

ECRI REPORT ON SERBIA

(fourth monitoring cycle)

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FOREWORD

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

In the framework of its statutory activities, ECRI conducts country-by-country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work is taking place in 5 year cycles, covering 9/10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, and those of the third round at the end of the year 2007. Work on the fourth round reports started in January 2008.

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

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

The fourth round country-by-country reports focus on implementation and evaluation. They examine the extent to which ECRI's main recommendations from previous reports have been followed and include an evaluation of policies adopted and measures taken. These reports also contain an analysis of new developments in the country in question.

Priority implementation is requested for a number of specific recommendations chosen from those made in the new report of the fourth round. No later than two years following the publication of this report, ECRI will implement a process of interim follow-up concerning these specific recommendations.

The following report was drawn up by ECRI under its own and full responsibility. It covers the situation up to 9 December 2010 and any development subsequent to this date is not covered in the following analysis nor taken into account in the conclusions and proposal made by ECRI.

SUMMARY

Since the publication of ECRI's first report on Serbia on 29 April 2008, progress has been made in a number of fields covered by that report.

The Law on the Prohibition of Discrimination was adopted in Serbia on 26 March 2009 and came into force on 27 April 2009. The law prohibits discrimination on the grounds of, inter alia, skin colour, citizenship, national affiliation or ethnic origin, language, religious beliefs. The law prohibits direct and indirect discrimination as well as victimisation, racist organisations, hate speech, harassment and humiliating treatment. This law also provides for special measures.

Article 13 of the Law on the Prohibition of Discrimination lists a number of severe forms of discrimination which include: 1) incitement to hatred on the grounds of national, racial or religious affiliation and language; 2) advocating or exercising discrimination on the part of state organs or in the course of proceedings conducted before state organs; 3) advocating discrimination through public organs; 4) slavery, trafficking in human beings, apartheid, genocide, ethnic cleansing, as well as advocating any of the above; 5) discrimination against individuals on the basis of two or more personal characteristics; 6) discrimination that is committed a number of times (repeated discrimination) or is committed over an extended period of time (extended discrimination) against one and the same individual or a group of persons, and 7) discrimination that results in severe consequences for the individual discriminated against.

ECRI is pleased to note that overall, the Law on the Prohibition of Discrimination is broadly in keeping with ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

On 5 May 2010, the Commissioner for the Protection of Equality was elected by the Serbian Parliament. The institution of the Commissioner for the Protection of Equality is provided for by the Law on the Prohibition of Discrimination as an independent state organ entrusted with monitoring compliance with this piece of legislation. The Commissioner's powers include taking action when cases of discrimination occur whether against individuals or groups of individuals. The Commissioner can bring cases to court.

Since ECRI's first report, the Serbian authorities have adopted a Strategy for the Improvement of the Status of Roma which includes measures in the areas of education, employment, displaced persons, personal documents, social insurance and social care, healthcare, etc. This strategy has an action plan which defines goals in these areas as well as concrete measures for implementing them.

In 2008, the Office of Human and Minority Rights was upgraded to the level of a Ministry. The Ministry has among other tasks the coordination and monitoring the 13 step action plan established under the Strategy for the Improvement of the Status of Roma in the Republic of Serbia adopted in 2009. The Ministry is moreover in charge of monitoring the implementation of the Law on the Prohibition of Discrimination.

ECRI welcomes these positive developments in Serbia. However, despite the progress achieved, some issues continue to give rise to concern.

The declaration of independence of Kosovo¹ on 17 February 2008 changed the political climate drastically in Serbia as far as issues related to ECRI's mandate are concerned. Since then, reaction to this situation caused negative consequences for some vulnerable groups in Serbia.

The Law on Churches and Religious Communities still discriminates between "traditional" churches and religious communities and non-traditional ones. Moreover, registration with previously recognised minority religious communities still having to re-register in what has been described as an invasive and burdensome procedure.

The Law on Restitution of Property to Churches and Religious Communities still provides only for the restitution of property confiscated in 1945 or later.

The practice of courts regarding racist crimes is problematic as there are no statistics and few prosecutions and where there are prosecutions, the sentences meted out are usually low, consisting mainly of fines for very small amounts. Furthermore, on the issue of hate speech, the current criminal legislation does not include a specific provision on hate speech. Although the Law on Public Information and the Law on the Prohibition of Discrimination contain provisions on hate speech, the wording of the existing provisions makes it difficult to prosecute such acts.

Although it is broadly in keeping with ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, the Law on the Prohibition of Discrimination does not forbid discrimination in the areas of health, housing, and social protection as advocated in paragraph 7 of General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination.

The Commissioner for the Protection of Equality who was elected on 5 May 2010 by the Serbian Parliament, still does not have staff.

Roma continue to face high unemployment levels and discrimination in education as well as sub-standard living conditions. Roma have further been the victims of forced evictions, in and around Belgrade, and these occur with no consultation with the Roma families involved. Moreover, the health situation of many Roma remains worrying and there remains a significant number of Roma without identity papers.

The situation of Roma, Ashkali and Egyptian internally displaced remains precarious; their living conditions are generally extremely poor. Moreover, most Roma, Ashkali and Egyptian children face obstacles in accessing public education and many who can enrol subsequently drop out. Roma, Ashkali and Egyptian school children face prejudice, verbal abuse and violence. Lack of personal documentation prevents many from enrolling.

Very few measures have been taken to provide employment in the Preševo, Bujanovac and Medveda region where the majority of Albanians live; more than 70% of economically active people are unemployed in the region. Moreover, Albanians remain underrepresented in the judiciary and in state owned institutions in the region.

As concerns antisemitism, despite numerous measures taken by representatives of the Jewish community to bring antisemitic acts to the authorities' attention, including at the highest level, and to have the perpetrators brought to court, nothing has been done.

¹ All reference to Kosovo, whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo. The situation in Kosovo as pertains to ECRI's mandate is not covered by this report.

As concerns the Bosniak community, they suffer from a high unemployment rate, and the infrastructure in the Sandžak region where the majority of the Bosniak community live is not of good standard.

In this report, ECRI requests that the Serbian authorities take further action in a number of areas; in this context, it makes a series of recommendations, including the following.

ECRI strongly recommends that the Serbian authorities amend the Law on Churches and Religious Communities in order to remove any difference in treatment between the various churches and religious communities living in Serbia.

ECRI recommends that the Serbian authorities ensure a more vigorous implementation by the courts of the criminal law provisions against racist crimes.

As concerns the Law on the Prohibition of Discrimination, ECRI recommends that the Serbian authorities provide initial and on-going training to judges and prosecutors on this law. ECRI further recommends that the Serbian authorities take measures to make this law known by the public in general and by minority groups in particular. ECRI recommends that the Law on the Prohibition of Discrimination be amended to forbid discrimination in the areas of health, housing and social protection.

ECRI strongly recommends that the Serbian authorities strengthen the institution of the Commissioner for the Protection of Equality by ensuring that it has the human and financial resources to function effectively.*

ECRI recommends that the Serbian authorities ensure that the Ombudsman has sufficient resources to carry out his tasks. ECRI further recommends that awareness-raising campaigns be carried out amongst minority groups to ensure that they are aware of the existence of the Ombudsman and of his powers. ECRI recommends that the Serbian authorities give greater independence to the Ombudsman as recommended in its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

ECRI recommends that the Serbian authorities allocate sufficient human and financial resources to the various programmes designed to improve the employment situation of Roma, including the Strategy for Improvement of the Status of Roma. It further recommends that these programmes be implemented in consultation with Roma representatives.

With regard to teacher training, ECRI strongly recommends that the Serbian authorities continue and reinforce the training provided to teachers on issues of racism and racial discrimination. ECRI recommends that the Serbian authorities provide all teachers with initial and on-going training on the provisions of the Law on the Foundations of the Education System dealing with equality and non-discrimination.

ECRI strongly recommends that the Serbian authorities take measures to improve the situation of internally displaced Roma, Ashkali and Egyptian by providing them with identity papers and ensuring that they have access to housing, education and employment. ECRI recommends that the necessary human and financial resources be allocated to any measures taken in this regard.

ECRI recommends that the Serbian authorities ensure that the training provided to the judiciary on issues of racism and racial discrimination is strengthened in order to, inter alia, ensure better sentencing practices for racist crimes.*

ECRI urges the Serbian authorities to take immediate measures to ensure that Roma, Ashkali and Egyptians who do not have identity documents are provided with them.*

* The recommendation in this paragraph will be the subject of a process of interim follow-up by ECRI no later than two years after the publication of the report.

FINDINGS AND RECOMMENDATIONS

I. Existence and Implementation of Legal Provisions

International legal instruments

1. In its first report, ECRI recommended that Serbia ratify the Revised European Social Charter, the Convention on the Participation of Foreigners in Public Life at Local Level and the European Convention on Nationality. ECRI also recommended that Serbia ratify the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
2. Serbia ratified the Revised Social Charter on 14 September 2009 and this instrument entered into force in the country on 1 November 2009. Serbia ratified the Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems on 14 April 2009 and these instruments entered into force in Serbia on 1 August 2009.
3. Serbia has not yet ratified the Convention on the Participation of Foreigners in Public Life at Local Level nor has it ratified the European Convention on Nationality. Serbia has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Serbian authorities have informed ECRI that in principle, they have no objection to the ratification of these instruments.
4. ECRI recommends that Serbia ratify, as soon as possible, the Convention on the Participation of Foreigners in Public Life at Local Level, the European Convention on Nationality and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Constitutional provisions and other basic provisions

- *The Constitution*

5. In its first report, ECRI recommended that the Serbian authorities ensure that no legal consequences detrimental to the national or ethnic groups making up the population of Serbia arise in practice from Article 1 of the Constitution.
6. Article 1 of the Constitution still provides that: "Republic of Serbia is a state of Serbian people and all citizens who live in it [...]" thus indirectly distinguishing between a native population (Serbs) and other citizens, as noted in the report on Serbia. ECRI is not aware of any measures taken by the Serbian authorities to ensure that no legal consequences detrimental to the national or ethnic groups making up the population arose in practice from this article.

- *Law on Churches and Religious Communities*

7. In its first report, ECRI urged the Serbian authorities to amend the Law on Churches and Religious Communities to bring it fully into line with international and European standards on the right to freedom of thought, conscience and religion. It strongly recommended on this point that they take into account, amongst others, of the comments made by international organisations and NGOs which were not taken into account when the law was enacted. In the meantime, ECRI strongly recommended that the Serbian authorities avoid applying the law in an arbitrary fashion.

8. ECRI notes with concern that the Law on Churches and Religious Communities has not been amended. As noted in ECRI's first report on Serbia, Article 10 of the law continues to automatically recognize 5 "traditional" churches (the Serbian Orthodox Church, the Roman Catholic Church, the Slovak Evangelical Church, the Christian Reformed Church and the Evangelical Christian Church) and 2 "traditional" religious communities, i.e., the Islamic community and the Jewish community. The procedure for registration of religions also remains the same, with previously recognised minority religious communities still having to re-register in what has been described as an invasive and burdensome procedure. Articles 17 to 25 of this Law thus still provide that no religious organisation the name of which contains a name or part of a name expressing the identity of a church, religious community or religious organisation that has already been entered in the register or has submitted an application for entry beforehand shall be registered. Article 18 provides that religious communities that are not considered "traditional" have to supply a memorandum with the names and signatures of the founders comprising at least 0.001% of adult citizens of Serbia who are resident in Serbia according to the most recent official population census, or foreign citizens with permanent residence on the territory of Serbia. In practice, this amounts to 100 persons.
 9. Although registration is not mandatory for religious communities, those who do not register encounter considerable difficulties when opening a bank account, purchasing or selling property, publishing their literature or employing anyone. Reports indicate that many of the religious groups which are required to register had been recognised officially for more than 50 years and present in the country for as long as 150 years. Reports further indicate that minority religious groups reported confusion and irregularities after attempting to register with the Ministry of Religion, which at times failed to register within the legal 60-day limit. The Serbian authorities have informed ECRI that 10 religious communities were registered since ECRI's first report, including Jehovah's Witnesses. This is a positive development, but civil society actors have informed ECRI that some religious communities which have been active in Serbia for decades have encountered considerable difficulties in registering. ECRI notes that the constitutionality of the Law on Churches and Religious Communities was challenged before the Constitutional Court on 5 October 2010. Furthermore, the Ombudsman¹ has informed ECRI that it has given an opinion on this law and found 11 cases where there may be a violation of the Constitution or discrimination in its implementation.
 10. ECRI strongly recommends that the Serbian authorities amend the Law on Churches and Religious Communities in order to remove any difference in treatment between the various churches and religious communities living in Serbia.
- *Law on the Restitution of Property to Churches and Religious Communities*
11. In its first report, ECRI strongly recommended that the Serbian authorities ensure that all religious communities enjoy the right to restitution of their property, without any distinction whatsoever and irrespective of the date on which they were deprived of their property.
 12. The Law on Restitution of Property to Churches and Religious Communities still provides only for the restitution of property confiscated in 1945 or later. This continues to pose a problem to Jewish and Islamic communities who lost property before 1945. The Serbian authorities have informed ECRI that the law provides for the restitution of movable and immovable property. Jewish and

¹ For more information on the Ombudsman, see "Anti-discrimination bodies and other institutions" below.

Muslim representatives stated that there is discrimination in the restitution of property. It is also to be noted that unregistered religious communities are ineligible to seek property restitution.

13. ECRI recommends that the Serbian authorities amend the Law on the Restitution of Property to Churches and Religious Communities to ensure that property confiscated before 1945 is restituted. Furthermore, ECRI strongly urges the Serbian authorities to ensure that the restitution of property is conducted satisfactorily and without discrimination.

Criminal law provisions against racism

14. In its first report, ECRI strongly recommended that the Serbian authorities ensure that the perpetrators of racist and antisemitic acts are brought to justice in order to combat any impunity in that area.
15. In January 2008, the police filed criminal charges against several neo-Nazis, including their leader, for violent behaviour and spreading racial hatred during an unauthorised rally in Novi Sad in the Autonomous Province of Vojvodina in October 2007. However, generally, it appears that few cases are brought to court for racist crimes although these occur frequently². ECRI was informed by civil society actors that the practice of courts regarding racist crimes is problematic as there are no reliable statistics and few prosecutions and where there are prosecutions, the sentences meted out are usually low, consisting mainly of fines for very small amounts. Civil society actors also indicate that both police and prosecutors are increasingly reluctant to press charges under Article 317 of the Criminal Code which prohibits incitement of national, racial and religious hatred and intolerance. Reports further indicate that police response to vandalism and other such acts against religious groups³ rarely result in arrests or indictments.
16. Article 387 of the Criminal Code was amended in September 2009 and racist discrimination was introduced as a criminal offence. Moreover, under the Criminal Code, the publication and dissemination of texts inciting racial hatred shall be punished by imprisonment of 3 to 5 years.
17. Although the Law on Public Information and the Law on the Prohibition of Discrimination⁴ contain provisions on hate speech, the wording of the existing provisions makes it difficult to prosecute the perpetrators of such acts and the first court case of hate speech was heard only in 2009. Moreover, the Criminal Code of Serbia does not explicitly enable the racist motive of an offender to be taken into consideration by the courts as an aggravating circumstance, although ECRI was informed by the authorities that the courts are increasingly taking the racist motivation of a crime into consideration. The implementation of the law also seems to be selective, as highlighted for instance in the case of many criminal charges brought against alleged antisemitic acts not being processed.
18. ECRI recommends that the Serbian authorities ensure a more vigorous implementation by the courts of the criminal law provisions against racist crimes. ECRI further recommends that the Serbian authorities ensure that the racist motivation of a crime be included in the Criminal Code as an aggravating circumstance. ECRI recommends that the Serbian authorities seek guidance from its General Policy Recommendation No.7 on national legislation to combat racism and racial discrimination when implementing these amendments.

² See "Racial Violence" below for more information on racist crimes.

³ For more information on religious minorities, see "Vulnerable/Target Groups" below.

⁴ For more information on this piece of legislation see "The Law on the Prohibition of Discrimination" below.

Law on the Prohibition of Discrimination

19. In its first report, ECRI recommended that the Serbian authorities draw inspiration from the guidelines established in its General Policy Recommendation No.7 on national legislation to combat racism⁵ and racial discrimination⁶ in order to finalise and enact as soon as possible an exhaustive and precise legislation which prohibits racial discrimination, by ensuring that areas such as education, access to housing, to public services and to public places as well as contractual relationships between individuals are covered.
20. The Law on the Prohibition of Discrimination which was adopted on 26 March 2009 and came into force on 27 April 2009 prohibits victimisation⁷, racist organisations⁸, hate speech⁹ as well as harassment and humiliating treatment.¹⁰ Article 13 of the Law lists a number of “severe forms of discrimination” which include: 1) incitement to hatred on the grounds of national, racial or religious affiliation and language; 2) advocating or exercising discrimination on the part of state organs or in the course of proceedings conducted before state organs; 3) advocating discrimination through public organs; 4) slavery, trafficking in human beings, apartheid, genocide, ethnic cleansing, as well as advocating any of the above; 5) discrimination against individuals on the basis of two or more personal characteristics; 6) discrimination that is committed a number of times (repeated discrimination) or is committed over an extended period of time (extended discrimination) against one and the same individual or a group of persons, and 7) discrimination that results in severe consequences for the individual discriminated against.
21. Article 14 provides for special measures, Article 15 prohibits discrimination in the course of proceedings conducted before public administration organs and Article 16 prohibits discrimination in the sphere of labour. Article 17 prohibits discrimination in the provision of public services and in the use of premises and spaces, Article 18 prohibits religious discrimination and Article 19 prohibits discrimination in the sphere of education and professional training. Article 24 forbids discrimination against national minorities. Article 25 provides that limitations pertaining to persons performing certain state functions, as well as limitations necessary to prevent advocating or pursuing fascist, Nazi or racist activities shall not be considered to constitute discrimination.
22. Overall the Law on the Prohibition of Discrimination is broadly in keeping with ECRI’s General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination. However, it does not forbid discrimination in the areas of health, housing, and social protection as advocated in paragraph 7 of General Policy Recommendation No. 7.
23. The law establishes the Commissioner for the Protection of Equality¹¹ as an “independent state organ” entrusted with monitoring compliance with it.

⁵ According to this General Policy Recommendation, racism is the belief that a ground such as “race”, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of superiority of a person or a group of persons.

⁶ According to this General Policy Recommendation, racial discrimination is any differential treatment based on a ground such as “race”, colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

⁷ Article 9

⁸ Article 10.

⁹ Article 11.

¹⁰ Article 12.

¹¹ For more information on the Commissioner for the Protection of Equality, see « Anti-discrimination bodies and other institutions » below.

24. Civil society actors have informed ECRI that the Law on the Prohibition of Discrimination is rarely implemented and that the courts and public prosecutor act very rarely on cases of racial discrimination. Although the authorities have informed ECRI that judges receive initial training on racial discrimination, it does not appear that judges and prosecutors have been given systematic and widespread training¹² on the Law on the Prohibition of Discrimination. ECRI is not aware of any measures taken by the authorities to disseminate this law to the public in general and members of national and ethnic minority groups in particular.
25. ECRI strongly recommends that legislation be introduced to forbid discrimination in the areas of health, housing and social protection.
26. ECRI recommends that the Serbian authorities provide systematic and widespread initial and on-going training to judges and prosecutors on the Law on the Prohibition of Discrimination. ECRI further recommends that the Serbian authorities take measures to make this law known by the public in general and by minority groups in particular.

Anti-discrimination bodies and other institutions

- *Commissioner for the Protection of Equality*
27. On 5 May 2010, the Commissioner for the Protection of Equality was elected by the Serbian Parliament as provided for by the Law on the Prohibition of Discrimination. The Commissioner's powers include taking action when cases of discrimination occur whether against individuals or groups of individuals. When the Commissioner makes a finding of discrimination, she can give her opinion and then make a recommendation addressed to the discriminator and give the latter a deadline to remove the effects of the discrimination. If the discriminator does not act, he/she is given a warning and if nothing changes after the warning, the Commissioner can make public what has transpired. The Commissioner has informed ECRI that she can bring cases to court, either to the misdemeanour court where the discriminator can be fined or she can be a party to a civil suit with the consent of the person who has been discriminated against. The Law on the Prohibition of Discrimination provides that it is also the role of the Commissioner to bring cases of serious discrimination to the attention of the public.
28. The Commissioner for the Protection of Equality still does not have staff, nor proper offices; she has recruited several persons on short term contracts and is currently occupying an office at the Ombudsman's premises. The Commissioner has informed ECRI that she has received 57 complaints since May 2010, one-third of which were unfounded and the remaining two-thirds deal with labour law and employment issues. As for measures taken to raise public awareness of her existence, the Commissioner has informed ECRI that she is creating a website. It therefore appears that more needs to be done to ensure a fully functioning institution of the Commissioner for the Protection of Equality.
29. ECRI strongly recommends that the Serbian authorities strengthen the institution of the Commissioner for the Protection of Equality by ensuring that it has the human and financial resources to function effectively.
30. ECRI recommends that the Serbian authorities ensure that the Commissioner for the Protection of Equality is known by the population in general and by minority groups in particular.

¹² For more information on the training of judges, see « Administration of justice » below.

- *Protector of Citizens (Ombudsman)*

31. In its first report, ECRI recommended that the Serbian authorities ensure that the Ombudsman's office is operational as soon as possible by providing it with the necessary resources as well as premises of its own, and by ensuring that his deputies are elected as soon as possible. ECRI also recommended that they ensure that he has sufficient resources to deal with issues relating to racial discrimination and the rights of national or ethnic minorities, to enable him to be present at local level and to co-operate with regional ombudsmen.
32. The office of the Ombudsman has informed ECRI that it has the power to propose laws and/or amendments to existing legislation. The Ombudsman also has the power to propose the removal from office of a person who has failed or not acted in the protection of human and minority rights.
33. The office of the Ombudsman has informed ECRI that it has settled in a temporary building and that in the near future it will have to find a final solution to the problem of premises. The office of the Ombudsman currently has 60 staff members, but it considers that it needs more qualified staff members to deal with the complaints it receives. The Ombudsman has informed ECRI that employees working in his office are competent to work on complaints, but that they require permanent professional and specialised training.
34. ECRI is informed that there is a need to increase its independence and broaden the scope of the Ombudsman's work. Since ECRI's first report, the office of the Ombudsman has elected deputies including a deputy on national minorities. In addition to drafting recommendations, this deputy promotes minority rights through the monitoring of the implementation of existing legislation as well as by analysing and making proposals to national authorities on the way of improving their situation.
35. The Ombudsman has informed ECRI that in 2009, he received 66 complaints on violations of national minority rights. Of these, 12 complaints were submitted by national minority national councils. In 2010, there were 95 complaints regarding the violation of minority rights. ECRI is pleased to note that the Ombudsman has recently opened offices in Southern Serbia where Albanians¹³ are in the majority.
36. ECRI recommends that the Serbian authorities ensure that the Ombudsman has sufficient resources to carry out his tasks. ECRI further recommends that awareness-raising campaigns be carried out amongst minority groups to ensure that they are aware of the existence of the Ombudsman and of his powers.
37. ECRI recommends that the Serbian authorities clarify the competencies of the Commissioner for the Protection of Equality and those of the Ombudsman in line with its General Policy Recommendation No.2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

- *Ministry of Human and Minority Rights (formerly the Office of Human and Minority Rights)*

38. In its first report, ECRI recommended that the Serbian authorities clarify the status of the Office for Human and Minority Rights and improve its capacity to accomplish its tasks by granting it the necessary human and financial resources to that end. ECRI also recommended that the Serbian authorities promote better cooperation between the Office and NGOs and civil society in the protection of

¹³ For more information on the situation of the Albanian minority, see « Vulnerable/Target Groups » below.

human rights in general and the protection of minority rights and combating racial discrimination in particular.

39. In 2008, the Office of Human and Minority Rights was upgraded to the level of a Ministry. The Ministry has among other tasks the coordination and monitoring the 13 step action plan established under the Strategy for the Improvement of the Status of Roma in the Republic of Serbia adopted in 2009. In 2009, the Ministry allocated 5,5 million Euros to this plan. This ministry has also been performing administration activities relating to the protection and promotion of human and minority rights and anti-discriminatory policy. More specifically, the Ministry carries out the following tasks: 1) keeping the register of national councils of national minorities; 2) election of the national councils of national minorities; 3) protection and promotion of human and minority rights; 4) elaboration of regulations on human and minority rights and 5) maintaining links between national minorities and their kin state. Within the framework of these tasks, the Ministry deals with Human Rights education, Roma education and enrolment in schools, Roma registration, improvement of inter-ethnic relations in Vojvodina, awareness-raising campaigns. The Ministry is moreover in charge of monitoring the implementation of the Law on the Prohibition of Discrimination.

- *Ombudsman of the Autonomous Province of Vojvodina*

40. In its first report, ECRI recommended that the Serbian authorities ensure that anyone who so wishes is able to file a complaint with the Ombudsman's office without undue restrictions. It recommended that they ensure that the legislation on the Vojvodina Ombudsman is amended accordingly. In addition, it strongly recommends that they ensure that the office has a budget which is commensurate with its tasks and is sufficient to enable it to operate independently.

41. The office of the Ombudsman of the Autonomous Province of Vojvodina has informed ECRI that it has modest funds. The organisational chart of the Ombudsman provides for 27 posts, of which 20 have been filled so far. The Ombudsman has the power to make recommendations and to take a person to court. The Ombudsman has informed ECRI that in 2009, it received 25 complaints concerning discrimination and that in 2010 this number rose to 40. It considers that the increase in complaints received is due to an increased awareness of its existence.

42. ECRI notes that the requirement that all legal remedies be exhausted before a complaint is submitted before the Ombudsman of the Autonomous Province of Vojvodina still exists. However, this requirement can be derogated from as the Ombudsman may get involved in proceedings or an investigation if there is a such a need.

43. ECRI recommends that the Serbian authorities ensure that the office of the Ombudsman of the Autonomous Province of Vojvodina has enough human and financial resources to carry out its tasks.

II. Discrimination in Various Fields

Employment

44. In its first report, ECRI encouraged the Serbian authorities to continue taking measures to better integrate Roma in the employment sector. It recommended that they ensure, in cooperation with NGOs, that Roma are informed about the programmes put in place to combat unemployment among the most vulnerable groups. ECRI also recommended that the Serbian authorities provide the necessary human and other financial resources to support the Roma employment measures they had introduced.
45. Roma in Serbia continue to suffer from a high unemployment rate, low economic activity and almost total exclusion from the public sector. There are almost no Roma in public and state-owned companies, indicating a pattern of discrimination. Roma representatives have confirmed to ECRI that there is discrimination against Roma in the employment sector. They have noted cases where Roma who present themselves for job interviews are informed that the position has been filled and a few cases of discriminatory job advertising. The majority of Roma are outside the employment system, they are not legally economically active and are mostly registered as unemployed. When employed, they seem to perform rather difficult and dangerous jobs with a low salary. The majority of Roma households depend on low income obtained mostly from seasonal work such as agriculture and construction or collecting scrap metal for recycling. Employed Roma reportedly earn 48% less than the majority. Roma who live in unregistered settlements find it difficult to register with the National Employment Service in their local area. Societal discrimination further compromises employment perspectives while a lack of formal education is a predominant barrier to gaining full employment. Although the National Strategy for Employment (2005-2010) and the National Action Plan for Employment (2006-2008) have programmes specifically designed for Roma, there has been little impact on the community and Roma remain the most poverty stricken group in Serbia. As indicated above¹⁴, in 2009, the Serbian authorities adopted a Strategy for Improvement of the Status of Roma which has established among its priorities increasing the number of Roma employed in local and government administration and the integration and reintegration of Roma into the labour market. It is as yet too early to assess the impact of this strategy.
46. Members of Albanian and Bosniak minorities also face considerably higher rates of unemployment compared to majority population and are underrepresented in government offices. Representatives of these communities consider that this is a structural problem, resulting from a combination of discrimination in education and employment.
47. ECRI recommends that the Serbian authorities allocate sufficient human and financial resources to the various programmes designed to improve the employment situation of Roma, including the Strategy for Improvement of the Status of Roma. It further recommends that these programmes be implemented in consultation with Roma representatives.
48. ECRI recommends that the Serbian authorities take measures to combat the discrimination which Roma face in the employment sector, including by ensuring that the relevant legislation is applied in cases of discrimination.
49. ECRI recommends that the Serbian authorities address the issue of structural discrimination in employment and develop policies to provide equal opportunity,

¹⁴ See, "Ministry for Human and Minority Rights"

and, if necessary, positive measures to redress the imbalance in unemployment among various groups.

Education

50. In its first report, ECRI recommended that the Serbian authorities provide all teaching staff with initial and on-going training in the provisions of the Law on the Foundations of the Education System as well as in issues concerning the fight against racism and racial discrimination. ECRI further recommended that the Serbian authorities ensure that all pupils receive a course in civics.
51. Article 4 of the Law on the Foundations of the Education System provides that everyone has the right to education, and citizens are equal in the exercise of this right irrespective of, inter alia, race, national or religious background and language. ECRI has been informed by civil society actors that teachers receive training on anti-discrimination, but that this is not necessarily reflected in their attitudes, as there are still segregated Roma classes, for example. ECRI notes with concern reports according to which although they have received training, some teachers feel that it is best to segregate Roma pupils from others.
52. Civics is still taught as an optional subject. The Serbian authorities have informed ECRI that pupils may choose to take religious education or civics from the first grade until the end of secondary school. They have further indicated that between 2005 and 2008 NGO partners organised seminars to train teachers in teaching civics, but that this training is currently under the purview of local authorities. The authorities have assured ECRI that although civics remains an optional subject, there are other classes which contain elements of civics education.
53. ECRI strongly recommends that the Serbian authorities continue and reinforce the training provided to teachers on issues of racism and racial discrimination. ECRI recommends that the Serbian authorities provide all teachers with initial and on-going training on the provisions of the Law on the Foundations of the Education System dealing with equality and non-discrimination. ECRI recommends that the authorities take into account its General Policy Recommendation No.10 on combating racism and racial discrimination in and through school education when implementing these recommendations.
54. In its first report, ECRI encouraged the Serbian authorities to continue giving a high priority to improving Roma access to education. It recommended that they become more involved in the design, funding and delivery of measures to implement the five Roma education projects. ECRI urged the Serbian authorities to take steps to prevent Roma children from being unnecessarily placed in special schools. It also called on them to combat any form of segregation to which these children may be subject in school.
55. Roma continue to lag behind as far as education is concerned: as few as 3.9% of Roma children living in settlements attend pre-school. Only about one fourth of Roma children complete elementary education and only 9% complete secondary education and the number of Roma with higher education is 20 times lower than the majority population. Moreover, there is a pre-school institution in less than 40% of Roma settlements, there is a school in only 55% of Roma settlements and in 20% of the Roma settlements elementary school is inaccessible. Roma children continue to face disadvantages in the education, with the majority of them attending segregated schools and, as previously mentioned, some schools placing Roma in segregated classes. Moreover, ECRI is concerned by the fact that Roma are still disproportionately overrepresented in special schools, with up to 80% of children attending schools for children with special needs being Roma. ECRI further notes with concern that Roma children face hidden or overt forms of

discrimination by school authorities, teachers, school staff, other children and non-Roma parents. Surveys show that teachers have lower expectations of Roma pupils which leads to reduced support for these pupils, the lowering of criteria or even transferring Roma pupils who have not mastered the curriculum to a higher grade.

56. There is also a high drop-out rate among Roma children. The Serbian authorities have informed ECRI that one of the measures taken to deal with the problems faced by Roma children in schools is the introduction of Roma teaching assistants who assist Roma children in schools, including the ones who do not speak Serbian. The action plan for the implementation of the Strategy for the Improvement of the Status of Roma also provides for these teaching assistants. Another measure mentioned to ECRI by the Serbian authorities is the fact that as of 2010, a number of places have been reserved for Roma children in pre-schools. The authorities have further adopted a National Action Plan on Education, and local authorities have been involved in its implementation as far as Roma are concerned. While welcoming the measures taken by the authorities to tackle the problems faced by Roma children in education, ECRI considers that more needs to be done and it hopes that the priorities set out in the Strategy for the Improvement of the Status of Roma will be implemented with the necessary human and financial resources. The strategy has included as priorities, the timely and efficient inclusion of Roma children in pre-school and elementary education and the increase of the number of Roma with secondary and higher education.
57. ECRI strongly recommends that the Serbian authorities take steps to remove Roma children who are unjustly placed in special schools, that they place them into mainstream schools and improve the selection process in this respect.
58. ECRI recommends that the Serbian authorities combat any discrimination faced by Roma pupils in schools. It recommends that the authorities draw inspiration from its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education.
59. ECRI recommends that the Serbian authorities take measures to combat the segregation faced by Roma children in schools by ensuring they are not placed in separate classes. ECRI recommends that the Serbian authorities ensure that Roma children are not placed in Roma only schools.
60. ECRI recommends that the Serbian authorities implement the Strategy for the Improvement of the Status of Roma as soon as possible and provide it with sufficient human and financial resources. ECRI further recommends that Roma representatives be consulted and included in the implementation of this strategy.

Housing

61. In its first report, ECRI recommended that the Serbian authorities continue giving special attention to the housing problems facing the Roma community. It recommended that they take urgent measures to implement the programmes and projects developed for this purpose, by providing them with the necessary human and financial resources. ECRI further recommended that the Serbian authorities combat the discrimination suffered by Roma in this area, including by implementing the relevant legislation and conducting awareness-raising campaigns.
62. NGOs estimate that two-thirds of the Roma population continue to live in informal settlements lacking schools, medical care, water, electricity and sewage facilities. These settlements are overpopulated and are at a great distance from basic facilities and services. In addition, the majority of Roma who live in these

settlements do not have the relevant ownership documentation for their homes or land, thus compounding their housing problems. There are Roma settlements in all parts of Serbia with the majority being in Belgrade and in other larger cities and municipalities. The improvement of the living conditions in the settlements is one of the stated goals of the Strategy for Improvement of the Status of Roma and ECRI therefore hopes that the necessary resources will be allocated to measures taken to that end.

63. ECRI notes with concern that there is strong public opinion against relocating Roma. One specific problem is that when the Serbian authorities propose that Roma will be relocated to appropriate housing, the local population protests and refuses to agree to a Roma population moving into their neighbourhood. It thus appears that measures are still necessary to combat the intolerance and racism faced by Roma in the housing sector.
64. ECRI notes with concern that there have been many forcible evictions of Roma in and around Belgrade since its first report. Even if there is a legal basis, these evictions have taken place with little advance warning and civil society actors decry the fact that they occur with no consultation with the Roma families involved and no information on the possibility for them to apply for social security. In many cases the evicted Roma were offered no alternative accommodation. Although some of the evicted Roma were provided with social housing, others were offered accommodation in metal containers, which are said to be small, cold and damp and are far from local amenities and access to work. This situation has led civil society actors to predict that the forcibly evicted Roma will eventually return to Belgrade where they have a better chance of earning a living. Some of the evicted Roma were relocated to Southern Serbia, far from Belgrade, with no alternative accommodation. In most cases the evicted Roma were offered no assistance or compensation. A sustainable resettlement plan for evicted Roma seems to be lacking, which perpetuates the vicious cycle of forced evictions. ECRI wishes to point out that evictions should only be carried out as a last resort, once all other alternatives have been exhausted.
65. ECRI recommends that the Serbian authorities take measures to improve the housing situation of Roma living in settlements.
66. ECRI strongly recommends that measures be taken to raise awareness among the general public of Roma housing rights and to promote respect thereof.
67. ECRI urges the Serbian authorities to take urgent measures to protect Roma from forced evictions by ensuring that : 1) an opportunity for genuine consultation by those affected is created; 2) adequate and reasonable notice is given; 3) information on proposed evictions is provided within a reasonable time; 4) evictions do not take place in particularly bad weather or at night; 5) adequate resettlement opportunities are provided; 6) legal remedies are provided, and 7) legal aid is provided to persons who are in need of it to enable them to seek redress through the courts.

Health

68. In its first report, ECRI encouraged the authorities to continue taking measures to improve Roma access to health care and recommended that they ensure that the initiatives taken to that end were implemented at local level as well. It also recommended that they take steps to combat discrimination against Roma in this sector.
69. ECRI notes with concern that in many respects, the hygienic and sanitary conditions in many Roma settlements have not improved since ECRI's first report. The health situation of Roma, in particular Roma women, children and

elderly is particularly alarming and there is a difficulty in access to health care in the absence of the necessary medical registration. The mortality rate of Roma children in Serbia is four times higher than that of the general population.

70. A number of initiatives have been taken to improve Roma access to healthcare; ECRI was informed that the government adopted a decision that Roma are entitled to health care even if they are unemployed and even if they do not have a permanent residence. However, it appears that this decision needs to be disseminated among Roma communities as the overwhelming majority of Roma are not aware of it. Another measure taken is a project entitled "Health Mediators" aimed at improving health care for Roma, especially women and children, which was launched in cooperation with the OSCE in May 2008. ECRI welcomes the inclusion in the Strategy for the Improvement of the Status of Roma, of measures designed to improve their health care including the improvement of accessibility of health care for the Roma population and the improvement of the living environment in the Roma community.
71. ECRI strongly recommends that the Serbian authorities take more measures to improve Roma's access to health services, including carrying out information campaigns for Roma on measures which have been taken for them in this area. It further recommends that measures taken within the framework of the Strategy for the Improvement of the Status of Roma be provided with sufficient human and financial resources.

Administration of justice

72. In its first report, ECRI recommended that the Serbian authorities ensure that the entire judiciary receive initial and on-going training in the problems of racism and racial discrimination. It also recommended that they promote greater diversity among the judiciary by taking steps to ensure the recruitment of persons from national or ethnic minority backgrounds.
73. ECRI was informed that every year, the Judicial Academy organises 10-15 seminars for judges on the European Convention on Human Rights and that in 2010 a seminar on Article 14 of the Convention (prohibition of discrimination) was organised. These seminars are attended by judges on a voluntary basis and ECRI was informed that there are usually 30-35 participants at these seminars. ECRI was further informed that human rights issues are included in the training provided to judges on, among others, the Criminal Code. However, more training appears necessary because, as indicated above,¹⁵ the sentences meted out for racist crimes are low.
74. According to information provided to ECRI, the Law on Judges and Public Prosecutors contains new articles which prohibit any kind of discrimination in the appointment of judges, and this law provides that efforts should be made to recruit judges from ethnic minority backgrounds. ECRI was informed that there are affirmative action measures to recruit members of ethnic minorities among judges and prosecutors.
75. ECRI recommends that the Serbian authorities ensure that the training provided to the judiciary on issues of racism and racial discrimination is strengthened in order to, inter alia, reach a much more considerable number of legal professionals and ensure better sentencing practices for racist crimes.

¹⁵ See, « *Criminal law provisions against racism* ».

III. Racist Violence

76. Developments following the declaration of independence by Kosovo resulted in successive waves of violence against targets perceived as related to this issue, in many places in Serbia, at times fuelled by a sharp rise in discourse against Albanians, Muslims and foreigners.
77. There have been reported cases of physical attacks against religious minorities and their property since ECRI's first report on Serbia. In 2008, leaders of minority religious groups reported acts of vandalism and physical attacks. Also in 2008, NGOs reported an increasing number of religious attacks and religious communities, especially minority religious communities, continued to experience vandalism of church, mosques and synagogue buildings, cemeteries and other religious premises. Most attacks involve spray-painted graffiti, thrown rocks, bricks or bottles. Furthermore, Jewish community leaders reported incidents of antisemitism¹⁶, including antisemitic graffiti and vandalism. In recent years, Serbia has witnessed a rise in nationalist right-wing groups.
78. One serious incident of racially-motivated violence occurred in Jabuka, near Pančevo in the Autonomous Province of Vojvodina in June 2010 when a Roma youth was suspected of the murder of another youth of Serb ethnicity; the suspect was arrested. The Roma neighbourhood was attacked consequently by non-Roma and held under siege for several days, with Roma houses stoned and the inhabitants unable to leave their homes. The non-Roma attackers chanted racist slogans and reports indicated that one house was burnt to the ground. ECRI notes with concern that the authorities initially did not react, but reacted only after a few days by offering protection to the Roma with, among others, increased police patrols. The Serbian authorities have indicated that charges were brought against seven persons as regards this incident.
79. ECRI has been informed of the existence of racist organisations in Serbia. Although the authorities stated their wish to ban racist organisations that are registered, ECRI has been informed that no racist organisation has been banned.
80. ECRI urges the Serbian authorities to take immediate action to make sure that all individuals are equally protected by the police against attacks.
81. ECRI recommends that the Serbian authorities take measures to combat racist violence including by ensuring that those who engage in such violence are punished.
82. ECRI recommends that the Serbian authorities ban racist organisations as recommended in paragraph 18 g) of its General Policy Recommendation No. 7.

IV. Racism in Public Discourse

Media

83. In its first report ECRI recommended that the Serbian authorities recognise the seriousness of the problem with regard to the climate of opinion concerning national or ethnic minorities and that they take adequate measures to address this problem. ECRI also recommended that they organise awareness campaigns about combating racism and intolerance throughout the country with the aid of NGOs and civil society members specialising in these issues. In its first report, ECRI recommended that the Serbian authorities ensure that the legislation against hate speech is applied to journalists who infringe it. It also recommended that they encourage any media initiatives to provide their peers with training in

¹⁶ For more information on antisemitism, see "Antisemitism" below.

this legislation as well as in national and international standards governing the elimination of racial discrimination and the fight against racism. ECRI further recommended that the Serbian authorities encourage the setting up of an independent agency responsible for ensuring that the media comply with the legislation and the principles of professional ethics as well as for examining complaints brought against them. ECRI also recommended that they promote greater diversity in the information sector by taking steps to ensure that journalists from national or ethnic minority backgrounds are trained and recruited.

84. There remains a degree of intolerance in Serbia as concerns minority religious groups and ethnic minorities. The press, mostly tabloids, continue to label smaller multiethnic Christian churches and minority religious groups, as dangerous “sects”. Some newspapers recurrently use derogatory terms for Albanians and Bosniaks. ECRI has further been informed that Roma are targeted in the media and that there is a general climate of intolerance against them. ECRI notes with concern that the ethnic identity of crime suspects is often disclosed when they are of Roma origin.
85. A number of right-wing youth groups refer to non-traditional religious groups as sects posing a threat to Orthodox Christian society in the country. The Independent Association of Journalists of Serbia have adopted a code of ethics which bans stereotyped information on minorities and limits the disclosure of the ethnic origin of a person to duly defined circumstances. Training sessions have been organised by NGOs with the assistance of international organisations on issues of non-discrimination and reporting on cultural diversity. However, the portrayal of certain minorities, such as the Bosniak or the Albanian minority, is still associated almost exclusively with negative events in the Serbian mainstream media. As indicated above¹⁷, the current criminal legislation¹⁸ does not include a specific provision on hate speech and that the wording of the existing provisions makes it difficult to prosecute such acts.
86. The Republican Broadcasting Agency (RBA) which is the state body regulating mass media, has among its main tasks the prevention of the dissemination of information that could be discriminatory as well as to monitor the work of broadcasters in this respect. However, there is currently no representative of national minorities among the members of the Republican Broadcasting Agency which, in minority representatives’ view, does not allow for an adequate reflection on the concerns of national minorities in its work.
87. ECRI recommends that the Serbian authorities take measures to effectively combat any intolerance in the country towards religious and ethnic minorities in public discourse.
88. ECRI recommends that the Serbian authorities make the media aware, without encroaching on their editorial independence, of the need to ensure that the information they provide does not breed a climate of hostility towards members of ethnic or religious minorities. It also recommends that the authorities support any initiatives taken by the media in this field and supply them with the necessary resources to provide initial and in-service training in human rights in general and racism issues in particular.

¹⁷ See, “Criminal law provisions against racism”.

¹⁸ For more information on criminal legislation, see “Criminal law provisions against racism” above.

V. Vulnerable/Target Groups

Internally displaced Roma, Ashkali and Egyptians

89. In its first report, ECRI recommended that the Serbian authorities pay special attention to the situation of internally displaced Roma, Ashkali and Egyptians by ensuring, inter alia, that they receive identity papers. It also recommended that they take steps to improve their situation regarding access to housing, education and employment and to combat the prejudice and discrimination they face.
90. There are approximately 209,000 internally displaced persons (IDPs) in Serbia, and approximately 10% of them are Roma, Ashkali and Egyptians. ECRI notes with concern that this group of internally displaced persons remains marginalised and that they still face the problem of lack of documentation. The previously mentioned Strategy for the Improvement of the Status of Roma has no budgeted funds for these IDPs.
91. As regards housing, while some Roma, Ashkali and Egyptian IDPs live in government-supported collective houses, living conditions for these IDPs are generally extremely poor. Local municipalities are often reluctant to accommodate them and if Roma, Ashkali and Egyptian IDPs do stay, they often live in unauthorised encampments near major cities or towns. Furthermore, 1000 IDPs, mainly Roma, Ashkali and Egyptian live in unrecognised collective centres, makeshift huts, corrugated metal containers and other substandard shelters. NGOs indicate that a significant number of Roma, Ashkali and Egyptian IDPs also live in approximately 600 illegal settlements in Serbia alongside other Roma.
92. The Serbian authorities have informed ECRI that in 2010, within the collective centres, approximately 4,500 persons were accommodated, about 20% of them being Roma, Ashkali and Egyptian IDPs. Roma, Ashkali and Egyptian IDPs who are accommodated in settlements live in destitute conditions generally without water, electricity, sanitation, as well as without a legal address and residence documents, and consequently not being endowed with the capacity to be persons before the law. Many of the Roma, Ashkali and Egyptian IDPs living in the informal settlements are faced with the continuous danger of forced eviction by the authorities. When evictions occur, adequate alternative solutions are lacking. The improvement of housing needs of Roma, Ashkali and Egyptian IDPs is the greatest challenge they face, but most of the time they cannot apply for the limited number of housing projects due to lack of information and documents. The Serbian authorities have informed ECRI that in order to take an organised and planned approach to the problem of informal settlements in which Roma live, the City of Belgrade established a Roma Inclusion Council with the participation of the Ministry for Human and Minority Rights, the Ministry of Interior and the Ministry of Labour and Social Policy in addition to the representatives of the city authorities.
93. NGOs state that while other internally displaced children generally have access to education, most Roma, Ashkali and Egyptian children face obstacles in accessing public education and many who can enrol subsequently drop out. Lack of personal documentation prevents many from enrolling. The education system does not encourage multiculturalism or welcome the use of the Romany language, further reducing prospects for integration. According to NGOs, Roma, Ashkali and Egyptian school children face prejudice, verbal abuse and violence. ECRI notes with concern that education authorities have failed to protect their rights and have often reinforced discrimination by separating Roma, Ashkali and Egyptian children from their peers or referring them to schools for children with special needs. ECRI notes with interest the Serbian authorities' information

according to which 180 Roma teaching assistants tasked with providing support to children in class and improving cooperation between the schools and the families were hired in 2010.

94. According to civil society actors, Roma, Ashkali and Egyptian IDPs also face difficulties in accessing employment; they are often informally self-employed, working as street traders, lacking basic welfare rights and are unable to access the formal labour market. As many lack personal documentation and live in informal settlements without registered residence, they cannot access the National Employment Service and are thus denied their right to unemployment benefits, further contributing to their poor living conditions.
95. ECRI strongly recommends that the Serbian authorities take measures to improve the situation of internally displaced Roma, Ashkali and Egyptian by providing them with identity papers and ensuring that they have access to housing, education and employment. ECRI recommends that the necessary human and financial resources be allocated to any measures taken in this regard.

Roma

96. In its first report, ECRI strongly recommended that the Serbian authorities take measures to provide identity documents to Roma who do not have them. To this end, it recommended that they work with Roma organisations and other members of civil society and that they take inspiration from experiences in other countries in this area.
97. In the last 5 years, the United Nations High Commissioner for Refugees (UNHCR) has identified about 2000 Roma adults and children not registered at birth. ECRI has been informed that there are thousands of Roma who have received free legal assistance to obtain legal documents. UNHCR estimates that 95% of Roma are registered at birth and that the remaining 5% who are not registered still represents a significant number. As no survey has been carried out by the authorities to establish the exact number of persons without identity documents, UNHCR will carry out such a survey.
98. ECRI notes with interest that a faculty on Roma studies has been established at Belgrade University. Roma representatives have expressed their wish to ECRI to see the state support Roma media, particularly the radio, by providing appropriate frequency to allow Roma radios to disseminate information to Roma about their rights. According to the Serbian authorities, Associated Radio Stations of Serbia and Radio Belgrade 1 broadcast a 30-minute programme in Roma language with the information relevant to the situation of Roma.
99. ECRI urges the Serbian authorities to take immediate measures to ensure that Roma, Ashkali and Egyptians who do not have identity documents are provided with them.
100. In its first report, ECRI encouraged the Serbian authorities to continue taking measures to resolve the problems facing the Roma community in Vojvodina and recommended that they involve members of this community as far as possible. It also recommended that they ensure that the Roma Inclusion Office is provided with sufficient human and financial resources to tackle the problems within its purview.
101. ECRI was informed that there has been some improvement in the situation of the Roma in Vojvodina, in particular in the area of secondary and higher education. There are currently 250 Roma students in colleges and universities while only a few years ago there were four. Roma students can enrol in university free of charge. Moreover, 350 scholarships have been provided to Roma children in

secondary school and a mentor is assigned to them to assist them in overcoming any problems they may have had in primary school. The Roma Inclusion Office has however stated that some problems remain as concerns primary school; before they can enrol in primary school, children are required to take tests and many Roma children are sent to special schools because they did not attend pre-school and as a consequence they do not do well on these tests. ECRI notes that a law on compulsory pre-school was adopted in 2008 and it hopes that the authorities will ensure its enforcement so that as many Roma children attend pre-school as possible. Despite the above-mentioned progress, the situation of Roma in Vojvodina as concerns education remains worrying, especially among the female population; 22.6% of Roma women never attend primary school, 25.2% complete primary school only, while 16.3% of Roma women complete secondary school.

102. As concerns employment, in the past three years through the competition of the Secretariat of Labour and Employment designed for Roma, for more than 50 companies and enterprises were founded by members of the Roma community. The Serbian authorities have informed ECRI that a number of measures have been undertaken between January 2010 and October 2010 to promote Roma employment. These include professional orientation, training for active job search and adult education.
103. The Roma Inclusion Office has informed ECRI that it receives funding from the budget of the Autonomous Province of Vojvodina, that it employs 8 young Roma and that it has easy access to the government of the Autonomous Province at the highest level. ECRI is, however, not aware of the size of the Office's budget and it hopes that it is sufficient to meet all its needs.
104. ECRI recommends that the authorities continue to take measures to improve the access of Roma in the Autonomous Province of Vojvodina to education, and that special attention be paid to Roma girls.

Albanian minority

105. In its first report, ECRI strongly recommended that the Serbian authorities take measures to combat all discrimination suffered by members of the Albanian minority in Serbia and that they pay particular attention to their situation in the regions of Preševo, Bujanovac and Medveda.
106. ECRI has been informed that the biggest problem facing the Albanian minority in the regions of Preševo, Bujanovac and Medveda is the economic situation. According to information provided to ECRI, although there have been large investments in the region as concerns the road infrastructure, water supply and sewage, very few measures have been taken to provide employment. More than 70% of economically active people are unemployed in the region and this has led to a reduction in the size of the community as many have left the region to seek better opportunities elsewhere.
107. As concerns education, the lack of opportunities for Albanians students to access higher education, especially in the Albanian language, in Southern Serbia remains a problem. Most Albanians want to go to a university where courses are held in their own language, which is why they prefer to study in Pristina in Kosovo, or Tirana in Albania. However, Serbia does not recognise university diplomas issued by the authorities of Kosovo. Moreover, Albanian primary and secondary-school students have no textbooks in their mother-tongue. Faculties of law and economics have been opened in Preševo and a faculty of law has been opened in Bujanovac. This has been considered a good start; however, as not everybody wishes to study those subjects, the authorities should consider opening full faculty Albanian language universities in the region.

108. ECRI has been informed that a multiethnic police force has now been established in the region, but that Albanians remain underrepresented in the judiciary. Reports also indicate that Albanians are largely absent from the large state owned companies such as the post office, the power company or from the customs office.

109. ECRI recommends that the Serbian authorities take measures to reduce the high unemployment rate among Albanians in Preševo, Bujanovac and Medveda. It also recommends that steps be taken to provide Albanians with higher education in the Albanian language.

110. ECRI recommends that the Serbian authorities ensure that Albanians are adequately represented in the judiciary. ECRI further recommends that the Serbian authorities ensure better representation of Albanians in state owned companies.

Bosniaks

111. There are currently 2 Bosniak ministers in the Serbian government and 8 members of Parliament from that community. However, ECRI has been informed that in Sandžak (a region situated South-West of the country with a population of 420,000 inhabitants) where Bosniaks are in the majority, they are underrepresented in the administration as most of the staff in the public administration are Serb. ECRI has been informed for example that in Novi Pazar, the largest city in Sandžak, only 30% of the police are Bosniaks whilst this group constitutes 85% of the population in that city. Out of the 60 employees at the fire brigade, only 3 are Bosniaks. Although ECRI has been informed that the situation concerning the judiciary is somewhat better, it has also been informed that the judges and prosecutors in Novi Pazar are not from the Sandžak region. Moreover, there is a high unemployment rate in Novi Pazar. The infrastructure in Sandžak is also lacking with the road network and the electrical distribution network being worse in Sandžak than in Belgrade, for example.

112. ECRI notes with concern that there are tensions between the Islamic Community in Serbia, an organisation based in Novi Pazar and the Islamic Community of Serbia, based in Belgrade, which the authorities have done little to calm. The Islamic Community in Serbia looks to Bosnia as its spiritual home whilst the Islamic Community of Serbia considers it to be Serbia. ECRI has been informed that the latter enjoys the support of the government. On this subject, the UN Special Rapporteur on freedom of religion or belief wished to remind the authorities of their duty to remain neutral and impartial, which precludes any State measures favouring a particular leader or specific strands of a divided religious community.¹⁹

113. ECRI strongly recommends that the Serbian authorities take measures to promote the employment of Bosniaks in state institutions in the Sandžak region. ECRI also recommends that measures be taken to combat the high unemployment rate in that region.

114. ECRI recommends that the Serbian authorities take measures to promote good relations and mutual understanding within the Bosniak community.

¹⁹ Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, Addendum, Mission to the Republic of Serbia, including visit to Kosovo, A/HRC/13/40/Add.3, para 30

Religious minorities

115. In its first report, ECRI recommended that the Serbian authorities combat all religious intolerance, in compliance with Articles 48 and 81 of the Constitution. It recommended in this regard that they ensure that the Criminal Code is applied in respect of persons who commit hate crimes against members of religious minorities and their property. ECRI also recommended that the Serbian authorities assert the principle of the separation of the state and the church more forcefully and promote a society in which everyone fully enjoys freedom of thought, conscience and religion as enshrined in Article 9 of the European Convention on Human Rights. ECRI recommended to that end that they carry out awareness-raising campaigns designed to promote the idea of a multi-faith society.
116. Reports indicate that the most serious incidents against religious minorities remains violent attacks, especially on Jehovah's Witness and Adventist property. The numbers of these attacks have been declining, and a crucial factor in this has been some positive changes in media portrayals of non-Serbian Orthodox communities. ECRI regrets that attackers are reportedly usually charged with violating public order, instead of - where appropriate - the more serious charge of inciting or exacerbating national, racial, or religious hatred – which carries higher penalties than public order charges. As noted by NGOs, many of the attacks against “non-traditional” religious communities appear to be by extreme nationalists. Although media portrayal of religious minorities has improved, attacks on “non-traditional” religious communities reportedly continue with claims that they are in the pay of foreign intelligence agencies. ECRI has also received reports that government officials have criticised minority religious groups by using pejorative terms such as “sects”, “satanists” and “deviants”.
117. The Serbian Orthodox Church continues to play a predominant role in Serbian society. For example, the Romanian Orthodox Diocese of Dacia Felix was registered in April 2009 and accorded equality with the “traditional” churches and religious communities. Prior to that, article 2 of the relevant regulations provided that “with the consent of the Serbian Orthodox Church the Romanian Orthodox Church’s organizational unit of Banat shall be entered in the register”. Concerning this, the UN Special Rapporteur on freedom of religion or belief emphasized that the State must not condition the granting of certain rights, including the registration of a religious community and the recognition of its legal status, on the agreement of another religious community. The Special Rapporteur noted that this was the standard approach taken by the Ministry of Religious Affairs.
118. ECRI is not aware of any awareness-raising campaign carried out by the Serbian authorities to promote the idea of a multi-faith society.
119. ECRI recommends that the Serbian authorities take measures against those who carry out attacks against religious minorities by ensuring that they are prosecuted under the appropriate article of the Criminal Code.
120. ECRI recommends once again that the Serbian authorities ensure that the principle of the separation of church and state is more forcefully implemented in accordance with the Serbian Constitution.

VI. Antisemitism

121. In its first report, ECRI strongly recommended that the Serbian authorities combat all forms of antisemitism by applying the legislation in force. It also recommended that in compliance with its General Policy Recommendation No.9

on the fight against antisemitism, they criminalise the public denial, trivialisation, justification or condoning of the Holocaust as well as the public dissemination or public distribution, production or storage aimed at public dissemination or public distribution of written, pictorial or other antisemitic material.

122. ECRI has been informed that antisemitic acts continue in Serbia consisting mostly of antisemitic publications. Jewish representatives have further listed 118 antisemitic publications, including the Protocol of the Elders of Zion, which can also be found in most bookstores. Antisemitic acts have also been reported to ECRI, including the desecration of Jewish tombs, antisemitic posters in Belgrade and Smerevo and the breaking of windows at the synagogue in Novi Sad. ECRI notes with concern that despite numerous measures taken by representatives of the Jewish community to bring these acts to the authorities' attention, including at the highest level, and to have the perpetrators brought to court, nothing has reportedly been done. ECRI was informed that the authors of antisemitic acts are most likely neo-Nazi extreme nationalist groups which are registered as legal entities under different names.
123. It appears that nothing has been done to criminalise the public denial, trivialisation, justification or condoning of the Holocaust as well as the public dissemination or public distribution, production or storage aimed at public dissemination or public distribution of written, pictorial or other antisemitic material.

124. ECRI strongly recommends that the Serbian authorities take measures to apprehend and bring to justice those who commit antisemitic acts as recommended in its General Policy Recommendation No.9 on the fight against antisemitism.

125. ECRI reiterates its recommendation to the Serbian authorities that they criminalise the public denial, trivialisation, justification or condoning of the Holocaust as well as the public dissemination or public distribution, production or storage aimed at public dissemination or public distribution of written, pictorial or other antisemitic material, as recommended in its General Policy Recommendation No.9 on the fight against antisemitism.

VII. Reception and status of non-citizens

Asylum seekers and refugees

126. In its first report, ECRI strongly recommended that the Serbian authorities ensure that the Law on Asylum does not create different categories of refugees. It also recommended that they ensure that this law complies with their international obligations and Article 54 of the Constitution which concerns the right to asylum.
127. The Law on Asylum, which was adopted by the Parliament in November 2007, came into force in Serbia on 1 April 2008. The law provides for refugee status to be determined by the Asylum Office which is within the Ministry of Interior. As of April 2008, UNHCR no longer issues identity cards to refugees and asylum seekers as that is within the purview of the Asylum Office. Under the Law on Asylum, an appeal against a negative decision is to be made to an Asylum Commission. ECRI has been informed that there is no government budget for interpretation or free legal assistance and that the UNHCR is still covering those expenses.
128. According to information provided to ECRI, 215 persons applied for asylum in 2010, 280 in 2009 and the number was approximately 100 in 2008. ECRI has been informed that there is as yet no recognised refugee among these applicants. ECRI has been informed that many of the applicants disappear

before being interviewed by the Asylum Office. ECRI has further been informed that very few people have gone through the interview process, so it is difficult to assess the refugee status determination procedure in Serbia as it has not been tested yet. The lack of an integration strategy has been cited to ECRI as being one of the reasons why asylum seekers do not stay long enough to go through the refugee status determination procedure.

129. There is an asylum centre, located in the town of Banja Koviljača, which has a capacity of 80 people, is currently accommodating 67 persons – 62 asylum seekers, 3 refugees under UNHCR protection and 2 persons who have been granted subsidiary protection.
130. In its first report, ECRI recommended that the Serbian authorities ensure that border police as well as immigration staff receive initial and on-going training in issues relating to asylum seekers and refugees, as well as in combating racism and racial discrimination.
131. ECRI has been informed that the police and immigration officials receive training on issues concerning asylum, but that they do not have much opportunity to put it into practice as there are not many asylum seekers in Serbia.
132. ECRI recommends that the Serbian authorities establish a strategy for the integration of asylum seekers and refugees by, inter alia, providing for language lessons and access to employment.

VIII. Conduct of law enforcement officials

133. In its first report, ECRI recommended that the Serbian authorities ensure that the police apprehend the perpetrators of racist crimes and offences against national or ethnic minorities and religious minorities. It recommended in this regard that they establish and operate a system of monitoring racist offences and encourage victims and witnesses of racist acts to report them. ECRI also recommended that the Serbian authorities provide for a body, independent of the police and prosecution authorities, entrusted with the investigation of alleged cases of racial discrimination and racially motivated misconduct by the police. It further recommended that they provide the Police Inspectorate with the human and financial resources it needs to perform its task properly.
134. The authorities have indicated that the perpetrators of most racist crimes who are identified and brought to the prosecution are juveniles who commit acts such as writing graffiti and racist slogans on facilities owned by national minorities. The Serbian authorities have informed ECRI that in 2008, in cooperation with the OSCE Mission to Serbia, they designed, published and distributed pamphlets entitled “Complaints and praise addressed to the work of the police” in Serbian, English and another 9 languages of national minorities in order to encourage the public to report racist crimes. However, in spite of the authorities’ efforts regarding the identification of those who commit racist crimes, ECRI is of the opinion that more could be done to apprehend those who commit racist acts. ECRI is further not aware of any measures taken to encourage victims and witnesses of racist acts to report them.
135. ECRI strongly recommends that the Serbian authorities take more effective measures to apprehend those who commit racist crimes and that they encourage victims and witnesses of such acts to report them.
136. The Serbian authorities have indicated that the Department of Internal Control of the Police is mandated to control the legality of the work of the police, in particular with regard to respecting and protecting human rights when executing police tasks and enforcing police competencies. With regard to complaints

against the police, a new system whereby a member of the public is involved in hearing such complaints has been established. However, there is no body, independent of the police and prosecuting authorities which is empowered to hear complaints against the police.

137. ECRI recommends that the Serbian authorities create a body, independent of the police and prosecuting authorities, which has the power to receive and deal with complaints against the police.

138. In its first report, ECRI recommended that the Serbian authorities ensure that the police are trained in human rights and in issues concerning racism and racial discrimination. It also recommended that they train the police to work in a multicultural society.

139. The Serbian authorities have informed ECRI that the police receive continuous training in human rights which also focuses on minority rights. According to the authorities, this training is provided to every member of the police. The authorities have further stated that every year, roundtables are organised with members of minority groups. The Serbian authorities have informed ECRI that with the assistance of the OSCE Mission in Serbia and representatives of the Police College in Kent, England, police officers from all regional police directorates received professional training on the improvement of communication and cooperation of the police with, among others, minority groups.

140. In its first report, ECRI recommended that the Serbian authorities promote the recruitment of more persons from national or ethnic minority backgrounds to the police and ensure that they have equal opportunities in their career development.

141. As concerns the recruitment of persons from national or ethnic minority background, reports indicate that while most officers are Serbs, the force includes Bosniaks, Hungarians, Montenegrins, a small number of Albanians and other minorities. However, while some efforts have been made by the Ministry of Interior to attract persons belonging to national minorities into the police force, such as publishing job vacancies, promotional posters, information pamphlets and radio advertisements in minority languages, they have proved insufficient to increase substantially the ethnic diversity in the police force in Serbia.

142. ECRI recommends that the Serbian authorities continue taking measures to recruit persons belonging to national minorities into the police force.

IX. The situation in the Autonomous Province of Vojvodina

143. In its first report, ECRI urged the Serbian authorities to maintain a close watch on racist offences committed in Vojvodina by ensuring that the criminal code is duly applied to anyone who commits acts of this kind. It strongly recommended that they ensure that local authorities, in particular the police and the judiciary, are trained in those provisions of the code which deal with racist offences as well as in international standards on issues relating to racism and racial discrimination. ECRI recommended that the Serbian authorities promote the recruitment of more people from national or ethnic minorities to the police and judiciary.

144. The office of the Ombudsman of the Autonomous Province of Vojvodina has informed ECRI that there is a need to do much more in order to monitor racist incidents and to apply the Criminal Code against the perpetrators of racist crimes. The office of the Ombudsman also stated that the victims of racist crimes rarely turn to the authorities out of fear. The Ombudsman has undertaken procedures and investigations ex officio and condemned racist incidents and requested that the authorities act. However, ECRI was informed that the major problem is that the authorities often do not give racist crimes the right qualification, preferring to

qualify them as mere fights or property damage, thus excluding the racist element in these crimes. The Ombudsman is considering developing a monitoring system for such incidents, as well as one for the resulting court proceedings.

145. As concerns the judiciary, the office of the Ombudsman of the Autonomous Province of Vojvodina has informed ECRI that in 2009, there was a major reform of the Serbian judiciary and that the Ombudsman sent a recommendation to the Judiciary High Council pointing out the necessity of taking into account the national composition of the population as well as the corresponding appointment of ethnic minority members, especially those who are proficient in the legal terminology of the minority language officially used in the courts. The Ombudsman states however that the whole process of selecting judges, prosecutors, etc., did not result in a proportionate representation of ethnic minorities in the judiciary. As concerns the police, the Ombudsman has informed ECRI that there have been some joint activities between the President of the Parliament of the Autonomous Province of Vojvodina and the Minister of Interior to make the police profession more popular among ethnic minorities.
146. ECRI reiterates its recommendation that the Serbian authorities ensure that the relevant provisions of the criminal code are applied to those who commit racist crimes in the Autonomous Province of Vojvodina.
147. ECRI recommends that the Serbian authorities collaborate with the office of the Ombudsman of the Autonomous Province of Vojvodina in the setting up of a system for monitoring racist incidents and any ensuing court proceedings.
148. ECRI recommends that the authorities take measures to ensure that the judiciary in the Autonomous Province of Vojvodina reflects as much as possible the ethnic diversity of this region.
149. ECRI recommends that the Serbian authorities continue taking measures to attract ethnic minorities into the police in the Autonomous Province of Vojvodina.
150. In its first report, ECRI strongly recommended that the Serbian authorities conduct awareness-raising campaigns to promote better understanding between the different ethnic or national groups and religious groups living in the autonomous province of Vojvodina. It recommended that organisations representing these groups, the Ombudsman's office, the media as well as any other stakeholders be involved in these campaigns. It particularly recommended that the authorities ensure that these campaigns also target, and involve, young people. In this regard, ECRI recommended that they focus on places and activities which bring together young people from the majority population and from national or ethnic minorities. It further recommended that they ensure that school education in the region plays a key role in the fight against racism and discrimination.
151. ECRI was informed that a project entitled "Affirmation of Multiculturalism and Tolerance in Vojvodina – Inter-ethnic Trust Building Measures with the Youth" has been implemented since 2005. The project aims to promote cultural diversity and to develop inter-ethnic tolerance among those who live in Vojvodina. ECRI was informed that the project has several topics and focuses on the idea of strengthening inter-ethnic trust with the youth in Vojvodina. It has several sub-projects in the whole of Vojvodina and includes primary and secondary school pupils. ECRI was informed that the basic goal of this project is to calm inter-ethnic tensions and in the long term develop a spirit of tolerance, mutual recognition and trust. While recognising the importance of this project, ECRI is not aware of any other awareness-raising measures taken in Vojvodina to combat racial intolerance in the region.

152. As concerns school education, ECRI was informed that the Provincial Secretariat for Education co-finances projects and programmes aimed at the education of children, youth and teachers in the prevention of violence as well as religious, racial and ethnic intolerance and discrimination. Among those projects is a project entitled “The Promotion of Anti-Discriminatory Behaviour and Practice Project” implemented since 2009 which aims at introducing pupils and teachers to, among others, the legal implications of discrimination. Another project that ECRI was informed about entitled “How to Teach about the Holocaust in School?” aims at training history and humanity teachers as well as primary school teachers on how to teach the Holocaust; this project was carried out in collaboration with the Jewish Community in Novi Sad and the Simon Wiesenthal Centre.

X. Monitoring racism and racial discrimination

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

154. Serbia adopted a new Law on the Protection of Personal Data in October 2008. The law provides that sensitive data which includes data on ethnicity, language and religion can only be collected on the basis of voluntary consent of the person concerned. It also provides for the adoption of specific regulations for the processing of personal data. Moreover, preparations are underway for the 2011 census with the adoption of methodological guidelines for the carrying out of the census. The population census will include a non-mandatory question on the ethnic, linguistic and religious affiliation of the persons and the translation of census forms is envisaged into the main languages of persons belonging to national minorities. Some instances of ethnic data collection occur such as mother tongue and other language proficiency at the central level of government, but overall, there is no system of ethnic data collection in Serbia as recommended in ECRI’s first report. ECRI has been informed by the Serbian authorities that they have not yet passed the regulation on the method of safeguarding and protecting particularly sensitive data, such as ethnic affiliation, “race”, language or religion, referred to in the Law on Protection of Personal Data.

155. ECRI recommends that the Serbian authorities consider ways of establishing a coherent, comprehensive data collection system in order to monitor the situation of minority groups by means of information broken down according, for instance, to ethnic origin, language, religion and nationality. Data should be collected in different public policy areas and the authorities should ensure full respect for the principles of confidentiality, informed consent and voluntary self-identification of people as belonging to a particular group. This system should also take into consideration the possible existence of double or multiple discrimination.

INTERIM FOLLOW-UP RECOMMENDATIONS

The three specific recommendations for which ECRI requests priority implementation from the authorities of Serbia, are the following:

- ECRI strongly recommends that the Serbian authorities strengthen the institution of the Commissioner for the Protection of Equality by ensuring that it has the human and financial resources to function effectively.
- ECRI recommends that the Serbian authorities ensure that the training provided to the judiciary on issues of racism and racial discrimination is strengthened in order to, inter alia, ensure better sentencing practices for racist crimes.
- ECRI urges the Serbian authorities to take immediate measures to ensure that Roma, Ashkali and Egyptians who do not have identity documents are provided with them.

A process of interim follow-up for these three recommendations will be conducted by ECRI no later than two years following the publication of this report.

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