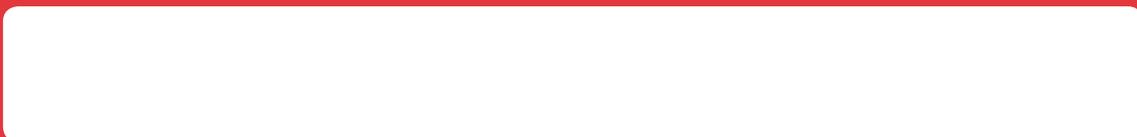


WRITTEN COMMENTS

OF THE EUROPEAN ROMA RIGHTS CENTRE CONCERNING SERBIA

for Consideration by the United Nations Committee Against Torture, at
the 72nd Session (8 November to 3 December 2021)



CHALLENGING DISCRIMINATION PROMOTING EQUALITY

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INTRODUCTION

The European Roma Rights Centre (hereinafter also referred to as the “ERRC”)¹ hereby submits this report to the United Nations Committee against Torture (hereinafter also referred to as “Committee”) for the consideration. The report documents issues of police ill-treatment and harassment of Roma in Serbia.

In its 2015 Concluding observations the Committee /C/SRB/CO/2 urged the State party to adopt the measures necessary to change the culture of impunity of torture by, inter alia:

- Amending the Criminal Procedure Code so that public prosecutors have a legal obligation to undertake prompt, effective and impartial investigations wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed as the result of the actions or omissions of State officials or persons acting in an official capacity, whether or not the victim has filed a formal complaint;
- Guaranteeing that complainants and victims are protected against ill-treatment or intimidation that may arise as a consequence of their complaint, are duly informed of the progress and results of their complaint and are able to exercise their right to judicial remedy and participation in proceedings whenever they disagree with the prosecution’s inaction;
- Duly bringing to trial alleged perpetrators of acts of torture or ill-treatment and, if they are found guilty, punishing them with penalties proportionate to the grave nature of their acts.

The ERRC remains concerned that the state party has not taken sufficient steps to address the above-mentioned issues. Therefore, the situation remains largely unchanged and the problems persist. Below please find (i) cases of ERRC cases of torture and degrading treatment, and (ii) other documented cases of police ill-treatment.

ERRC LEGAL CASES OF TORTURE AND DEGRADING AND INHUMAN TREATMENT

BELGRADE POLICE ILL-TREATMENT FOR ALLEGED CAR THEFT

A Romani man and his wife complained of being **abused by Belgrade police** on 21 April 2017, during interrogation after reporting their car as stolen. The couple was in police custody for almost thirteen hours. Police officers were threatening to imprison them and to take their children to an orphanage. The officers aimed a gun at a Romani man and put a bag over his head. Police did not allow the couple to call their lawyer and after subjecting them to a polygraph test, the officers coerced them into signing documents they had not read and could not take away with them.

The couple filed a criminal complaint against NN officers with the First Belgrade Basic Public Prosecutor’s Office on 9 May 2017. One year later, in May 2018, public prosecutor rejected the criminal complaint. The couple’s lawyer filed an appeal with the Belgrade Higher Public Prosecutor’s Office who rejected the appeal and upheld the first instance decision. The couple complained to the Serbian Constitutional Court in October 2018 and the case is still pending.

Concerning the same event, the man and his wife brought a civil discrimination claim against the Ministry of Interior before Belgrade Higher Court on 1 August 2017. In July 2020, the court rendered a **first instance judgment establishing discrimination** based on ethnic belonging and awarding non-pecuniary damages.

MLADENOVAC POLICE VIOLENCE AGAINST A ROMANI BOY

On 23 June 2019, around 21 hours, a 14-year old Romani boy D.D. was assaulted in Mladenovac on the street by a police officer. Romani boy was on the street with his minor cousin when they were shouting out some words with

¹ The ERRC is an international public interest law organisation working to combat anti-Romani racism and human rights abuse of Roma through strategic litigation, research and policy development, advocacy and human rights education. Since its establishment in 1996, the ERRC has endeavoured to provide Roma with the tools necessary to combat discrimination and achieve equal access to justice, education, housing, health care and public services. The ERRC has consultative status with the Council of Europe, as well as with the Economic and Social Council of the United Nations. Visit us at: www.errc.org.

an idea to draw attention of the girls across the street. Two police officers who were patrolling the street, thought that boys were shouting at them. One of the officers approached D.D., grabbed him by his arm and dragged him to the side where he kicked the boy twice with his knee; boy collapsed on the ground. Police officers put the boy in patrol car, drove to the local police station but kept him outside, waiting for the boy's father to arrive.

In July 2019, the boy's attorney filed a criminal complaint with the Mladenovac Basic Public Prosecutor's Office against two police officers for several criminal offences, including criminal offence of torture and inhuman and degrading treatment. In June 2020 public prosecutor's office dismissed the complaint. Following the attorney's appeal, the Belgrade Higher Public Prosecutor's Office ordered reopening of the investigation into allegations of police ill-treatment. The case is pending.

NOVI SAD POLICE BRUTALITY AGAINST A BOY

A fifteen year-old Romani boy was badly beaten by the police during a local fair at the nearby village on 12 July 2011. The boy was taken into custody in Novi Sad, where the police tried to extort a confession from him for robbery. The ERRC provided support to the victim and his family to bring legal proceedings against the police officers who failed to investigate the matter properly.

The criminal complaint against police officers was filed in August 2011. After unsuccessful domestic procedure before the Higher Public Prosecutor's Office in Novi Sad and Higher Court in Novi Sad who refused to open an investigation, a complaint to the Constitutional Court was filed in January 2014. After three and a half years later, the Constitutional Court dismissed the complaint as ill-founded. Since 2018 the case is pending before the European Court of Human Rights.

POLICE BRUTALITY AGAINST TWO ROMANI BROTHERS

In November 2012 two Romani brothers, who have been regularly harassed by the local police, were taken to the police station where were beaten after being suspected of theft. The younger brother, who was a minor at the time, had a burst hernia and was taken for an emergency operation.

In February 2013 the victims' lawyer filed a criminal complaint with the Basic Public Prosecutor's Office in Novi Sad against several police officers. Due to ineffective investigation into allegations of ill-treatment, the victims filed a constitutional complaint in September 2018 and the case is still pending before the Constitutional Court. In June 2019, Basic Public Prosecutor's Office in Novi Sad had, for the second time, rejected complaints of police violence and unlawful arrest. The victims' lawyer appealed, and the case is pending before the Higher Public Prosecutor's Office in Novi Sad.

ASSAULT ON A ROMANI BOY BY LOCAL OFFICIAL

In July 2017, in the City of Valjevo, a nine-year old Romani boy was attacked by a municipal official while playing music outside of the City Hall in public square. The local official first threatened the boy and his sister and then took the boy by his face with one hand and hit him on the other cheek. As a result, the boy has suffered fear and psychological trauma. Police informed the public prosecutor.

In November 2016 the Basic Public Prosecutor's Office in Valjevo decided to apply the principle of opportunity, ordered the local official to pay the amount of approximately 300 euros to charity and dismissed the criminal complaint against him. In December 2016, the victim's family filed a complaint with the Constitutional Court arguing that the public prosecutor failed to conduct an effective investigation into allegations of physical assault on a child, including any biased motive, by public official. The case is still pending before the Constitutional Court.

POLICE VIOLENCE IN SOCIAL HOUSING IN BELGRADE

During a child's birthday celebration in July 2014, nine police officers entered a Roma family's apartment and started to randomly beat people who were inside, based on a complaint about loud music. The incident took place in a block of social housing flats. It appears that the police cut the power before going in with electric

torches; several of the family members are visually impaired. Members of the family were taken into custody. The victims' lawyer filed a criminal complaint and the case is still pending before public prosecutor.

DOCUMENTED CASES OF POLICE ILL-TREATMENT

On 7 January 2019 three Romani men were accused of writing "UČK" (Kosovo Liberation Army) in the snow on the windows of the car parked in front of an apartment building in a residential neighbourhood in Belgrade. Under accusations of not having their identity cards with them, police took them to the station where they were beaten and forced to confess the alleged offence. While in police custody for several hours, three men were hit and kicked in the face, ribs, had a plastic bag put over their head, thrown against the wall and furniture and were threatened with different objects, including bats and electric devices. Straight from the police station, these men were taken before the misdemeanour court where they were immediately sentenced to 50 days in prison for misdemeanour offences "disturbing public order" and "begging". At the same time, they were sentenced to a 45-euro fine for not carrying an ID card; sentence that was immediately transformed into prison sentence of five days due to alleged failure to pay the fine on the spot. From the court, the men were transferred to prison from which they were released on 15 January 2019 following the decision of the Belgrade Misdemeanour Appeal Court which cancelled the first instance court decision.

19th/20th April – Vidikovac Roma neighbourhood, Čukarica, Belgrade

On the night of Easter Sunday, at about 11:20pm, a 24-year-old Romani man was in front of his home chopping wood with an axe. He heard a commotion and saw several police officers running towards him. Without any warning or explanation, four officers pushed him to the ground and started kicking him. Shortly after, another four officers appeared and joined in. His wife and several neighbours witnessed the beating. The officers asked for his name; when he replied they said: "you're the one". They continued to hit him for several minutes then handcuffed him and placed him in a police car. Romani man resisted because he felt there was no reason to assault or arrest him. Police confiscated his axe, as he had allegedly tried to assault officers, then took him to Rakovica Police Station where he was questioned by a police inspector. The inspector physically assaulted the Romani man and pressured him to confess to robbing a vending machine in front of a nearby kiosk. Subsequently, he was placed in a cell where several police officers took turns in beating him, whilst also pressuring him to confess to the crime. Romani man refused to confess as he had no involvement in the crime, he had spent the entire day at home and insisted that the police show him any evidence against him. Romani man told them that there were two boys in the settlement with the same name and that it could be them who they are looking for. While at the police station, he asked for medical help but was denied under argument that his health is good. During the approximately 10 hours he spent in custody, he was not given any food or drink. The following day, at 10:00am, Romani man was taken to the misdemeanour court, although he cannot identify to which one. He had a hearing before a judge who fined him 50,000 dinars (425 EUR) for violation of police curfew. He complained to the court of police violence, but the judge responded that it was not of his concern and that he was there only to sign documents. His shirt was torn and his body visibly bloodied while he was standing in the courtroom.

22nd April – Požega

According to information gathered on the ground by the ERRC, police officers entered a Romani neighbourhood in Požega at around 7pm to find a Romani man who was on a wanted list. According to witnesses, when they found him, four police officers severely beat him before taking him into custody. Later at around 10pm, five police cars returned to the neighbourhood and stopped on Bana Milutina Street in front of the house of Srdjan Spasojević the cousin of the wanted man, who had earlier tried to defend his cousin from the police attack. More than 15 police officers armed with batons entered into the house, dragged him outside and started kicking him and beating him with their batons in front of his neighbours who came out of their homes. The officers threatened to kill him and kill his dog that was tied up in the yard. From there he was taken to a detention unit in the town of Užice, some 20km away from Požega. A lawyer was not granted permission to see him and document any visible injuries due to restrictions the police justified by Covid-19 safety measures. Local activists say none of his family were allowed to visit him. After he was released, a Belgrade based NGO provided legal aid and filed a criminal complaint.

10th/11th May – 'Crvena Zvezda' Roma neighbourhood, Niš

On the night of 10th May, police reported noise and loud music coming from a house in the Crvena Zvezda neighbourhood. The police intervened and according to witnesses used excessive force to arrest a Romani man.

The Niš Police Department say that officers found a 27-year-old man in front of his house, who refused to show his ID card upon request. The officers report that he then started insulting and cursing them, before attacking them when the police patrol ordered him to go with them. Officers say he punched one in the stomach, scratched the other, and tore the uniforms of both of them. As he was resisting arrest the police officers admit using force to bring him in to the police station. Witnesses dispute this version of events. The man was brought to the station with scratches on his left arm, knee and behind his ear. The Police Administration announced that the facts and circumstances of this event are being determined, and if omissions from the attending officers' narrative are determined, measures will be taken in accordance with the law.