakes and ensure that an improved resettlement plan is in place for the communities affected by the Sava Bridge project.

## 7.1 ROLE OF THE EBRD AND EIB IN THE GAZELA BRIDGE AND SAVA BRIDGE PROJECTS

The European Investment Bank (EIB) is the financing institution of the European Union (EU), which provides long-term finance in support of investment projects, both within and outside the EU. The EIB's mission is to "further the objectives of the European Union by making long-term finance available for sound investment".<sup>235</sup>

The EIB is active in more than 150 countries across the world, including EU accession countries in South-East Europe. The shareholders of the EIB are the 27 Member States of the EU. Its Board of Governors is made up of the Finance Ministers of these member states. Serbia qualifies for loans from the EIB as a potential EU candidate country.<sup>236</sup>

The European Bank for Reconstruction and Development (EBRD) is an international financial institution that supports investment in 29 countries from central Europe to Central Asia. The EBRD is owned by its 61-member/shareholder countries and two inter-governmental organisations, the European Union and the EIB.<sup>237</sup> The EBRD is one of the largest investors in Serbia, and provides significant infrastructure loans for the development of the municipal and transport sectors.<sup>238</sup>

### THE GAZELA BRIDGE REHABILITATION PROJECT

As described earlier, 178 Roma families were forcibly evicted from the Gazela Bridge settlement on 31 August 2009 in advance of reconstruction works to be carried out on the dilapidated Gazela Bridge, part of the Belgrade Highway and Bypass Project, a €290.4 million infrastructure project.<sup>239</sup> The EBRD has provided a loan of €80 million to the public company Putevi Srbije (Roads of Serbia) for this project, following a loan agreement signed in 2007.<sup>240</sup> The EIB has also provided a loan of €33 million to Putevi Srbije for the same project.<sup>241</sup> The City of Belgrade has contributed €7.5 million and Putevi Srbije €112 million.<sup>242</sup> The loans from the EBRD and EIB are intended to support not only the rehabilitation of the Gazela bridge, but its E75 and E70 motorway approach roads, as well as the construction of a section of the Belgrade Bypass. The EBRD required compliance with the 1990 World Bank Operational Directive 4.30 on Involuntary Resettlement, which was the applicable policy at the time.<sup>243</sup> The EBRD's current Environmental and Social Policy did not come into force until in 2008.

The EBRD made their loan disbursement conditional on the development of an agreed Resettlement Action Plan (RAP), in line with the EBRD's policy requirements, for the resettlement of those communities who would be affected by the project. The city authorities originally consulted the Roma community living under the Gazela Bridge about resettlement options. However, the residents of areas proposed for potential resettlement of the Gazela Bridge community opposed the resettlement of the Roma in their area, the city authorities decided to resettle the Roma families in metal containers (see Chapter 4).

From 2009, the city authorities consistently refused to implement EBRD's conditions for adequate resettlement in full. In February 2010, Mayor Dragan Đilas told Radio B92: "This is not a donation, but an economic loan, and if these are the conditions, we will not take it."

Despite the EBRD's requirement that the City of Belgrade adopt a RAP before the affected communities were moved from the Gazela site, the EBRD informed Amnesty International

that the city developed and approved the final action plan “without the prior notification of, or approval of either the EBRD or EIB”.<sup>244</sup> The city proceeded to forcibly evict communities from the Gazela settlement. Despite the city’s failure to comply with the banks’ requirements for a RAP, including the provision of “adequate alternative housing”, and despite the forced eviction of Roma from Gazela in August 2009, the EBRD and the EIB released the first loan instalments in February and March 2010 respectively. According to an EIB press release, dated 12 January 2010, this was “at the request of the Serbian authorities and in consideration of the emergency situation and public safety concerns linked to the rapid deterioration of the physical condition of the Gazela Bridge”.<sup>245</sup>

The EBRD informed Amnesty International that, despite the absence of an acceptable RAP, the loan disbursement was released after the EBRD Board granted a derogation to its 2003 Environmental Policy on the grounds of safety concerns cited by Roads of Serbia.<sup>246</sup> However, in granting a derogation to the policy and disbursing the loan, the EBRD demanded that the City of Belgrade and the Ministry of Labour and Social Policy make additional commitments to address the bank’s outstanding concerns in relation to the resettlement of those who were forcibly evicted from Gazela. As outlined above, these commitments included an Action Plan to address deficiencies in the container settlements, the development of a plan for the provision of social housing for project affected persons in Belgrade, and measures to improve conditions in settlements in southern Serbia, to which other project affected persons had been returned.(see Chapter 6).<sup>247</sup>

On 28 September 2009, Zvezdan Kalmar on behalf of the Centre for Ecology and Sustainable Development (CEKOR) and Anna Roggenbuck on behalf of the CEE Bankwatch Network<sup>248</sup> submitted a complaint to the EIB’s Complaints Office<sup>249</sup>, citing failures by the EIB to properly comply with its transparency and social standards in relation to the Gazela Bridge Rehabilitation Project. The concluding report by the Complaints Office<sup>250</sup>, issued in July 2010, included recommendations to develop an Action Plan [see above] to address the necessary improvements in housing and related conditions and livelihood restoration; and to implement urgent measures to improve the temporary housing [containers]and related conditions to a standard acceptable to the EIB. The report also recommended that the next loan disbursement should only take place on an audit confirming that conditions had been fulfilled; finally contractual clauses should be in place allowing the EIB to recall the loan should these conditions not be complied with by the end of 2010.

Following an audit by the EBRD, carried out between February and March 2010, detailed action plans and timelines for southern Serbia were agreed with the City of Belgrade and the Ministry for Labour and Social Policy (MLSP). The Action Plan agreed with the city in relation to the people who had been forcibly evicted and relocated to containers included stipulations in relation to the conditions of the containers, sanitation, access to services, site conditions and documentation. The EBRD and EIB have deployed staff to assist both the city and southern municipalities to implement these requirements and have carried out regular site visits to monitor progress.<sup>251</sup>

On 11 March 2010, the EIB stated: “Both the EIB and the EBRD have been closely monitoring the resettlement process undertaken to date by the Serbian authorities, with the conclusion that while there have been achievements, significant outstanding issues remain. These include the provision of sustainable housing solutions for project affected people and the restoration of their livelihoods. Subsequent disbursements will be conditional upon the implementation of the resettlement as agreed between the Serbian authorities and the EIB,

with a further contractual condition to repay the loan if the specific requirements are not met by the year end.”<sup>252</sup> As already reported, the resettlement in the south had not been fully implemented by October 2010, when the EIB estimated that work would not be completed until the end of 2012. Amnesty International was again assured, in a meeting with the EIB Complaints Team in Belgrade in January 2011, that they would not disburse any further funds until the conditions of the loan had been satisfied.

Amnesty International welcomes steps that the EBRD and EIB have taken to monitor the resettlement of Roma living in ‘container settlements’ and in southern Serbia, after their forced eviction from Gazela. The organisation also welcomes the commitments that the banks have obtained from the City of Belgrade for the provision of social housing and from the MLSW for improvements to accommodation in southern Serbia. Amnesty International also welcomes the commitment from both institutions that any further disbursements are conditional on the implementation of resettlement as agreed between the institutions and the city. However, Amnesty International considers it unacceptable that forcibly evicted Roma continue to live in grossly inadequate conditions in metal containers in Belgrade and in southern Serbia more than a year and a half after they were forcibly evicted from their homes. The organization also regrets that they have not been provided with support to access effective remedies for the forced evictions, forced internal displacement, discrimination and racial segregation that many of them have experienced.

#### SAVA BRIDGE PROJECT: BELVIL

Amnesty International welcomes the decision by the authorities to postpone the eviction of Roma living in Belvil settlement, originally scheduled for April/May 2010. However, in light of the extensive human rights violations which Amnesty International documented in the Gazela Bridge Rehabilitation Project, the organization is concerned that Roma living in Belvil may be at risk of similar violations unless adequate safeguards are put in place. Amnesty International is also concerned the possibility of about further evictions of settlements along the route of the access road leading to the bridge which will pass through Tošin bunar and Čukarica municipality.<sup>253</sup>

Though some positive efforts have been made by the city authorities, in conjunction with local consultants employed by the EIB, to provide information to people living in Belvil and to carry out a census of the affected families, as of March 2011, the inhabitants did not have full information on the planned eviction, and other impacts of the project.

A public meeting was held on 18 October 2010 with City of Belgrade officials, accompanied by the EIB’s local consultants, in the car park next to the Belvil settlement. The meeting was reportedly attended by 60 – 70 residents and by relevant NGOs. City officials told those present that the eviction from Belvil would take place in the spring of 2011, but no date was given. They informed people present about the route of the proposed access road, showing them the plans, and subsequently marking out the area. They stated that only an estimated 104 families would be immediately affected by the building of the road, and that only these families would be evicted. Those who did not live on the route of the planned road would not be included in the Resettlement Action Plan (RAP) despite their proximity to the construction works. A fence would be erected around the “corridor of impact” to protect those families who were not being evicted. According to residents and NGOs present the presentation reportedly lasted 20 minutes, including time for questions.<sup>254</sup>

One family (who live outside the construction area), told Amnesty International in January 2011: "I don't know if I'm going to be evicted. Some people come and they say you will be evicted in 10 days – 20 days – I don't know. I don't know about the meeting really. We went there to see, but it was so chaotic, it was so loud, I couldn't hear anything. People were shouting so I just took my children and left. We just want some sort of accommodation – in some camp - in some house – we don't mind".<sup>255</sup>

According to the EIB, this meeting was the start of the consultation process for the development of the RAP, but was primarily designed to be an information session. The EIB informed Amnesty International that "further consultations with the PAPs [project affected people] (over the entitlements and other aspects of the RAP) will be held at the relevant stages of the RAP development process".<sup>256</sup>

Also in October 2010, the EIB consultants, assisted by city social welfare officials and Roma representatives, carried out a survey of each property and the families due to be resettled. According to EIB's consultants, the survey aimed at collecting data and information on the households, providing baseline information to inform the RAP. Subsequently, on 9 March 2011, affected households were invited to the City Department of Social Welfare, in order to check the information collected in the October 2010 survey. They were not given any further information.

In January 2011 the EIB informed Amnesty International that the RAP was still in the early stages, and stated that work on "the corridor of impact" would not start until a RAP acceptable to the EIB had been approved, and "after the relevant entitlements due to the PAPs as provided for in the RAP have been satisfactorily delivered". The EIB also stated that a mechanism for hearing and resolving grievances during the project's implementation, will be set out in the RAP, and distributed to "PAPs and the wider Belvil community".<sup>257</sup>

Residents allege that between April and December 2010, at least 48 families were intimidated into moving their "barracks" out of the area of Belvil affected by the planned road, into another part of the site or, in some cases, with the apparent aim of getting them to leave the settlement.<sup>258</sup> Residents allege that Roma men, some of whom lived in the settlement, had verbally and physically threatened them, and had cut the electricity cables to their homes; they feared that the men were doing this at the behest of the city authorities. The intimidation reportedly continued even after city officials sought to reassure residents (see below). While Amnesty International cannot substantiate these allegations, the organization notes that in January 2011 there were fewer houses in areas of Belvil and more near the Buvliak car park than in a June 2010 visit to the settlement.

In June 2010, when Amnesty International raised concerns with the Ministry of Human and Minority Rights about these allegations, the Assistant Minister confirmed that he was aware of the allegations, and was addressing the situation. In July NGOs submitted a formal complaint to the police about the alleged intimidation, but no effective action was taken. City Department of Social Welfare officials subsequently visited the site to reassure people that they would only be evicted in a proper manner under a new plan. The EIB also informed Amnesty International in a letter in January 2011 that they were aware of and concerned about these allegations.

The EIB has not clarified when and how the promised consultations will be undertaken or when the Belvil Roma will be provided with information and consulted on resettlement options. Amnesty International considers it essential they are consulted early in the process and on all possible options, so they can suggest alternatives and provide input on the

suitability and acceptability of different options. Amnesty International draws the attention of the EIB and EBRD to the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, which reflect international standards and provide useful guidance on requirements for consultation prior to eviction, and recommendations to ensure that resettlement plans comply with international standards on adequacy of housing.

The city authorities should ensure that Roma communities are consulted on any proposals, or possible options for resettlement, and given the opportunity to propose alternatives, should they wish to do so. The authorities should also identify social housing and other housing options in locations not segregated by ethnicity to ensure that Roma families have the choice of housing outside Roma only-settlements.

## 7.2 RESPONSIBILITIES OF THE EBRD AND EIB

Amnesty International has raised its concerns regarding the Roma communities affected by the Gazela Bridge Rehabilitation Project and the Sava Bridge project with both the EBRD and EIB. Both banks require their borrowers, as a condition for their loans, to comply with specific social and environmental safeguards. The EBRD's Environmental and Social Policy states that 'the EBRD will not knowingly finance projects that would contravene country obligations under relevant international treaties and agreements related to environmental protection, human rights, and sustainable development, as identified during project appraisal'.<sup>259</sup> The EIB's 'Statement of Environmental and Principles and Standards', approved in 2009, states that the bank "will not finance projects which result in a violation of human rights"<sup>260</sup>.

Amnesty International is also concerned that the current social and environmental standards of the EBRD and EIB are not wholly consistent with international human rights standards on eviction and resettlement. For example, the EBRD's *Performance Requirement 5 on Land Acquisition, Involuntary Resettlement and Economic Displacement Policy* and the EIB's standards on involuntary resettlement<sup>261</sup> fall short of international and regional standards pertaining to the right to adequate housing<sup>262</sup> and the requirements contained in the UN Basic Principles and Guidelines on Development Based Evictions and Displacement. Neither the EBRD nor the EIB safeguards contain an explicit prohibition on forced evictions or clearly specify that all evictions carried out in the context of projects they support must comply with international human rights standards. They also do not specify that all resettlement sites should comply with *all* seven criteria for adequacy of housing under international law.

The EBRD and the EIB, and EU states to whom they are accountable, have a responsibility to ensure that they do not support projects that cause, or contribute to, human rights violations. The Committee on Economic Social and Cultural rights has consistently held that the obligations of states which are parties to the ICESCR extend to state action as part of inter-governmental organisations, including international financial institutions,<sup>263</sup> including, for example, its concluding observations on consideration in of Ireland's periodic report.<sup>264</sup>

The CESCR has required that all states parties take due account of their obligations under the Covenant when acting as members of such institutions.<sup>265</sup> As such, the EBRD and EIB must have effective policies and processes in place to ensure that all their activities respect human rights. This requires them to ensure that they have robust safeguards and due diligence processes in place; that such safeguards and processes are based on - and explicitly refer to - human rights principles and standards, and are applied at all stages of a project.

The EBRD and EIB have acknowledged Amnesty International's concerns regarding the resettlement, in metal containers, of those who were forcibly evicted from the Gazela

settlement. The EBRD has also told Amnesty International that their policy “does not foresee/permit forced evictions to occur in the context of its financed projects”.<sup>266</sup> The EBRD has given assurances that they are monitoring the situation, and are actively working with the city to improve the affected communities’ living conditions and to find more permanent and suitable housing solutions. It has also given assurances that the bank has taken note of Amnesty International’s recommendations and continues to apply its relevant policies pertaining to infrastructure projects in the country.

In the context of the planned eviction of Roma from the Belvil settlement, the EIB has also given assurances that it has informed the city authorities that its loan disbursement for the relevant part of the Sava Bridge project is subject to their developing an acceptable RAP.<sup>267</sup>

Amnesty International welcomes the measures that are being taken by the EBRD and EIB to address the living conditions of Roma communities from Gazela and Belvil. However, Amnesty International remains concerned that the current safeguard policies and procedures of the EBRD and EIB may not be sufficient to prevent human rights violations and to ensure that the City of Belgrade authorities comply with all international standards in relation to eviction and resettlement.

In order to ensure that the EBRD and the EIB do not support projects that involve forced evictions or violate the right to adequate housing, Amnesty International urges both banks to take all necessary measures to satisfy themselves that adequate guarantees are in place to ensure that its clients comply with all relevant human rights standards. These should include effective guarantees that there will be no further forced evictions, and that the Roma due to be evicted from Belvil are given all the necessary information on the planned eviction and resettlement, in a timely fashion, and are consulted fully on alternatives to eviction and on resettlement options and plans. For those Roma forcibly evicted from Gazela, and who continue to live in grossly inadequate housing, the EBRD and EIB must ensure the city authorities promptly provide them with adequate alternative housing in Belgrade and that the MLSW and relevant municipalities in Southern Serbia ensure all conditions are met. Unless and until the EBRD and EIB are satisfied that corrective action is being taken and that adequate safeguards are in place to ensure that the rights of affected communities will not be violated, they should not disburse additional funds for these projects.

A Roma woman living in Belvil told Amnesty International in January 2011: “The consultants from the investment bank told us that there will have to be a bridge built here and a road, and we will have to be evicted, and that someone will come to consult us, but that has not happened yet. No one has come since the meeting, except the investment bank consultants came another day in October and took photos of our barracks. The next day three social workers came from Novi Beograd municipality with a translator - I didn’t know why he was there, we didn’t need the translator, we all speak Serbian, we are all from here. They can do whatever they want but they must ensure that we have adequate housing and not just throw us out on the street. We live in constant fear. I know that every family fears what is going to happen, as nobody has kept their promise to come and talk to us about what is going to happen to us, what we will get, if we will get a container or not. We’ve heard nothing!”

# CONCLUSIONS AND RECOMMENDATIONS

Amnesty International considers that the Serbian government has failed to comply with its obligations under international and regional human rights treaties to prohibit, prevent and end forced evictions. These forced evictions have primarily affected Roma communities living in informal settlements, one of the most marginalized communities in Serbia. Many of these communities include internally displaced Roma from Kosovo or Roma forcibly returned from EU member states. Driven to live in informal settlements in Belgrade because of a lack of other housing options, Roma have been forcibly evicted by the City of Belgrade, losing their homes, their livelihoods and often their only possessions. Roma originating from southern Serbia have been forcibly displaced to southern municipalities, in violation of their rights to freedom of movement and residence. Some forcibly evicted Roma have not been offered any alternative housing, while others have been provided with inadequate housing, which fails to meet international standards.

Amnesty International makes a series of recommendations to the Serbian government, so that they may fulfil their obligations towards Roma under international and regional human rights treaties to which Serbia is a state party. The organization also makes recommendations to the City of Belgrade authorities so that any future evictions are conducted in accordance with international standards, and with respect for the rights of Roma living in informal settlements.

Further recommendations are made to the European Bank for Reconstruction and Developments and the European Investment Bank, urging them to ensure that projects funded by the banks do not result in human rights violations; and calls on the European Union and its member states to assist Serbia in guaranteeing the rights of Roma to adequate housing and non-discrimination.

## **Amnesty International recommends that the government of Serbia:**

- With regard to evictions:
- Introduces legislation to prohibit forced evictions;
- Ensures that municipal authorities, including the City of Belgrade, do not carry out forced evictions;
- Ensures that evictions are only carried out in full compliance with international human rights law, as a last resort and after all other feasible alternatives to eviction have been explored, including by providing guidelines on evictions based on the Basic Principles and Guidelines on Development-Based Evictions and Displacement;
- Ensures respect for the rights of all victims of forced evictions to an effective remedy and reparations, including restitution, rehabilitation, compensation, satisfaction and guarantees of non-repetition, including through the introduction or amendment of laws to:
  - ensure that compensation is paid for damage to, or loss of property;

- Ensure that communities or individuals that are to be evicted are provided both verbally and in writing with information about where they can raise concerns and complaints, establishing a mechanism with the capacity and authority to investigate and to provide meaningful remedy.
- With regard to informal settlements:
  - Increases funding to the Ministry of Environment and Spatial Planning programme for legalization of Roma settlements; require municipal authorities to revise or produce time-bound urban plans to ensure Roma settlements are provided with roads, water, sanitation and other basic services, and that residents are given security of tenure; in settlements where this is not possible, the Ministry of Housing should assist municipalities to ensure adequate alternative housing for affected Roma in a timely manner;
  - Ensures that municipal authorities, especially in Belgrade and southern Serbia, provide adequate housing to all those who have already been forcibly evicted from informal settlements, (including non-Roma), and compensation for losses to any property and possessions damaged during eviction.
  - With regard to access to personal documentation and registration, the government should:
    - Adopt the draft Law on Legal Subjectivity and amend the Law on Registry Books, so that Roma living in informal settlements and those internally displaced from Kosovo may register their residency, and where relevant, their citizenship;
    - Ensure that Roma living in informal settlements across Serbia are fully informed when these changes in the law are introduced, so that they may fully enjoy their rights to housing, education, employment and health-care;
    - Ensure that all those internally displaced from Kosovo, including Roma, Ashkali and Egyptians, have access to documentation and are guaranteed the rights, services, support and assistance set out in international human rights treaties and reflected in the UN Guiding Principles on Internal Displacement.
  - With regard to freedom of movement and residence, Amnesty International recommends that the government:
    - Does not return Roma evicted from settlements in Belgrade to southern Serbia. Those who wish to return should be allowed to do so voluntarily-and in dignity, and with their full and informed consent;
    - Offers those already sent back to southern Serbia the opportunity to return to Belgrade, with the assistance of the authorities and with the payment of adequate compensation for their forced displacement;
    - Ensures, through financial assistance to the municipalities in southern Serbia, the legalization of settlements to which Roma have been returned, ensuring that in compliance with the Action Plans agreed between the Ministry of Labour and Social Policy and EBRD, these settlement are provided with basic infrastructure including roads, water, sewage and electricity; this action, which is consistent with Serbia's human rights obligations, should be taken without prejudice to the right of any individual to return to Belgrade, and regardless of how many people choose to return to Belgrade.



- Ensure that in accordance with the same agreement that – together with the Ministry of Infrastructure and Ministry of Employment, the identification of employment opportunities (including one job per family on the Corridor 10 motorway), and training.
- With regard to Roma returned from EU member states, Amnesty International recommends that the government:
  - Takes adequate measures and allocates funding (if necessary with EU assistance), including in municipalities of return, to ensure the reception, integration and access to human rights of all persons returned under readmission agreements.
  - With regard to the right of Roma to adequate housing, and other human rights:
    - Renews the government's commitments to implement the rights of Roma, as set out in the 2010 National Strategy on the Improvement of the Position of Roma, including the right to adequate housing;
    - Ensures that Roma living in informal settlements are given priority in access to adequate housing, including social housing, (-alongside other priority groups-) as outlined in the National Housing Strategy;
    - Ensures that the Human and Minority Rights, Public Administration and Local Self-Government is fully staffed and financially resourced, in order to implement - in conjunction with other relevant ministries - the provisions on housing within the National Roma Strategy;
    - Establishes an effective mechanism for monitoring progress in implementing the National Roma Strategy, including robust provisions which aim at preventing discrimination and segregation in housing.

**Amnesty International calls on the City of Belgrade authorities to:**

- Immediately provide information on the date and other plans for the eviction of the Belvil settlement, and enter into a genuine consultation with the Belvil community, to explore all feasible alternatives to eviction; if no alternatives are agreed ensure genuine consultation on resettlement options and all other aspects of the resettlement plan;
- Provide information to, and enter into genuine consultation with, any other Roma and/or non-Roma communities whose settlements will be affected by the Sava Bridge Project;
- Ensure that all those already evicted from settlements in Belgrade, and currently living in container settlements, are provided with adequate alternative accommodation (in consultation with Roma and non-Roma communities), and including social housing, before any further evictions take place;
- Stop all forced evictions from informal settlements in Belgrade, including forced evictions by the Belgrade Land Development Agency and municipal authorities, and put adequate safeguards in place to ensure that evictions comply with international human rights standards;

- Apply the UN-HABITAT criteria on the determination of “slum households” to the proposed mapping of Roma settlements in Belgrade, so as to identify settlements in most urgent need of measures to ensure adequate housing for their residents.

**Amnesty International calls on the EIB and EBRD to:**

- Ensure that they do not support infrastructure projects that result in forced evictions or other violations of human rights;
- Secure effective guarantees from the government of Serbia and the City of Belgrade authorities that there will be no further forced evictions;
- Ensure that Roma due to be evicted from Belvil are given all the necessary information on the planned eviction and resettlement, in a timely fashion, and are consulted fully on alternatives to eviction and on resettlement options and plans;
- Make all further loan disbursement conditional upon the city taking urgent measures to provide those forcibly evicted from the Gazela Bridge settlement with adequate alternative housing;
- Ensure that any further stipulations issued to the City of Belgrade, or any other borrower, are fully consistent with the UN Basic Principles and Guidelines on Development- Based Evictions and Displacement, and that they have in place monitoring to ensure the guidelines are followed;
- Ensure that no additional funds for infrastructure projects are released until these measures have been taken and after the Resettlement Action Plans for Belvil and any other affected sites have been put in place to ensure that these resettlements do not result in forced evictions.

**Amnesty International also calls on the European Union and its member states to:**

- Ensure that the EIB and EBRD do not fund projects which are likely to result in human rights violations;
- Refrain from the forcible return of Roma to Serbia until measures to ensure their reintegration, including access to adequate housing, are in place;
- Provide financial assistance under the Instrument for Pre-Accession Assistance funds (IPA) to assist the Serbian government in providing social housing for Roma and other vulnerable groups.

# ENDNOTES

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- <sup>1</sup> Amnesty International interview, January 2011.
- <sup>2</sup> Regional Centre for Minorities, Minority Rights Centre, Democratic Union of Roma, Vranje Committee for Human Rights, Leskovac Women for Peace, Leskovac Committee for Human Rights; Romani Asvi, Vranje; Lawyers Committee for Human Rights (YUCOM).
- <sup>3</sup> Committee for the Elimination of Discrimination (CERD), *Reports submitted by States parties under Article 9 of the Convention: Initial report of States parties due in 2008: Serbia*, UN Doc. CERD/C/SRB/1, 1 October 2009, para.73; in 2008, the government estimated 270,000 inhabitants, 46,000 of whom were internally displaced persons from Kosovo, Bozidar Delić, *Decade of Roma Inclusion, Republic of Serbia – Taking over the Presidency*, 24 June 2008. According to the 2002 census, Roma constituted 1.4 per cent of the population (over 108,000 individuals); NGOs and international organizations estimate that Roma make up 4-6 percent of the population (300-460,000 individuals).
- <sup>4</sup> Law on Protection of Rights and Freedoms of National Minorities, Official Gazette of the FRY, No. 11 of 27 February 2002, <http://www.unhcr.org/refworld/docid/4b5d97562.html>
- <sup>5</sup> The National Minority Council is one of 15 such councils established in 2002, with competencies over minority issues, and to represent the communities to government.
- <sup>6</sup> The population also includes non-Roma, often married to, or partners of, Roma.
- <sup>7</sup> UN-HABITAT's defines "informal settlements" as: "(i) residential areas where a group of housing units has been constructed on land to which the occupants have no legal claim, or which they occupy illegally; (ii) unplanned settlements and areas where housing is not in compliance with current planning/building regulations (unauthorized housing)", [www.who.int/ceh/indicators/informalsettlements.pdf](http://www.who.int/ceh/indicators/informalsettlements.pdf)
- <sup>8</sup> *Action Plan for Dismantling of Unhygienic Settlements in Belgrade*, adopted on May 28, 2009; Changes and Amendments to the Action Plan for the Resettlement of Shanty Settlements on the Territory of the City of Belgrade in 2009, City of Belgrade, Secretariat for Social Protection, 29 August 2009, (AI translation), henceforth *Resettlement Action Plan (RAP)*, not available on-line.
- <sup>9</sup> According to the World Bank in 2003 an estimated 60 per cent of the population of Roma settlements lived in poverty, [http://siteresources.worldbank.org/INTROMA/Resources/SAM\\_chapter1.pdf](http://siteresources.worldbank.org/INTROMA/Resources/SAM_chapter1.pdf)
- <sup>10</sup> Humanitarian Law Centre, *Roma in Serbia*, 2004. Not available online.
- <sup>11</sup> The state of Serbia and Montenegro was established in 2003 following the collapse of the SFRY and the FRY; Montenegro declared independence in 2006.
- <sup>12</sup> COHRE, *The COHRE Housing Awards 2003*, Geneva, 5 November 2003.
- <sup>13</sup> HLC Press Release, *Housing Must Be Secured For Evicted Roma*, 1 April 2003, <http://www.greekhelsinki.gr/bhr/english/organizations/hlc/serbia.html>
- <sup>14</sup> *Serbia and Montenegro, Amnesty International's concerns and Serbia and Montenegro's commitments to the Council of Europe*, Index EUR 70/022/2004, pp.32-3.
- <sup>15</sup> As above; *Belgrade Master Plan until 2021* adopted 15 October 2003; the plan identified Roma as socially vulnerable persons in need of special assistance in the provision of housing, [http://www.beoland.com/zemljiste/tekst\\_GP\\_SI\\_list.pdf](http://www.beoland.com/zemljiste/tekst_GP_SI_list.pdf)
- <sup>16</sup> AI interview with OSCE consultant, January 2011.
- <sup>17</sup> For the specific housing needs of Roma displaced from Kosovo, see *UNHCR and CoE conclusions from the Belgrade Conference*, October 2005, [www.osce.org/odihr/23336](http://www.osce.org/odihr/23336)
- <sup>18</sup> Adopted 16 October 2003, <http://www.prsp.gov.rs/engleski/strateski.jsp>
- <sup>19</sup> *Guidelines for Promoting and Legalizing the Roma Informal Settlements*, January 2007; CERD/C/SRB/1, para 76.

<sup>20</sup> Prokuplje (two settlements), Opovo, Apatin, Sokobanja, Bela Palanka, Srbobran, Mladenovac (two settlements) and Knjaževac.

<sup>21</sup> AI interview, OSCE consultant to the government, January 2011.

<sup>22</sup> Law on Social Housing, "Official Gazette RS", no. 72/2009, 11 September 2009.

<sup>23</sup> Social Inclusion and Poverty Reduction Unit (SIPRU) and the Republic Statistical Office, Draft report on "Monitoring Social Inclusion in Serbia: Overview and Current Status of Social Inclusion in Serbia Based on Monitoring European and National Indicators", July 2010, in Serbian,

<http://www.inkluzija.gov.rs/wp-content/uploads/2010/12/Nacrt-izvestaja-o-socijalnom-ukljucivanju.pdf>

<sup>24</sup> Serbia was among eight states which in January 2005 agreed to participate in the "Decade of Roma Inclusion, 2005-2010", requiring states to "implement policy reforms and programmes designed to break the vicious cycle of poverty and exclusion",

<http://www.romadecade.org/itentcms/www/roma/index.php?content=1>

<sup>25</sup> <http://www.romadecade.org/files/downloads/Decade20Documents/ap-housing-serbia.pdf>

<sup>26</sup> Government of Serbia, *2nd Decade of Roma Inclusion Housing Workshop*. The conference included a presentation by the City of Belgrade authorities on the *Relocation of Settlements that Cannot Be Improved - The Case of the Settlement under the Gazela Bridge*, which at that time included plans for social housing, to be constructed in consultation with the affected community.

[http://www.romadecade.org/2nd\\_decade\\_of\\_roma\\_inclusion\\_housing\\_workshop](http://www.romadecade.org/2nd_decade_of_roma_inclusion_housing_workshop)

<sup>27</sup> [http://www.romadecade.org/files/downloads/Decade %20 per cent Documents/ap-housing-serbia.pdf](http://www.romadecade.org/files/downloads/Decade%20per%20cent%20Documents/ap-housing-serbia.pdf)

<sup>28</sup> *Strategy for Improvement of the Status of Roma in the Republic of Serbia*, Belgrade 2010, adopted April 2009, under Article 45 Paragraph. (1) 1 of the Law on Government (Official Gazette of RS, nos. 55/05, 71/05-correction, 101/07 and 65/08),

<http://www.inkluzija.gov.rs/wp-content/uploads/2010/03/Strategija-EN-web-FINAL.pdf>.

<sup>29</sup> *National Roma Strategy*, 2.4.2, p.20. Text in bold, AI emphasis.

<sup>30</sup> *National Roma Strategy*, 2.4.5, p.22.

<sup>31</sup> *National Roma Strategy*, Section 2: Implementation: 2.3.1–3 and 2.4 ( IDP housing), p. 102.

<sup>32</sup> Articles 2.2.5: [Urban plans]; 2.2.4 and 2.3.1; see also, *Realizacija akcionog plana za sprovođenje Strategije za unapređivanje položaja Roma u Republici Srbiji* Received by Amnesty International from the Office of the Deputy Prime Minister for European Integration, Social Inclusion and Poverty Reduction Unit, 16 February 2011.

<sup>33</sup> *Serbia's Deputy Minister of Human Rights Steps Down*, 28 January 2011,

<http://www.balkaninsight.com/en/article/serbian-assistant-minister-of-human-rights-resigns>, Roma NGOs demanded the Minister's resignation, <http://www.ostavkacipljic.com>. In March 2011, Milan Marković was elected Minister of Human and Minority Rights, Public Administration and Local Self-Government.

<sup>34</sup> For the improvement of Roma settlements in Vojvodina, *Monitoring Social Inclusion*, 5.7.21-22. Most housing programmes are funded by international organizations.

<sup>35</sup> Phone interview with Amnesty International, August 2010.

<sup>36</sup> *National Roma Strategy*, p.24

<sup>37</sup> CERD/C/SRB/1, para.73.

<sup>38</sup> *Taking over the Presidency*, .op.cit.

<sup>39</sup> Božidar Jakšić & Goran Bašić, *Romany Settlements, Living Conditions And Possibilities Of Integration Of The Roma In Serbia*, Ethnicity Research Center, December 2002, p.10; the survey assumed a minimum population of 27,000 Roma, p.17.

<http://www.yuromcentar.org.rs/sadrzaj/aktuelnosti/1%20-%20Roma%20in%20Srbia.pdf> .

<sup>40</sup> *Romany Settlements*, p. 9.

<sup>41</sup> [http://www.unhabitat.org/documents/media\\_centre/sowcr2006/SOWCR%205.pdf](http://www.unhabitat.org/documents/media_centre/sowcr2006/SOWCR%205.pdf)

<sup>42</sup> *Romany Settlements.*, pp. 18-21. Settlements were located in the following Belgrade municipalities: Obrenovac-14; Mladenovac- six, five in Lazarevac-five and four in Barajevo. Within the city municipalities, Palilula, Cukarica-13, Zemun 12, New Belgrade- nine and Vozdovac-10; Zvezdara -5; Rakovica -5; one each of in central city municipalities - Vračar, Stari grad and Savski Venac.

<sup>43</sup> AI interview with OSCE official, January 2011.

<sup>44</sup> *Romany Settlements*, p.32.

<sup>45</sup> AI interview February 2009. Smiljana subsequently moved into rented accommodation together with her daughter, her son, his wife and four grand-children.

<sup>46</sup> For further information see, *Information Submitted To The Committee On The Elimination Of Racial Discrimination on the occasion of Initial Periodic Report of Serbia, 78<sup>th</sup> Session, Praxis, Regional Centre for Minorities , CEKOR - Center for Ecology and Sustainable Development and CHRIS - Network of the Committees for Human Rights in Serbia*, February 2011,

[http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Praxis\\_RegionalCentreforMinorities\\_CEKOR\\_CHRIS.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Praxis_RegionalCentreforMinorities_CEKOR_CHRIS.pdf)

<sup>47</sup> See for example, Messaouda Kimouche, *née Cheraitia et al. v. Algeria*, No. 1328/2004

<sup>48</sup> See for example, [Albania, CCPR/CO/82/ALB \(HRC, 2004\), para 17](#): Bosnia and Herzegovina, [CCPR/C/BIH/CO/1 \(HRC, 2006\)](#), para 2.

<sup>49</sup> European Commission, *Serbia 2010 Progress Report*,

[http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/sr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/sr_rapport_2010_en.pdf)

<sup>50</sup> CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination: Serbia, CERD/C/SRB/CO/1, 10 March 2011, para 19,

[http://www2.ohchr.org/english/bodies/cerd/docs/co/Serbia\\_AUV.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/co/Serbia_AUV.pdf)

<sup>51</sup> Ministry of Interior, <http://www.informisanje.info/2009/06/licne-karte/>

<sup>52</sup> [http://www.praxis.org.rs/index.php?option=com\\_content&task=view&id=16&Itemid=55](http://www.praxis.org.rs/index.php?option=com_content&task=view&id=16&Itemid=55); Law on Social Care and Protection of Citizens, 2003.

<sup>53</sup> AI interview with Djemila, Belvil settlement, June 2010.

<sup>54</sup> AI interview, January 2011.

<sup>55</sup> [http://www.praxis.org.rs/index.php?option=com\\_content&task=view&id=191&Itemid=46](http://www.praxis.org.rs/index.php?option=com_content&task=view&id=191&Itemid=46)

<sup>56</sup> See *Bill on the Procedure for Recognition of Persons before the Law, with explanation* (pdf) at [http://www.praxis.org.rs/index.php?option=com\\_content&task=view&id=181&lang=en](http://www.praxis.org.rs/index.php?option=com_content&task=view&id=181&lang=en) .

<sup>57</sup> AI interview with Praxis staff, June 2010.

<sup>58</sup> “*Praxis Filed a Lawsuit for Discrimination of Persons of Roma Ethnicity*”, 10 October 2010,

[http://www.praxis.org.rs/index.php?option=com\\_content&task=view&id=184&Itemid=80](http://www.praxis.org.rs/index.php?option=com_content&task=view&id=184&Itemid=80)

<sup>59</sup> Committee on the Rights of the Child, *Concluding Observations: Republic of Serbia*, UN. Doc. CRC/C/SRB/CO/1, 20 June 2008, paras 33-34.

<sup>60</sup> AI interview with UNHCR Belgrade, January 2010; for case studies of difficulties of faced by Roma IDPs from Kosovo obtaining documentation, see Praxis, *Legally Invisible Persons in Serbia*, 2009.

<sup>61</sup> *Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Follow-up visit to the mission to Serbia and Montenegro (including Kosovo) in 2005, A/HRC/13/21/Add.1*, 11 December 2009 paras. 55-56,

[http://www2.ohchr.org/english/issues/idp/docs/A.HRC.13.21.Add.1\\_serbia\\_montenegro.pdf](http://www2.ohchr.org/english/issues/idp/docs/A.HRC.13.21.Add.1_serbia_montenegro.pdf)

<sup>62</sup> AI interview with mother of JK, January 2011.

<sup>63</sup> “*Official Gazette SRS, no. 42/77 (25/89, 42/77 (text), 25/89, 6p. "Official Gazette of RS, no. 53/93, 67/93, 48/94, (17/99, 33/99) 53/93, 67/93, 48/94, (17/99, 33/99).*

<sup>64</sup> Law on Social Insurance, September 2009, <http://www.porezi.rs/Arhiva/Download/3060-099.pdf>

<sup>65</sup> *Multiple Index Cluster Survey, Serbia*, UNICEF Belgrade, 2005,

<http://www.childinfo.org/mics/mics3/archives/serbia/survey0/outputInformation/reports.html>

<sup>66</sup> Children are then required to take a readiness test which OSI suggests results in the “overrepresentation of Roma in special schools”, Open Society Institute, *Equal Access to Quality Education For Roma: Serbia*, pp. 540-2. [http://www.mp.gov.rs/resursi/dokumenti/dok241-eng-OSI\\_romeduc\\_serbia.pdf](http://www.mp.gov.rs/resursi/dokumenti/dok241-eng-OSI_romeduc_serbia.pdf)

<sup>67</sup> *Equal Access to Quality Education*, p.65.

<sup>68</sup> Suncica Macura-Milovanovic, *Barriers to the Inclusion of Roma Children*, April 2008, <http://www.childrenwebmag.com/articles/child-care-social-issues/barriers-to-the-inclusion-of-roma-children>

<sup>69</sup> *Equal Access to Quality Education*, Zemun case study, pp. 127-9; AI interviews with Roma parents.

<sup>70</sup> Commissariat for Refugees, “Information for returnees”(in Serbian), distributed at the airport.

[http://www.kirs.gov.rs/docs/read/Informator\\_srp.pdf](http://www.kirs.gov.rs/docs/read/Informator_srp.pdf)

<sup>71</sup> The duty to realize the right to free and compulsory primary education until the minimum age for employment, and for all children without discrimination, is an obligation with immediate effect, and is also a component of the “minimum core obligations” of the Covenant, CESCR, *General Comment 13*, paras. 51 and 57.

<sup>72</sup> Praxis, *A Step Forward in Roma National Minority Exercising Right to Health Care*, July 2010,

[http://www.praxis.org.rs/index.php?option=com\\_content&task=view&id=181&lang=en](http://www.praxis.org.rs/index.php?option=com_content&task=view&id=181&lang=en)

<sup>73</sup> UNICEF, *Breaking the Cycle of Exclusion – Roma Children in South East Europe*, pp. 39-42,

[http://www.unicef.org/ceecis/070305-Subregional\\_Study\\_Roma\\_Children.pdf](http://www.unicef.org/ceecis/070305-Subregional_Study_Roma_Children.pdf)

<sup>74</sup> OXFAM, *The Roma from Belgrade Settlements*, April 2001.

<sup>75</sup> See also for discrimination by health professionals, *Oral Statement on the current situation of Romani women in Serbia by the European Roma Rights Centre, Bibija, Eureka and Women’s Space*,

<http://www.errc.org/cms/upload/media/03/7E/m0000037E.pdf>

<sup>76</sup> AI interview with members of Bibija, June 2010.

<sup>77</sup> AI interview, January 2011.

<sup>78</sup> AI is unable to corroborate these allegations of corruption but see, for example, Glas javnosti, “Doctors and patients: corruption is booming the health sector”, 3 December 2010, <http://www.glas-javnosti.rs/clanak/drustvo/glas-javnosti-03-12-2010/lekari-i-pacijenti-korupcija-u-zdravstvu-cveta>

<sup>79</sup> CESCR, *General comment no 14 (2000), The right to the highest attainable standard of health*, UN doc. E/C.12/2000/4: “the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.” See also Article 24, Children’s Convention.

<sup>80</sup> Article 5(e)(iv) of the CERD also obliges states to guarantee the right to health without discrimination.

<sup>81</sup> CESCR, General Comment No. 15, para 1 UN CESCR, General Comment No. 15: The Right to Water, UN Doc. E/C.12/2002/11, 20 January 2003, para 1.,

[http://www2.ohchr.org/english/issues/water/docs/CESCR\\_GC\\_15.pdf](http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf) .

<sup>82</sup> General Comment No. 15: The Right to Water, para 2,

<sup>83</sup> *Taking over the Presidency*.

<sup>84</sup> In 2002 30 per cent of Roma settlements had no access to a public water supply; 70 per cent had no access to sanitation, *Romany Settlements*, pp.24-5.

<sup>85</sup> Amnesty International interview with Čukarica Roma coordinator, March 2010.

<sup>86</sup> WHO, Quality Guidelines, p. 91, [http://www.who.int/water\\_sanitation\\_health/dwg/whojwa/en/](http://www.who.int/water_sanitation_health/dwg/whojwa/en/) .

<sup>87</sup> Article 14, paragraph 2, CEDAW stipulates that States parties shall ensure to women the right to “enjoy adequate living conditions, particularly in relation to [...] water supply”. Article 27 of the CRC

recognizes the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. This Article has consistently been interpreted by the Committee on the Rights of the Child to include access to clean drinking water and sanitation.

<sup>88</sup> UN CESCR, General Comment No. 15: The Right to Water, UN Doc. E/C.12/2002/11, 20 January 2003, para 16, [http://www2.ohchr.org/english/issues/water/docs/CESCR\\_GC\\_15.pdf](http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf) .

<sup>89</sup> *Romany Settlements*, p. 51-55.

<sup>90</sup> *Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin*, as above.

<sup>91</sup> Zakon o upravljanju otpadom (Law on Licensing of Waste Management), May 2009, and Amendment to the Law, November 2010. [http://www.zavelim.eu/pdf/Zakon\\_o\\_upravljanju\\_otpadom.pdf](http://www.zavelim.eu/pdf/Zakon_o_upravljanju_otpadom.pdf)

<sup>92</sup> Press Release, *Labor Force Survey, October 2010*, Statistical Office of the Republic of Serbia, 29 December 2010. <http://webzrzs.stat.gov.rs/axd/en/index1.php?SifraVesti=467&Link=>

<sup>93</sup> *Monitoring Social Inclusion*, para. 5.2.48.

<sup>94</sup> As envisaged in the National Roma Strategy. See also, *Monitoring Social Inclusion*, para. 5.2.73, for measures to formalise the occupation of “waste collector” .

<sup>95</sup> AI interview with Osman Balić, January 2011.

<sup>96</sup> For concerns about Romani women, see paras 48-49 & 65, *Women and adequate housing, Report by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination, Miloon Kothari\**, E/CN.4/2006/118, 27 February 2006, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/111/66/PDF/G0611166.pdf?OpenElement>

<sup>97</sup> AI interview with Romani women's NGO, Bibija, 2010.

<sup>98</sup> AI interview, January 2011.

<sup>99</sup> The Committee was informed in their recommendation by the *Written Comments of the European Roma Rights Centre, Bibija, Eureka and Women's Space Concerning the Republic of Serbia*, , [http://ewlcentreonviolence.org/IMG/pdf/Alternative\\_Roma\\_Women\\_Report\\_to\\_the\\_CEDAW\\_Committee.pdf](http://ewlcentreonviolence.org/IMG/pdf/Alternative_Roma_Women_Report_to_the_CEDAW_Committee.pdf) *Concluding comments of the CEDAW: Serbia*, CEDAW/C/SCG/CO/1, 11 June 2005, paras 23-24.

<sup>100</sup> AI interview with the Kurtesi family, January 2011. Praxis report that Roma, Ashkali and Egyptian IDPs from Kosovo seeking to de-register from their address in Kosovo have not been allowed to do so.

<sup>101</sup> Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), <http://www2.ohchr.org/english/issues/idp/standards.htm>

<sup>102</sup> In November 2009, UNHCR estimated a population of 22,819 Roma (10.8 per cent), Ashkali (0.04 per cent) and Egyptian (0.36 per cent) IDPs from Kosovo; these figures exclude an estimated 20,000 unregistered IDPS, including those who arrived after 2000. UNHCR has urged the Commissariat for Refugees to conduct a re-registration process to establish the number of IDPs remaining in Serbia, UNHCR/Praxis, *Analysis of the Situation of IDPs from Kosovo in Serbia*, March 2007, p.35, note 1.

<sup>103</sup> Replies from the Government of Serbia to the list of issues (CCPR/C/SRB/Q/2) to be taken up in connection with the consideration of the second periodic report of Serbia (CCPR/C/SRB/2)\*, CCPR/C/SRB/Q/2/Add.1, 6 December 2010, para 29, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/470/70/PDF/G1047070.pdf?OpenElement> .

<sup>104</sup> “The conditions of the objects in which displaced Roma from Kosovo and Metohija have settled (Obrenovac, Čukarica, Požarevac and Sjenica) are in an extremely and unacceptably miserable state, and well below the level of objects accommodating other displaced persons”, Commissariat for Refugees, *Report on the Visitation and Technical Assessment of the Structural Characteristics of Unrecognised Collective Centres on the Territory of the Republic of Serbia*, January 2010, p. 3, [http://www.kirs.gov.rs/docs/Report\\_on\\_the\\_visitation\\_and\\_technical\\_assesment\\_of\\_unrecognised\\_cc.pdf](http://www.kirs.gov.rs/docs/Report_on_the_visitation_and_technical_assesment_of_unrecognised_cc.pdf)

<sup>105</sup> AI interview. R.M., February 2010

<sup>106</sup> E/CN.4/2006/71/Add.5, paras. 71 and 76 (c).

<sup>107</sup> A/HRC/13/21/Add.1, paras. 50-53. For exceptions see, Roma families amongst IDPs allocated social housing units in Rača municipality in November 2010,

<http://www.kirs.gov.rs/articles/navigate.php?type1=3&lang=ENG&id=1577&date=0>

<sup>108</sup> AI interview, UNHCR Belgrade, January 2010. UNHCR report that 25 per cent of Serb IDPs wished to return to Kosovo, whilst only eight per cent of Roma IDPs wanted to return.

<sup>109</sup> AI interview with J.K, January 2011.

<sup>110</sup> AI interview with Jasco Demirović and Dobrička Demirović, January 2011.

<sup>111</sup> In 2003 the Council of Europe estimated that between 50-100, 000 citizens would be returned. *National Roma Strategy*, p.32.

<sup>112</sup> *Migration Management Strategy*, July 2009, p. 7-8; *Strategy for the Reintegration of Returnees pursuant to the Readmission Agreements* ("Official Gazette of the RS, No. 15/09), <http://www.kirs.gov.rs/articles/navigate.php?type1=14&lang=ENG&date=0> ; *National Roma Strategy*, p.30.

<sup>113</sup> <http://www.kirs.gov.rs/articles/azrea.php?lang=SER>; statistics include only those who have been formally deported from EU member states and who approach the office at the airport, and not those who have been "voluntarily" returned pending deportation, AI interview. UNHCR Belgrade, January 2011.

<sup>114</sup> *Not welcome anywhere. Stop the forced return of Roma to Kosovo*, September 2010, <http://www.amnesty.org/en/news-and-updates/report/stop-forcible-returns-roma-kosovo-2010-09-28>

<sup>115</sup> Commissariat for Refugees, *Migration Strategy*, <http://www.kirs.gov.rs/docs/Migration%20Management%20Strategy%20English%20translation%20July%202009.pdf>

<sup>116</sup> European Commission, *Serbia 2010 Progress Report*, p. 50..

<sup>117</sup> "Voluntary" returnees receive €400 per adult and €200 per child from the German government provided they withdraw their asylum application.

<sup>118</sup> Name of the person has been changed.

<sup>119</sup> Praxis, "Information Bulletin for Returnees upon Readmission", 2009, [http://www.praxis.org.rs/index.php?option=com\\_content&task=view&id=143&Itemid=78](http://www.praxis.org.rs/index.php?option=com_content&task=view&id=143&Itemid=78)

<sup>120</sup> AI Interview, January 2011.

<sup>121</sup> *National Roma Strategy*, pp.33-4.

<sup>122</sup> *National Roma Strategy*, p.20.

<sup>123</sup> Only the Ministry of Health (who employ Roma Health mediators) and Ministry of Education (who employ Roma assistants in schools) collect data segregated by ethnicity, see Open Society Foundations, *No Data—No Progress: Country Findings Data Collection in Countries Participating in the Decade of Roma Inclusion 2005–2015*, September 2010, pp. 67-73.

[http://www.soros.org/initiatives/roma/articles\\_publications/publications/no-data-no-progress-20100628](http://www.soros.org/initiatives/roma/articles_publications/publications/no-data-no-progress-20100628)

<sup>124</sup> [romadecade.org/files/downloads/Indicator%20Workshop/Monitoring%20Framework%20Serbia.ppt](http://romadecade.org/files/downloads/Indicator%20Workshop/Monitoring%20Framework%20Serbia.ppt)

<sup>125</sup> CERD, General Recommendation 27, para 30.

<sup>126</sup> CERD, *General Recommendation No. 19: Racial segregation and apartheid (article 3)*, 18 August 1995, Forty-seventh session, paras 4 and 5: <http://www2.ohchr.org/english/bodies/cerd/comments.htm>

<sup>127</sup> CESCR, General Comment 4, The Right to Adequate Housing, The right to adequate housing, (Art. 11 (1) of the ICESCR), (Sixth session, 13 December 1991) UN Doc.E/1992/23, para.7,

<http://www.unhcr.ch/tbs/doc.nsf/0/469f4d91a9378221c12563ed0053547e?Opendocument>

<sup>128</sup> CESCR, General Comment 4, para.8.

<sup>129</sup> Article 31 – The right to housing. With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to promote access to housing of an adequate



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standard; to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources. Serbia signed the Revised European Social Charter on 22 March 2005, and ratified the Revised Charter on 14 September 2009 accepting 88 of the 98 paragraphs, <http://conventions.coe.int/treaty/en/treaties/html/163.htm>.

<sup>130</sup> *European Roma Rights Centre (ERRC) v. Greece*, Complaint No. 15/2003, decision on the merits, 8 December 2004, para 24; *ERRC v. Bulgaria*, Complaint No. 31/2005, decision on merits, para 55

<sup>131</sup> CESCR, General Comment 4, para 8(a).

<sup>132</sup> The UN Commission on Human Rights has also recognized that under international human rights law, forced evictions constitute gross violations of a range of human rights, in particular the right to adequate housing. UN Commission on Human Rights, Resolution 1993/77, para 1.

<sup>133</sup> CESCR, General Comment 7, The Right to Adequate Housing: forced evictions, The right to adequate housing (art. 11.1 of the ICESCR): forced evictions, Sixteenth session, 20 May 1997, para 3, <http://www.unhchr.ch/tbs/doc.nsf/0/959f71e476284596802564c3005d8d50?Opendocument>

<sup>134</sup> CESCR, General Comment 7.

<sup>135</sup> CESCR, General Comment 7, para.15.

<sup>136</sup> CESCR, General Comment 7, para 14.

<sup>137</sup> CESCR, General Comment 7, para 9.

<sup>138</sup> Basic Principles and Guidelines On Development-Based Evictions And Displacement (the Basic Principles), UN Doc. A/HRC/4/18.

<sup>139</sup> CESCR, General Comment 7, para 16.

<sup>140</sup> Basic Principles, para. 52.

<sup>141</sup> States parties are obliged to “condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms” including undertaking “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: ...[...] Economic, social and cultural rights, in particular [...]The right to housing.”

<sup>142</sup> CERD, *General Recommendation XXVII*, para. 30 – 31.

<sup>143</sup> CERD, *Reports submitted by States parties under Article 9 of the Convention: Initial report of States parties due in 2008: Serbia*, UN Doc. CERD/C/SRB/1, 1 October 2009.

<sup>144</sup> *Serbia: Briefing to the UN Committee on the Elimination of Racial Discrimination, 78th session February 2011*, December 2010, <http://www.amnesty.org/en/library/info/EUR70/016/2010/en>

<sup>145</sup> CERD/C/SRB/CO/1, para.14. The CERD requested Serbia to provide detailed information in its next periodic report on concrete measures taken to implement this recommendation.

<sup>146</sup> ECHR, <http://www.conventions.coe.int/Treaty/en/Treaties/Html/005.htm>; *Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms*, <http://conventions.coe.int/Treaty/EN/Treaties/Html/177.htm>

<sup>147</sup> Article 6, see *Connors v United Kingdom*, 27 May 2004 (App No 66746/01); Article 8.1, Everyone has the right to respect for his private and family life, his home and his correspondence; see also *Buckley v United Kingdom*, 1996; *O'Rourke v United Kingdom*, 2001.

<sup>148</sup> Article 4: 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.

<http://conventions.coe.int/Treaty/en/Treaties/Html/157.htm>

<sup>149</sup> Human Rights Committee, General Comment 25 on the right to participate in public affairs, voting rights and the right of equal access to public service (Article 25), Fifty-seventh session, 1996,

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<http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/d0b7f023e8d6d9898025651e004bc0eb?Opendocument>, para 5.

<sup>150</sup> CESCR, General Comment 4, para 9.

<sup>151</sup> CESCR, General Comment 4, para 12.

<sup>152</sup> CESCR, General Comment 7, Article 11, para 13.

<sup>153</sup> CESCR, General Comment 7, para. 15.

<sup>154</sup> Basic Principles, para. 38.

<sup>155</sup> CESCR, General Comment 7, para. 15.

<sup>156</sup> Article 2.3 of the ICCPR.

<sup>157</sup> Basic Principles, para. 59.

<sup>158</sup> CESCR, General Comment 4, para. 17.

<sup>159</sup> CESCR, General Comment 7, para. 13.

<sup>160</sup> *National Roma Strategy*, p. 17

<sup>161</sup> Entered into force, September 2009. Serbia's state party report to the CERD stated that housing regulations were not discriminatory, but that "Problems arising in the field of housing are, for the most part, consequences of economic underdevelopment, lack of means and development funds. In this respect, particularly vulnerable groups are refugees, IDPs and the Roma", CERD/C/SRB/1, para. 204.

<sup>162</sup> The 1995 Law on Expropriation (amended 2009), provides compensation for those with legal title to "parcels of land, buildings and other facilities"; see *Serbia: Corridor X Highway Project, E-75 and E-80, Resettlement Policy Framework*, 18 May 2009, <http://www.putevi-srbije.rs/pdf/koridorxengl.pdf>

<sup>163</sup> Law on Obligations (Law on Contracts and Torts), <http://www.pregled-rs.com/content.php?id=137>

<sup>164</sup> The 1995 Law on Expropriation (amended 2009), provides compensation for those with legal title to "parcels of land, buildings and other facilities"; see *Serbia: Corridor X Highway Project, E-75 and E-80, Resettlement Policy Framework*, 18 May 2009, <http://www.putevi-srbije.rs/pdf/koridorxengl.pdf>; Amended RAP, 29 August 2009.

<sup>165</sup> Article 21, All are equal before the Constitution and law. Everyone shall have the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited. Special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination.

<sup>166</sup> Article 14, The Republic of Serbia shall protect the rights of national minorities.

The State shall guarantee special protection to national minorities for the purpose of exercising full equality and preserving their identity; Article 18, Human and minority rights guaranteed by the Constitution shall be implemented directly. The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws.

<sup>167</sup> Law on Anti-Discrimination, adopted March 2009, Official Gazette RS, Nr. 120/04 and 54/07.

<sup>168</sup> Article 4, Law on Anti-Discrimination, "the term "public administration organ" shall be used to designate a state organ, autonomous province organ, local government organ, public company, institution, public agency and other organisations entrusted with public authority, as well as a legal entity established or financed in its entirety, or predominantly, by the Republic, an autonomous province or a local government.

<sup>169</sup> AI interview with a member of a Serbian NGO.

<sup>170</sup> Article 22: Everyone shall have the right to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied, they shall also have the right to

elimination of consequences arising from the violation. The citizens shall have the right to address international institutions in order to protect their freedoms and rights guaranteed by the Constitution.

<sup>171</sup> Damage is considered to be impairment of one's assets (an ordinary damage) and prevention of the increase of assets (subverting the benefit), as well as causing other physical or mental pain or fear (non-material damage).

<sup>172</sup> (1) In administrative enforcement the execution of the proceedings can be appealed, but appeal can not be lodged against the original decision.(2) The appeal shall be lodged to the competent authority of second instance. The appeal does not postpone the beginning of the implementation. With regard to the deadline for the appeal and the body responsible for resolving complaints Articles 215th and the 221st of this law apply.

<sup>173</sup> Zakon o teritorijalnoj organizaciji Republike Srbije, 1992, <http://www.parlament.gov.rs/files/lat/pdf/zakoni/2007/4308-07-lat.zip>. Further changes were introduced under the 2002 Law on Local Self-Government, (entered into force 2004), and following the adopted in adoption of the 2006 Constitution (adopted December 2007) which required new laws on territorial organisation, local self-government, local elections, and the capital city.

<http://www.parlament.gov.rs/files/lat/pdf/zakoni/2007/4308-07-lat.zip>

<sup>174</sup> Information about the number of informal settlements scheduled for eviction is not publicly available.

<sup>175</sup> CESCR General Comment 20, Non-discrimination in economic, social and cultural rights, (art. 2.2 of the ICESCR), Forty-second session, UN. Doc. E/C.12/GC/20, 10 June 2009, paras. 24 and 34. CESCR, General comment 7, para. 16

<sup>176</sup> For the city's lack of consultation with Zvezdara municipality see, ERRC, *Standards Do Not Apply, Inadequate Housing in Romani Communities*, December 2010, pp.38-39, footnote 93,

<http://www.errc.org/cms/upload/file/standards-do-not-apply-01-december-2010.pdf>

<sup>177</sup> Youth Initiative for Human Rights, *Vlasti da reaguju povodom pokušaja prinudnog iseljenja porodice Sremčević* (Authorities to respond regarding the attempted eviction of the Sremčević family), Index: YIHR-11-11861-22.11.2010, <http://www.minoritycentre.org/node/2066>.

<sup>178</sup> See *Roma families in Belgrade forcibly evicted*, 7 October 2010, <http://www.amnesty.org/en/news-and-updates/roma-families-belgrade-forcibly-evicted-2010-10-08> ; *Stop forced evictions of Roma in Serbia* , 1 October 2010, <http://www.amnesty.org/en/appeals-for-action/stop-forced-evictions-roma-serbia-1> ; *Serbian Roma families facing forced eviction*, 2 August 2010,

<http://www.amnesty.org/en/news-and-updates/serbian-roma-families-facing-forced-eviction-2010-08-03> ; *Vicious circle of forced evictions in Serbia*, 29 July 2010,

[http://www.amnesty.org/en/library/asset/EUR70/012/2010/en/6f54ed41-dd86-43f8-94a6-](http://www.amnesty.org/en/library/asset/EUR70/012/2010/en/6f54ed41-dd86-43f8-94a6-8b171acdcbec/eur700122010en.html)

[8b171acdcbec/eur700122010en.html](http://www.amnesty.org/en/library/asset/EUR70/012/2010/en/6f54ed41-dd86-43f8-94a6-8b171acdcbec/eur700122010en.html) ; *Serbia: Stop the forced evictions of Roma settlements*, Index:

EUR 70/003/2010, 9 June 2010, <http://www.amnesty.org/en/library/info/EUR70/003/2010/en> ;

*Belgrade authorities urged to halt forced eviction of 300 Roma families* , 22 April 2010,

<http://www.amnesty.org/en/news-and-updates/belgrade-authorities-urged-halt-forced-eviction-300-roma-families-2010-04-23> ; *Serbia: Roma evictions endanger people's lives*, 7 April 2009,

[http://www.amnesty.org/en/for-media/press-releases/serbia-roma-evictions-endanger-](http://www.amnesty.org/en/for-media/press-releases/serbia-roma-evictions-endanger-people%E2%80%99s-lives-20090408)

[people%E2%80%99s-lives-20090408](http://www.amnesty.org/en/for-media/press-releases/serbia-roma-evictions-endanger-people%E2%80%99s-lives-20090408)

<sup>179</sup> UN Basic Principles and Guidelines, para. 49. "Evictions must not take place in inclement weather...."

<sup>180</sup> Coalition Against Discrimination: *Saopštenje KPD povodom novog prinudnog iseljavanja baraka na Novom Beogradu* (The new, forcible eviction of barracks on Novi Beograd),

<http://minoritycentre.org/actuals/coalition-against-discrimination-new-forcible-eviction-barracks-novi-beograd>

<sup>181</sup> For similar lack of consultation in Niš, see ERRC, *Standards Do not Apply*, pp.37-8.

<sup>182</sup> Article 41 of the UN Basic Principles states, "Any decision relating to evictions should be announced in writing in the local language to all individuals concerned, sufficiently in advance. The eviction notice should contain a detailed justification for the decision, including on: (a) absence of reasonable alternatives; (b) the full details of the proposed alternative; and (c) where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions. All final decisions should be subject to administrative and judicial review. Affected parties must also be guaranteed timely access to legal counsel, without payment if necessary".

<sup>183</sup> City of Belgrade, *Program of resettling of unhygienic settlements under the Gazela Bridge*, November 2008, [http://www.romadecade.org/files/downloads/Housing%20Workshop%202008/Resettlement%20\\_%20Gazela%20project\\_City%20of%20Belgrade.ppt](http://www.romadecade.org/files/downloads/Housing%20Workshop%202008/Resettlement%20_%20Gazela%20project_City%20of%20Belgrade.ppt)

<sup>184</sup> B92, *Planned Roma settlement sparking angry reaction*, 8 October 2008, [http://www.b92.net/eng/news/society-article.php?yyyy=2008&mm=10&dd=08&nav\\_id=54081](http://www.b92.net/eng/news/society-article.php?yyyy=2008&mm=10&dd=08&nav_id=54081)

<sup>185</sup> For details, see HLC, *Roma in Serbia*, 2004, <http://miris.eurac.edu/mugs2/do/blob.html?type=html&serial=1075731222215>

<sup>186</sup> See para 10.4 CAT/C/42/D/261/2005, Communication N° 261/2005, <http://daccess-dds-ny.un.org/doc/UNDOC/DER/G09/423/46/PDF/G0942346.pdf?OpenElement>

<sup>187</sup> UN Basic Principles, paras. 21 and 52.

<sup>188</sup> AI translation of documents issued to Sejdija Demirović, returned to Vranje.

<sup>189</sup> AI interview, 7 October 2010.

<sup>190</sup> NGOs believed that City Social Welfare officials were present in the event that if residents were to resist eviction and were consequently arrested, the city would need to take their children into their care.

<sup>191</sup> A public company, established in 1995 by the City of Belgrade Assembly, which carries out specific projects on behalf of the city.

<sup>192</sup> Basic Principles, Section VI: Remedies for Forced Evictions, para 59.

<sup>193</sup> This provides that complaints may be made in person or forwarded through site representatives to the City Centre for Social Work. If agreement is not reached complaints may be forwarded to the Department for Planning and Development, who will assist in submitting the complaint to the Civic Attorney. Further recourse to the State Ombudsperson is envisaged. Assistance will be provided with writing complaints to the courts, with free legal aid provided by a local NGO, *RAP*, p.12.

<sup>194</sup> Article 5: "Residential buildings and apartments are used by rights of ownership of the apartment and for rentals. If a person moves into the apartment or common areas of residential buildings with no legal basis or a dwelling without the contract or [has] annulled the legal basis under which the contract is concluded, the owner or person having legal interest, can [with] the municipal body responsible for housing [to] ask for his eviction"

<sup>195</sup> The CESCR has stated that adequate housing must provide the inhabitants with adequate space and protect them from cold, damp, wind, rain and other threats to health.

<sup>196</sup> AI interview January 2011 with family evicted from Vojvodanska Street in October 2010.

<sup>197</sup> *Evictions should not result in individuals being rendered ... vulnerable to the violation of other human rights ... Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted"*, Basic Principles, para.43.

<sup>198</sup> For further information, see <http://www.euro.who.int/en/where-we-work/member-states/serbia/areas-of-work/swift-sustainable-waste-management-initiative-for-a-healthier-tomorrow>

<sup>199</sup> City of Belgrade, *On relocation of informal settlement Gazela in Belgrade*, January 2011, pp.6-9.

<sup>200</sup> *Resettlement Action Plan*, August 2009, p. 2.

<sup>201</sup> For the 10 categories of required documents, see City of Belgrade - The Mayor - Commission for

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Housing *Open Competition for the use of 82 apartments built in accordance to the project to build 1,100 apartments for socially vulnerable persons*, 23 November 2010

<http://www.begrad.rs/cms/view.php?id=1422139>

<sup>202</sup> AI interviews with Mayor of Belgrade and residents of container settlements, January 2011.

<sup>203</sup> AI interview, Z., January 2011.

<sup>204</sup> *Decision on conditions and manner of disposal of flats built under the project of construction of 1100 flats in Belgrade*, Official Gazette of Belgrade, no. 20/2003, 9/2004, 11/2005, 4/2007, 29/2007 and 6/2010.

<sup>205</sup> "Initiative for assessing the constitutionality and legality of the Decision on conditions and manner of disposal of flats built under the Project of construction of 1100 flats in Belgrade", not available electronically.

<sup>206</sup> For Articles 14& 21, see above; Article 69, Social protection: "Citizens and families that require welfare [...], shall have the right to social protection [...] which is based on social justice, humanity and respect of human dignity"; Article 76, Prohibition of discrimination against national minorities: "Persons belonging to national minorities shall be guaranteed equality before the law and equal legal protection. Any discrimination on the grounds of affiliation to a national minority shall be prohibited...."

<sup>207</sup> AI interview, January 2011.

<sup>208</sup> In 2002 there were more than 96 Roma settlements in southern Serbia, including 12 in Leskovac, six each in Vranje and Surdulica, and two in Bojnik, *Romany Settlements*, p. 11.

<sup>209</sup> "Everyone shall have the right to free movement and residence in the Republic of Serbia, as well as the right to leave and return..." [http://www.srbija.gov.rs/cinjenice\\_o\\_srbiji/ustav\\_odredbe.php?id=218](http://www.srbija.gov.rs/cinjenice_o_srbiji/ustav_odredbe.php?id=218) .

<sup>210</sup> AI interview with N.S., June 2010.

<sup>211</sup> AI interview, Vranje, June 2010.

<sup>212</sup> AI interview , D.R. Bojnik, June 2010.

<sup>213</sup> According to Branimir Stojanovic, Vranje's municipal officer for Social Welfare and Religious Affairs, interviewed by AI in June 2010, 12 families and one individual originating from the town were returned to Vranje; in addition the town received 16 families who were not on the list supplied to the municipality, who originated from Vladicin Han and Bujanovac. Families from Vranje were given around 33,000 dinars as a one off payment; the others received nothing.

<sup>214</sup> AI interview, E.V., Leskovac, June 2010.

<sup>215</sup> Amnesty International found confusion about who was and who was not on the list, and who was entitled to receive support; E.V., returned to Leskovac told Amnesty that he had received nothing.

<sup>216</sup> *Letter regarding situation and issues in South Serbia- Gazela resettlement to Board of Directors of EBRD and EIB*, CEKOR, 24 December 2010.

<sup>217</sup> AI interview with Jasin Zekirov, Vranje, June 2010.

<sup>218</sup> AI interview, n.n., Vranje.

<sup>219</sup> CESCR, General Comment 4, para 8, (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) location; (d) habitability; (e) affordability; (f) accessibility; and (g) cultural adequacy.

<sup>220</sup> AI interview with Acia Iljazović, Vranje, June 2010.

<sup>221</sup> AI interview with EIB Complaints Team after they had visited returnee settlements, Belgrade, January 2011.

<sup>222</sup> CEKOR & CEE Bankwatch Network, *Complaint against the EIB regarding maladministration in the Gazela resettlement process*, 29 September 2009,

<http://www.bankwatch.org/project.shtml?apc=147579-1961998c--1&x=2199583>

<sup>223</sup> EIB, *Gazela Bridge Rehabilitation Project*, Component B: the Ministry of Labour and Social Policy,

<http://www.eib.org/projects/news/gazela-bridge-rehabilitation-project.htm?lang=en> , December 2010.

<sup>224</sup> As above, <http://www.eib.org/projects/news/gazela-bridge-rehabilitation-project>, March 2011.

<sup>225</sup> AI interviews with Julietta and Akia January 2011.

<sup>226</sup> CDESCR, General Comment 4, para (f).

<sup>227</sup> AI interview with Leskovac Municipal Roma representative, June 2010.

<sup>228</sup> AI interview , Akia Iljazović, Vranje, June 2010.

<sup>229</sup> In October 2010, the unemployment rate in southern Serbia was 21.1 per cent, as opposed to 15.8 per cent in Belgrade, *Labour Force Survey*, op.cit.

<sup>230</sup> AI interview with E.V, Leskovac, June 2010.

<sup>231</sup> AI interview with Esther de Kruijff, EIB Complaints Team, January 2011.

<sup>232</sup> For temporary accommodation for Roma seasonal workers, see *Roma National Strategy*, p.24.

<sup>233</sup> AI interview with S.R. (aged 60), Bojnik January 2011.

<sup>234</sup> <http://www.blic.rs/Vesti/Beograd/182997/Konteineri-i-za--Rome-kod-Belvila>

<sup>235</sup> <http://www.eib.org/about/mission/index.htm>

<sup>236</sup> The EIB has been active in the Western Balkans since 1977 and is the largest international financier in the region, and has, over the past ten years, financed projects totalling €4.2 bn.

<http://www.eib.org/projects/regions/enlargement/the-western-balkans/index.htm>

<sup>237</sup> <http://www.ebrd.com/pages/about.shtml>

<sup>238</sup> <http://www.ebrd.com/downloads/research/factsheets/serbia.pdf>

<sup>239</sup> City of Belgrade, RAP, August 2009, p.1.

<sup>240</sup> EBRD, *Belgrade Highway and Bypass Project*,

<http://www.ebrd.com/pages/project/psd/2006/36651.shtml>; €80 million loan for Belgrade Highway and Bypass, <http://www.ebrd.com/english/pages/news/press/2007/071115.shtml>.

<sup>241</sup> EIB, Gazela Bridge Rehabilitation Project, <http://www.eib.org/projects/news/gazela-bridge-rehabilitation-project.htm?lang=en>

<sup>242</sup> For details, see <http://www.ebrd.com/english/pages/project/psd/2006/36651.shtml> The EBRD has also provided a €150 million loan for the construction of a section of the Corridor X motorway between Nis and Dimitrovgrad in south-eastern Serbia, which will link Belgrade with Skopje in Macedonia.

<sup>243</sup> The World Bank's Operational Directive on Involuntary Resettlement includes some positive provisions aimed at ensuring community participation and consultation in the planning and implementation of the resettlement. It also includes requirements to ensure compensation for affected people and requirements aimed at improving their living standards, including through the provision of adequate resources for the provision of shelter, infrastructure and social services. However, it does not contain or require all the mandatory international human rights safeguards, which apply in the context of eviction and resettlement. It does not include a requirement to prevent and prohibit forced evictions, or specify that any evictions should be carried out in conformity with international human rights standards, including the U.N. Basic Principles and Guidelines on Development-Based Evictions and Displacement, or contain sufficient requirements to ensure that resettlement planning and implementation complies with all the criteria for 'adequacy' of housing set out in international human rights standards,

[http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol\\_Resettlement/\\$FILE/OD430\\_InvoluntaryResettlement.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/pol_Resettlement/$FILE/OD430_InvoluntaryResettlement.pdf)

<sup>244</sup> Letter to Amnesty International from EBRD, 18 May 2010.

<sup>245</sup> <http://www.eib.org/projects/news/update-on-gazela-bridge-rehabilitation-project-in-serbia.htm>

<sup>246</sup> Letter to Amnesty International from EBRD, 18 May 2010.

<sup>247</sup> <http://www.eib.org/projects/news/gazela-bridge-rehabilitation-project>; Letter from EBRD to Amnesty International, 18 May 2010.

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<sup>248</sup> <http://bankwatch.org/project.shtml?apc=147584-1961998o--1&x=2240084&d=r>

<sup>249</sup> [http://www.eib.org/attachments/strategies/complaints\\_office\\_tor\\_en.pdf](http://www.eib.org/attachments/strategies/complaints_office_tor_en.pdf)

<sup>250</sup> Conclusions Report, Complaint SG/E/2009/07, Gazela Bridge Rehabilitation Project, Belgrade, Serbia, 14 July 2010, EIB. See also:

[http://bankwatch.org/documents/EIB\\_ConclusionsReport\\_Gazela\\_14Jul2010.pdf](http://bankwatch.org/documents/EIB_ConclusionsReport_Gazela_14Jul2010.pdf)

<sup>251</sup> Letter from EBRD to Amnesty International, 18 May 2010.

<sup>252</sup> <http://www.eib.org/projects/news/gazela-bridge-rehabilitation-project>

<sup>253</sup> Non Technical Summary (NTS) of the Environmental Impact Assessment (EIA), Construction of New Sava Bridge and Access Roads in Belgrade, October 2009,

<http://www.eib.org/projects/pipeline/2009/20090526.htm>

<sup>254</sup> AI telephone interviews with NGOs present at the meeting, October 2010, and with affected Roma, February 2011.

<sup>255</sup> Amnesty International interview with JZ, Belvil, January 2011.

<sup>256</sup> Letter from EIB to Amnesty International, 18 January 2011

<sup>257</sup> Letter from EIB to Amnesty International, 18 January 2011.

<sup>258</sup> See Danas, "Ko preti Romima u Bloku 67", 12 July 2010,

[http://www.danas.rs/danasrs/srbija/beograd/ko\\_preti\\_romima\\_u\\_bloku\\_67.39.html?news\\_id=194868](http://www.danas.rs/danasrs/srbija/beograd/ko_preti_romima_u_bloku_67.39.html?news_id=194868)

<sup>259</sup> *Environmental and Social Policy, European Bank for Reconstruction and Development*, May 2008.

<sup>260</sup> *The EIB Statement of Environmental and Social Principles and Standards*, 2009, para 6, p. 10.

<sup>261</sup> *The EIB Statement of Environmental and Social Principles and Standards*, 2009,

[http://www.eib.org/attachments/strategies/eib\\_statement\\_esps\\_en.pdf](http://www.eib.org/attachments/strategies/eib_statement_esps_en.pdf); *Environmental and Social Practices Handbook*, EIB, February 2010,

[http://www.eib.org/attachments/environmental\\_and\\_social\\_practices\\_handbook.pdf](http://www.eib.org/attachments/environmental_and_social_practices_handbook.pdf)

<sup>262</sup> CESCR, General Comment 4; CESCR, General Comment 7.

<sup>263</sup> For example: "international agencies should scrupulously avoid involvement in projects which, for example, involve the use of forced labour in contravention of international standards, or promote or reinforce discrimination against individuals or groups contrary to the provisions of the Covenant, or involve large-scale evictions or displacement of persons without the provision of all appropriate protection and compensation. [In addition] wherever possible, the agencies should act as advocates of projects and approaches which contribute not only to economic growth or other broadly defined objectives, but also to enhanced enjoyment of the full range of human rights.", CESCR, General Comment 2, para 6.

<sup>264</sup> See Concluding Observations of the CESCR: Ireland 05/06/2002, E/C. 12/1/Add.77 (Concluding Observations/Comments), at paragraph 37.

<sup>265</sup> For example: General Comment no. 14, on the right to the highest attainable standard of health asserts that 'States Parties have an obligation to ensure that their actions as members of international organisations take due account of the right to health' and that 'States parties which are members of international financial institutions, notably the International Monetary Fund, the World Bank and regional development banks, should pay greater attention to the protection of the right to health in influencing the lending policies, credit agreements and international measures of these institutions', CESCR, General comment No. 14, UN Doc. E/C.12/2000/4, 11 August 2000, para. 39. With respect to the right to adequate housing, the Committee has clarified that there is a duty on international financial institutions to ensure that measures they promote do not undermine the realisation of that right. CESCR, General Comment 4, para 19 states that: "International financial institutions promoting measures of structural adjustment should ensure that such measures do not compromise the enjoyment of the right to adequate housing".

<sup>266</sup> Letter from EBRD to Amnesty International, 18 May 2010.

<sup>267</sup> Letter from EIB to Amnesty International, 18 January 2011.







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# HOME IS MORE THAN A ROOF OVER YOUR HEAD

## ROMA DENIED ADEQUATE HOUSING IN SERBIA

In Serbia's capital Belgrade Roma are being forcibly evicted from informal settlements. These forced evictions are in breach of the right to adequate housing, and often result in violations of other human rights. The violations of their right to adequate housing range from the forced eviction of a single family by municipal authorities, to mass evictions of whole settlements in advance of infrastructure construction projects co-funded by international financial institutions. Some Roma families have been resettled in metal containers, segregated from the rest of the population. Others have been forced to return to inadequate housing and poverty in southern Serbia.

This report shows how widespread and systematic discrimination against Roma often gives them no choice but to live in informal settlements, where they have no security of tenure and are vulnerable to forced eviction.

Amnesty International urges the Serbian government to immediately stop all forced evictions, and ensure that any further evictions are carried out in accordance with the safeguards set out in international standards, including the guarantee of adequate alternative housing for all affected people. The organization calls on international funders of the infrastructure projects in Belgrade to ensure that any resettlements carried out in the context of urban development comply with international standards.

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