Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**390**
Land:	Serbien-Montenegro
Kilde:	Human Rights Watch
Titel:	”Dangerous Indifference - Violence against Minorities in Serbia”
Udgivet:	Oktober 2005
Optaget på bag-grundsmaterialet:	22. november 2005

Human Rights Watch October 2005 Volume 17, No. 7(D)

Dangerous Indifference
Violence against Minorities in Serbia

Executive Summary

Since the end of 2003, there has been increasing violence in the province of Vojvodina and in other parts of Serbia directed at ethnic, national and religious minorities. In March 2004, Serb ultra-nationalists reacted angrily to news of anti-Serb violence in the mainly Albanian-populated province of Kosovo, subjecting ethnic Albanians, Muslims, and Roma to several particularly violent attacks. Attacks on ethnic Hungarians and Croats have been widely reported and for the first time in many years, ethnic Slovaks and Ruthenians in Vojvodina have been the targets of intimidation and violence. While there is no evidence of state involvement in the violence, political and community representatives of ethnic Hungarians and Croats in Vojvodina have accused the Serbian government of failing to acknowledge the seriousness of the incidents, take action to prevent such violence, or properly to punish the perpetrators.

Nor has the Serbian government responded to concerns expressed from outside the country. Governments in neighboring Hungary and Croatia have spoken out against the violence. In September 2004, the European Parliament adopted a resolution on harassment of minorities in Vojvodina, calling on the Serbian authorities to prevent the incidents and bring those responsible to justice.[1] In August 2004, fourteen members of the Parliamentary Assembly of the Council of Europe called on the Serbian authorities to prosecute the perpetrators.[2] The Assembly adopted a resolution in October 2004 urging that the Serbian authorities properly investigate and sanction any ethnically motivated incidents in the province.[3]

Human Rights Watch has carried out extensive research into the allegations of ethnic violence in Vojvodina and other parts of Serbia reported since the end of 2003. The research indicates that there is cause for serious concern. Ethnic Albanians and Roma, as well as religious Muslims and minority non-Orthodox Christians, are the most vulnerable groups in Serbia today. The attacks on those communities in March 2004 and afterward were among the worst incidents of violence in Serbia in recent years.

---

[1] European Parliament Resolution on harassment of minorities in Vojvodina, September 16, 2004 [online], http://www2.europarl.eu.int/omk/sipade2?PUBREF=-//EP//TEXT%2BTA%2BP6-TA-2004-0016%2B0%2BDOC%2BXML%2BV0//EN&LEVEL=3&NAV=X (retrieved January 30, 2005).

[2] Motion for a recommendation [to the Committee of Ministers] presented by Mr. Gedei and others on the situation of the Vojvodina Hungarians (Doc. 10262), August 3, 2004 [online], http://assembly.coe.int/Documents/WorkingDocs/Doc04/EDOC10262.htm (retrieved January 30, 2005).

[3] Council of Europe, Parliamentary Assembly, Resolution 1397 (2004) - Functioning of democratic institutions in Serbia and Montenegro, October 5, 2004 [online], http://assembly.coe.int/Mainf.asp?link=http://assembly.coe.int/Documents/AdoptedText/ta04/ERES1397.htm (retrieved January 30, 2005).

On March 17, 2004, and in the days that followed the ethnic violence, the police in Novi Sad made little effort to protect vulnerable sites, including an Islamic center and minority-owned businesses. The authorities also failed to aggressively prosecute the perpetrators of the violence, relying on administrative proceedings for "indecent, impudent, and unscrupulous behavior" rather than criminal charges. In spite of the evident ethnic motivation behind the attacks, there have been no prosecutions on the grounds of incitement to ethnic, racial or religious hatred.

In Serbia's capital Belgrade, and in the second biggest city, Nis, mobs set mosques on fire. The police in both cities were unable or unwilling to contain the violence. As in Vojvodina, there have been no prosecutions for incitement to ethnic, racial or religious hatred for the arson attacks, and there have been only a handful of criminal prosecutions in connection with the incidents.

The weak reaction of the Serbian government to the March 2004 attacks has served to encourage Serb ultra-nationalists. The vulnerability of the Albanians and Muslims in Vojvodina – and, indeed, in the whole of Serbia – is all the more alarming when one considers the real risk of further violence in Serbia against those communities should the situation in Kosovo deteriorate. Also of concern are incidents targeting ethnic Hungarians, Croats, Slovaks, Ruthenians, Jews, as well as members of non-Orthodox Christian communities.

The incidents described in this report may appear less than dramatic when compared to the violent conflicts in the former Yugoslavia during the previous decade. The incidents nonetheless demand urgent attention. The current low-level violence, if not curbed, has the potential to result in the escalation of violence and a further deterioration of inter-ethnic relations.

Analysis of the government's response to anti-minority violence in Serbia since 2003 indicates that the authorities have failed to take the phenomenon seriously. Rather than tackle the problem head-on, the authorities have sought to minimize it. While some incidents with alleged ethnic motivation were later established to have taken place for reasons unrelated to ethnicity, authorities have been quick to deny ethnic motivation even before any meaningful investigation into the incidents was completed. The failure of the government to take these incidents seriously alienates minority communities and heightens fears in those communities that the government will not provide protection should there be a future outbreak of violence.

Serbian criminal law does not encompass so-called hate crimes, offenses for which the perpetrator receives a higher maximum sentence because the act is motivated by ethnic, religious, or racial animus. But the absence of hate crimes legislation cannot explain why there have been so few prosecutions against alleged perpetrators of ethnic violence for regular public order offenses.

The Serbian legislation criminalizing the incitement of ethnic, national or religious hatred is rarely used. Instead, incidents of violence against minorities are often dealt with by misdemeanor judges, rather than by the criminal courts. These administrative proceedings–which lie outside the judicial branch of government–penalize offenders for less serious conduct such as "disruption of public peace and order" or "indecent, impudent, and unscrupulous behavior." Where wrongdoing is established, the penalties are light–for example, fines usually do not exceed the equivalent of U.S. $20 and time in detention is limited to ten days imprisonment.

Human Rights Watch has no evidence to suggest that the Serbian government has in any way instructed the police, prosecutors or the judiciary to be lenient toward the perpetrators of nationalistic violence. In a society marred by widespread ultra-nationalism, the failure of the police and the prosecutors to prosecute persons involved in ethnically motivated crimes to the fullest extent of the law may simply reflect social conformism, at least with respect to alleged ethnic Serb perpetrators. But ambiguities about the authorities' intent should not obscure the serious impact of these offenses.

Regardless of the reasons behind the current practices, Serbia's approach to ethnically motivated crimes needs to change. One practical step would be to legislate new hate crimes offenses, as a way of signaling a new determination to tackle attacks on minorities. Serbia cannot hope to make any progress toward integration into the European Union as long as it effectively absolves itself of responsibility for repeated violence against ethnic and religious minorities in its territory.

Recommendations

To the Government of Serbia:

- Officials at the highest levels should publicly and unequivocally condemn all instances of ethnic violence and other offenses against minorities;
- Disciplinary or legal action as appropriate should be taken against officials who incite, encourage, or support ethnically motivated violence;

- To ensure the impartiality of police investigations, officials should not reject ethnic motivation behind incidents before a full investigation of an alleged offense is completed.
- Serbia should consider legislation that would allow for the imposition of greater sentences for ethnically aggravated forms of offenses against the person, property, public order, and similar offenses. The ethnically aggravated form of an offense would apply where there is evidence of either a) clear ethnic motivation on the part of the perpetrator in the commission of the offense or b) the demonstration of hostility during the commission of the offense based on, among other grounds, the victim's membership (or presumed membership) of an ethnic, religious, or racial group.
- Legislation allowing for harsher punishment for ethnically aggravated forms of offenses should prescribe higher maximums for hate crimes than for the similar crimes in which the underlying acts are unrelated to victim's ethnicity, race and religion;
- The Serbian Ministry of Justice should monitor the application in the courts of any new provisions penalizing ethnically aggravated forms of offenses, as well as article 134 of the Basic Penal Code (incitement to ethnic, racial and religious hatred), to ensure that any prosecutions brought under those provisions are fully consistent with international fair trial standards and human rights law.

The Role of the Police

- The police force should take all appropriate preventive measures to protect minority communities from attacks and not rely solely on stopping violence already underway;
- The police should investigate thoroughly all reports and incidents of ethnic violence and refrain from making public statements that minimize their significance;
- The government of Serbia should intensify efforts to ensure greater participation of minorities in the police in Vojvodina.

To the Local Government in Novi Sad

- Fulfill the promise of the Novi Sad government last year to reimburse property owners whose property was damaged in the March 2004 violence.

To the European Union:

- Include the Serbian government's success in preventing and holding accountable persons responsible for ethnically motivated crimes in Vojvodina and other parts of Serbia as a benchmark in the Stabilisation and Association process;
- Make clear public statements that a multi-ethnic Vojvodina and Serbia in which the rights of all inhabitants are respected is one of the principal objectives of the international community in the territory of former Yugoslavia.

To the Council of Europe:

- Press the government of Serbia to uphold the standards from the Framework Convention for the Protection of National Minorities, to which Serbia and Montenegro has acceded;
- Strengthen the focus of the Council of Europe Parliamentary Assembly monitoring procedure on Serbia and Montenegro on improvement of the functioning of the judiciary in relation to ethnically motivated crimes;
- The European Commission against Racism and Intolerance should carry out a country visit to Serbia and Montenegro and make violence against minorities a special focus of their work.

To the Organization for Security and Co-Operation in Europe (OSCE):

- The Democratization Unit of the OSCE Mission in Serbia and Montenegro should include monitoring of trials of ethnically motivated crimes in its portfolio;
- The OSCE High Commissioner on National Minorities should carry out a follow-up visit to Serbia and Montenegro to assess the progress achieved in protecting national minorities, with a particular focus on the government's response to the incidents of ethnic violence in 2004 and 2005.

Background

The recent upsurge of incidents against minorities in Serbia began in late 2003. During 2004, most of the incidents occurred in Vojvodina, an autonomous province in Serbia.

Many of the cases involved assaults on ethnic and religious minorities in the province.[4] In 2005, offenses against minorities decreased in Vojvodina, but intensified in other parts of Serbia, often taking the form of anti-Semitic and anti-Muslim graffiti, as well as physical assaults on Roma.[5]

Vojvodina is located in Serbia's north and makes up a quarter of Serbian territory. Then Serbian president Slobodan Milosevic drastically curtailed provincial autonomy when he consolidated power in the late 1980s. Even after the fall of Milosevic from power in October 2000, local self-governance in various parts of Serbia has remained weak. The constitution of Serbia from 1990 is still in force, including the provisions granting limited autonomy to Vojvodina.

While the province has a parliament and a cabinet (the executive council of the parliament), their competences are mostly ceremonial and administrative.[6] Political, social and economic developments in the province depend mainly on the decisions by the government in Belgrade.

During the wars in the former Yugoslavia in the early 1990s, tens of thousands of ethnic Hungarians and Croats left Vojvodina, many under pressure from Serb extremists. The International Criminal Tribunal for the former Yugoslavia has issued an indictment for crimes against humanity and war crimes concerning persecutions and forced transfer of ethnic Croats in parts of Vojvodina, in 1992.[7]

---

[4] Throughout this report, the use of "ethnic minorities" is intended to encompass national minorities, such as the Hungarian and Croat communities in Serbia.

[5] There have been further incidents after the conclusion of the research for this report, with the Roma as the most frequent targets. The main Roma human rights organization in Serbia, Minority Rights Center, reported at the beginning of September 2005, that there were four arson attacks on Roma settlements in Belgrade in the previous two months. From January to September 2005, the organization investigated 121 cases of unlawful treatment by the police, violence by private persons, and discrimination. Minority Rights Center, "Escalation of violence toward Roma" (press release), September 1, 2005.

[6] According to the Serbian Constitution, an autonomous province has limited competences in the field of "economic, scientific, technological, demographic, regional and social development; development of agriculture and rural areas; […] culture; education; official use of the language and alphabet of the national minority; public information; health and social welfare; child welfare; protection and advancement of environment; urban and country planning; and in other areas established by law." Constitution of the Republic of Serbia, Serbian government website, http://www.arhiva.serbia.sr.gov.yu/cms/view.php?id=1181 (retrieved January 30, 2005), article 109.

[7] See International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Vojislav Seselj*, case no. IT, Indictment of January 15, 2003, available at http://www.un.org/icty/indictment/english/ses-ii030115e.htm

The number of ethnic Hungarians in Vojvodina has fallen from 340,000 in 1991 to 290,000 in 2002.[8] The number of Croats decreased from 72,394 to 56,546, or, if one includes the so-called Bunjevci community, from 93,615 to 76,312.[9] Other major minority groups in the province include Slovaks (56,000), Romanians (30,000), Roma (29,000), and Ruthenians (15,600).[10] In 2002, some 1,320,000 ethnic Serbs lived in the province, in the overall population of 2,032,000.[11]

Structure of the Police, Prosecuting and Judicial Authorities

Police

The police in Serbia, including Vojvodina, are centralized. The minister of interior has the power to appoint local police commanders in the municipalities. Participation of the ethnic minorities in the police in Serbia is currently far below the percentage of the minorities in the overall population in the province. Hungarians made up only 1.3 percent of police employees in 2004 despite comprising 3.9 percent of the overall population. For other major ethnic groups the figures during the same period were: Bosniacs (Muslims) – 1.12 percent of police employees compared to 1.8 percent of the overall population; Croats 0.32 compared to 0.94 percent of the overall population; and Roma 0.1 percent compared to 1.44 percent of the overall population.[12]

When an offense is committed, the police conduct a preliminary investigation in order to gather the initial information about the case. On the basis of the information, the police evaluate the legal nature of the offense, sometimes after consulting a municipal or district prosecutor.[13] Depending upon the evaluation, the police may submit

---

[8] B.D.S., "Putujem u Vasington da kazem kako zivimo!" ("I Am Going to Washington to Recount How We Live Here!"), *Dnevnik* (Novi Sad), July 7, 2004 [online], http://www.dnevnik.co.yu/arhiva/07-07-2004/Strane/politika.htm (retrieved January 31, 2005) (statement by Zsoltan Bunik, Vice-president of the Party of Vojvodina Hungarians). Results of the 2002 census are available on the website of the Statistics Bureau of Serbia and Montenegro, at http://www.statserb.sr.gov.yu/Zip/NEP1.pdf

[9] Dr. Drazen Zivic, "Depopulacija Hrvata u Vojvodini (1953.-2002.)" ("Depopulation of Croats in Vojvodina") [online], http://www.hrz.hr/aktualno/zivic.htm#_ftn11 (retrieved January 30, 2005) (quoting official census data for 1991 and 2002). The question of ethnic identity of Bunjevci has been subject to considerable dispute between Croatia and Serbia, the former claiming that Bunjevci belong to Croat ethnic group, and the latter contesting the proposition.

[10] "Facts about Serbia: National Minorities," Serbian government website, http://www.arhiva.serbia.sr.gov.yu/cms/view.php?id=1016 (retrieved July 30, 2005).

[11] Website of the Statistics Bureau of Serbia and Montenegro, at http://www.statserb.sr.gov.yu/Zip/NEP1.pdf.

[12] Human Rights Watch interview with Vladimir Djuric, representative of the Ministry for Human and Minority Rights in the Council of Ministers of Serbia and Montenegro, Belgrade, June 1, 2005.

[13] Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, January 25, 2005; Human Rights Watch interview with Ratko Galecic, Sremska Mitrovica District Public Prosecutor, January 24, 2005; Human Rights Watch interview with Goran Rodic, President of Temerin Municipal Court, January 26, 2005.

misdemeanor charges to a misdemeanor judge, or criminal charges to a criminal prosecutor.

Criminal Courts and Public Prosecutors

Serbia is divided into districts. Districts are, in turn, divided into municipalities. Most districts and municipalities have their own criminal courts and prosecutors. District and municipal-level judges and prosecutors are elected by the Serbian parliament in the capital Belgrade.[14] District courts, as a general rule, have jurisdiction over crimes punishable with prison sentences exceeding ten years, while municipal courts have jurisdiction to adjudicate lesser offenses.[15] Serbian legislation also lists specific crimes which, although not punishable with more than ten years of imprisonment, are within the competence of district courts. Incitement to ethnic, racial and religious hatred is one of these crimes.[16]

There are seven districts in Vojvodina, all but one of which contains a district court and district prosecutor.[17] Most of the 45 municipalities in Vojvodina either have their own municipal courts or an outpost of the municipal court from a larger neighboring municipality.[18]

Misdemeanor Judges

Misdemeanors are dealt with outside the criminal justice system by misdemeanor judges, who are appointed by the Serbian executive branch.[19] Despite their formal title, they are not members of judiciary. Administrative agencies, inspectorates, and other bodies "empowered with public authority" are in charge of initiating misdemeanor

---

[14] Law on Judges, *Sluzbeni glasnik RS* (*Official Gazette of the Republic of Serbia*), No. 63/2001, 42/2002, 60/2002, 17/2003, 25/2003, 27/2003, 35/2004, and 44/2004, article 46; Law on Public Prosecutor, *Sluzbeni glasnik RS* , No. 63/2001, 42/2002, 39/2003, and 44/2004, article 56.

[15] Law on the System of Courts, *Sluzbeni glasnik RS* (*Official Gazette of the Republic of Serbia*), No. 63/2001, articles 21 and 22.

[16] Law on the System of Courts, *Sluzbeni glasnik RS* (*Official Gazette of the Republic of Serbia*), No. 63/2001, article 22.

[17] The seven districts in Vojvodina are: Backa South (with the seat in Novi Sad), Backa North (Subotica), Backa West (Sombor), South Banat (Pancevo), North Banat (Kikinda), Banat Central (Zrenjanin), and Sremski (Sremska Mitrovica). See Serbian Government website, at http://www.arhiva.serbia.sr.gov.yu/cms/view.php?id=1010 (retrieved January 31, 2005). Territorial jurisdiction over crimes that occur in North Banat district is divided between the district courts in Zrenjanin and Subotica. See Law on Courts' and Public Prosecutors' Seats and Areas of Competence, *Sluzbeni glasnik RS* (*Official Gazette of the Republic of Serbia*), No. 63/2001, article 5.

[18] Ibid, article 2.

[19] Bratislava Petrovic ed., *Misdemeanors Act* [*of Republic of Serbia*], consolidated text (Belgrade, 1996), arts. 84a and 98.

proceedings.[20] With respect to the incidents addressed in this report, proceedings are initiated by municipal offices of the police.

Misdemeanor judges operate in most municipalities in Serbia.[21] Appeals of their decisions go to one of the eleven misdemeanor chambers (*vece za prekrsaje*) that exist throughout Serbia.[22] The misdemeanor chamber in Novi Sad, for example, hears appeals of the decisions by misdemeanor judges in Vojvodina.[23]

Prosecuting Offenses with an Ethnic or Religious Motivation

There are three ways in which violence against ethnic and religious minorities can be prosecuted under Serbian law. The first option is to charge a violation of article 134, which prohibits incitement to ethnic, racial and religious hatred. The second is to charge using standard public order offenses under the Serbian criminal code, such as violent behavior or participation in group violence. The third option is to treat the offense as a misdemeanor, an administrative charge dealt with outside the criminal courts.

Article 134

Article 134 of the Basic Penal Code prohibits incitement to ethnic ("national," under the terms of the law), racial, and religious hatred. The provision encompasses not only symbolic acts, such as desecration of cemeteries and uttering hate slogans, but also violent acts such as assaults and destruction of private and communal property.[24]

---

[20] Ibid, article 176.

[21] Ibid, article 84a.

[22] Ibid, article 84a.

[23] Ibid, article 85.

[24] Article 134 stipulates:

(1) Whoever incites to or inflames national, racial or religious hatred, discord or intolerance among peoples and national minorities living in [Serbia and Montenegro], shall be punished by one to five years' imprisonment.

(2) In case the above act has been committed through coercion or ill-treatment, by jeopardizing someone's safety, by exposing to ridicule certain national, ethnic or religious symbols, by inflicting damage to other people's belongings, as well as desecration of monuments, memorial complexes or tombstones, the perpetrator shall be punished by 1 to 8 years' imprisonment.

(3) If the perpetrator commits the offense from paragraphs 1 and 2 of this article by abuse of office or powers, or if the offense resulted in riots, violence or other grave consequences for the common living of the peoples or national minorities residing in [Serbia and Montenegro], the perpetrator shall be sentenced to imprisonment ranging from one to eight years for offenses under paragraph 1, and from one to ten years for the offense under paragraph 2. *Penal Code of the Federal Republic of Yugoslavia* [now "Basic Penal Code"], consolidated version (Belgrade, 2001), article 134.

The Basic Penal Code is one of the two pieces of Serbian legislation defining criminal offenses and prescribing the penalties. The other legislative act is Penal Code of the Republic of Serbia.

For an offense under article 134 to be committed, it is not necessary that ethnic, racial, and religious hatred actually resulted from the act in question. It is sufficient that the underlying act objectively could have produced such a consequence.[25] Criminal responsibility attaches when the perpetrator intended to incite hatred against the victim group, or knew that hatred was a likely result and was reckless as to whether it occurred ("advertent recklessness").[26]

General Public Order Offenses

Where criminal prosecutions are pursued for alleged ethnically motivated violence, the defendants are generally charged with ordinary criminal offenses, such as violent behavior (article 220 of the Serbian Penal Code), participation in a group that commits violent acts (article 230), or damaging someone else's belongings (article 176). Article 220 criminalizes insulting, violent, impudent and ruthless behavior of the transgressor whose earlier life suggests propensity to such behavior.[27] Article 230 differs from article 220 in that it pertains to incidents resulting in more serious consequences – loss of life, infliction of serious bodily injury, or property damage.[28] Mere presence in the group that carries out the violence is punishable under article 230, in contrast to article 220, where the prosecutor must prove that the accused personally committed a prohibited act.[29] Violation of article 230(1), like that of article 220, results in prison sentences from three

---

[25] Judgment of the Supreme Court of Serbia, Kž. I. 518/85, September 10, 1985. See also Dr. Zoran Stojanovic & Dr Obrad Kesic, *Krivicno pravo – posebni deo* (Criminal Law – Specific Crimes) (Belgrade, 2002), p. 34.

[26] Dr. Zoran Stojanovic & Dr Obrad Kesic, *Krivicno pravo – posebni deo* (Criminal Law – Specific Crimes) (Belgrade, 2002), p. 34. If the perpetrator recklessly held that no hatred would result from his act ("inadvertent recklessness"), or if he was even unaware that hatred might result, he is not criminally responsible under article 134.

[27] Article 220 provides:

Whoever jeopardizes serenity of the citizens or disrupts public order and peace, by rude insults or ill-treatment, use of violence, provoking brawl, or by impudent and ruthless behavior, and his earlier life suggests propensity to such behavior, shall be punished by imprisonment ranging from three months to three years.

If the act from paragraph 1 is committed in a group, or during the commission of the offense a person suffered light bodily injury, or was exposed to grave humiliation, the perpetrator shall be punished by imprisonment ranging from six months to five years.

Penal Code of the Republic of Serbia, consolidated version (Belgrade, 2002), article 220.

[28] Article 230 stipulates, in part:

Whoever participates in a group which through a common activity of its members deprives a person of his life, or inflicts upon him a serious physical injury, causes arson, damages property to a significant extent, or performs other acts of grave violence, or which attempts to carry out such acts, shall be punished for the participation by imprisonment ranging from three months to five years.

Penal Code of the Republic of Serbia, article 230.

[29] In contrast, serious offenses against the person carried out by a lone person who is not part of any group require that the prosecution establish that the person carried out the prohibited act. During the course of this research, Human Rights Watch encountered only one case of violence against minorities involving a lone perpetrator.

months to five years. An identical maximum sentence is prescribed for the crime of damaging someone else's belonging, in article 176. The sentences contrast with the eight-year maximum prescribed for the most common forms of infringement upon article 134.

Absence of "Hate Crime" Legislation

International human rights law permits, but does not require, states to adopt so-called hate crime legislation. Typically, such laws permit higher sentences for criminal acts that are aggravated by racial, ethnic, religious or other hatred. Human Rights Watch supports the enactment of such laws so long as they are appropriately enforced to protect the rights of all ethnic, racial and other groups. [30]

Serbian criminal law does not contain provisions that would allow for the imposition of greater sentences for ethnically aggravated forms of offenses. Some courts have applied other provisions in the Basic Penal Code as an ad hoc form of hate crime legislation. In particular, in several cases courts have sought to charge article 134,[31] which prohibits incitement to racial hatred, and article 154, which outlaws violations of "basic human rights" on the basis of racial, national or ethnic grounds.[32] But neither article can

---

[30] The International Convention on the Elimination of All Forms of Racial Discrimination (CERD), article 4(a), states that state parties "[s]hall declare an offense punishable by law…all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin…." Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR) instructs states to prohibit "[a]ny advocacy….that constitutes incitement to…violence." Thus though the treaty texts of CERD and the ICCPR make clear that racial and ethnic based violence must be punished by states, they are vague on the issue of what form the punishment for bias-motivated violence should take. In particular, the issue of whether states must uniquely and separately criminalize violent acts based on racial, ethnic, religious, or other animus or enhance penalties for such acts is left open by the text of the treaties. The U.N. Human Rights Commission passed a resolution on April 25, 2002, calling for states to "consider including in their legislation racist and xenophobic motivations as an aggravating factor for purposes of sentencing" (E/CN.4/2002/L.12 (2002)), but the resolution did not call for the separate and unique criminalization of bias motivated crimes.

[31] There has been at least one sentence by a district court in Serbia applying article 134 as a "hate crime" provision. In May 2001, the district court in Nis invoked this article to sentence two "skinhead" youths to suspended 6-month sentences for beating a Roma minor because of his ethnicity. District Court in Nis, Judgment no. K-136/2000, May 16, 2001. Several prosecutors in Vojvodina, interviewed by Human Rights Watch, also interpreted article 134 as a hate crime provision, even though they were reluctant to use it in practice because of the difficulty of proving racial motive behind the perpetrator's act.

[32] Article 154 stipulates, among other: (1) Whoever violates basic human rights and freedoms recognized by the international community, on the basis of the difference in race, color skin, nationality, or ethnic origin, shall be punished by imprisonment ranging from six months to five years. *Basic Penal Code*, article 154.

A court in central Serbian town of Aleksandrovac applied Article 154 in April 2005 to punish a "skinhead" who severely beat a Romani man. Municipal court in Aleksandrovac, Judgment no. K-3/05, April 4, 2005. However, a fair-minded reading of Article 154 does not justify the conclusion that it pertains to hate crimes. The title of the article, "Racial discrimination and other types of discrimination," explicitly characterizes this provision as prohibiting discrimination – a concept distinct from committing criminal offense with a racist motivation (hate crime). The reference in Article 154 to "violations of human rights and freedoms" exposes the main purpose of the provision as that of targeting public officials who are in a position to decide about someone else's rights and

properly be applied to hate crimes, and efforts to do so violate the principle of legality. Moreover, the use of articles 134 and 154 by some courts to cover offenses which other courts deal with through regular public order charges creates an inconsistent application of the law, which is particularly undesirable in the criminal justice system.

Misdemeanors

Public order offenses can also be dealt with through misdemeanor proceedings, under articles 6 and 12 of the Public Order and Peace Act. As noted above, such proceedings are undertaken by misdemeanor judges operating separately from the criminal courts. Both article 6 and article 12 proscribe the disruption of public order and peace, as well as conduct jeopardizing the safety of the citizens. While article 6 of the Public Order and Peace Act encompasses the use of force and threats with the use of force, [33] article 12 focuses on "indecent, impudent, and ruthless behavior" falling short of violence.[34]

Initiating a Prosecution

There are four bodies authorized under the law to refer a case for prosecution as either a misdemeanor or a criminal offense: the police, misdemeanor judges, the office of the public prosecutor, and judges in the criminal courts.

The police can refer a case either to a public prosecutor or misdemeanor judge, depending on their assessment of the gravity of the offense. If the police opt for misdemeanor charges, it is open to a misdemeanor judge to determine that the act

---

freedoms by exercising power in administrative and civil matters. Hate crimes, in contrast, are as a rule committed by individuals who, acting in private capacity, commit a criminal offense against another person.

[33] Article 6 of the Public Order and Peace Act provides:

(1) Whoever disrupts public order and peace, or jeopardizes the safety of the citizens, by quarrelling or shouting, shall be punished by a fine up to 500 dinars, or by prison sentence not exceeding 20 days.

(2) Whoever jeopardizes security of another person by threats against his life or body, or life and body of a person close to him, shall be punished by a fine up to 700 dinars, or by prison sentence not exceeding 30 days.

(3) Whoever insults or abuses another person, by using violence, provoking brawl or participating therein, and thereby jeopardizes the serenity of the citizens or disrupts public order and peace, shall be punished by a fine up to 1,000 dinars, or by prison sentence not exceeding 60 days.

(4) When the misdemeanor from paragraphs 1 to 3 is committed in a group, the punishment shall be a prison sentence not exceeding 60 days.

Public Order and Peace Act, *Sluzbeni glasnik RS* (*Official Gazette of the Republic of Serbia*), No. 51/1992, 53/1993, 67/1993, 48/1994), article 6.

[34] Article 12 stipulates, in paragraph 1:

Whoever jeopardizes safety of the citizens, or disrupts public order and peace, by … indecent, impudent, and ruthless behaviour, shall be punished by a fine up to 700 dinars, or by prison sentence not exceeding 30 days.

Public Order and Peace Act, article 12 (1).

constitutes a criminal offense rather than a misdemeanor. In that case, the misdemeanor judge can declare a lack of jurisdiction and refer the case to the competent public prosecutor.[35] The misdemeanor judge can also complete the misdemeanor proceedings and report the case to the competent criminal prosecutor. This is not considered double jeopardy (prosecution for the same offense more than once) because misdemeanor proceedings are administrative rather than judicial, and because a finding of guilt does not constitute conviction on a criminal charge.[36]

With respect to the crimes covered by this report, the municipal prosecutor is in charge of prosecuting offenses of "violent behavior" (article 220 of the Serbian Penal Code), "participation in the group that commits violent acts" (article 230), and damaging someone else's belonging (article 176). Given the more serious nature of "incitement to racial hatred" (article 134 of the Basic Penal Code), a more superior, district prosecutor, is in charge of pursuing that crime.[37] When the case comes to the prosecutor – usually from the police, in practice – the prosecutor submits to the investigating judge a request to open an investigation. Upon completion of the investigation, the prosecutor decides which charges to bring against the suspect. A municipal prosecutor might determine that the case at issue actually rises to incitement to racial hatred, in which case he or she can notify the competent district prosecutor.[38] Conversely, a district prosecutor might refer the case to a municipal prosecutor, if he or she were to determine that there were no elements of incitement in the acts of the accused.

It is also important to note that the prosecutor is not obliged to stand by the legal qualification of the offense in the indictment until the end of the trial. If, for example, a district prosecutor reaches the conclusion that evidence is unlikely to support the charge of incitement, he or she can amend the indictment before the conclusion of the trial to one of participation in a violent group, or some other crime.[39] Prosecutors are therefore free to pursue article 134 charges where the evidence strongly suggests presence of

---

[35] Bratislava Petrovic ed., *Misdemeanors Act* [*of Republic of Serbia*], consolidated text (Belgrade, 1996), art. 124.

[36] Human Rights Watch interview with Sead Spahovic, Public Defender of the Republic of Serbia, Belgrade, January 16, 2005.

[37] Law on the System of Courts, *Sluzbeni glasnik RS*, No. 63/2001, as amended in 42/2002 and 27/2003, article 22 (2).

[38] The municipal prosecutor in Kikinda, for example, told Human Rights Watch that, following the careful consideration of the file received from the investigating judge and pertaining to the May 29/30, 2004 beating of Hungarian youths in Novi Knezevac, she would decide whether to: (a) issue indictment for violent behavior (article 220 of the Serbian Penal Code) or, (b) in consultancy with the competent District Prosecutor, defer him the case for prosecution under article 134 of the Basic Penal Code. Human Rights Watch interview with Svetlana Vlajkov, Deputy Municipal Public Prosecutor in Kikinda, Kikinda, December 22, 2004.

[39] See *Zakonik o krivicnom postupku, sa izmenama i dopunama* (Criminal Procedure Act, with Amendments) [2001], (Sluzbeni list, Belgrade, 2002), art. 341.

incitement, without taking the risk that the case will collapse if the intention or advertent recklessness required for the incitement offense cannot be established.

March 2004 Violence against Albanians and Muslims

The worst violence in the past two years against minorities in Serbia occurred between March 17 and 20, 2004. It was sparked by the violent rioting by ethnic Albanians throughout Kosovo on March 17 and 18.[40] In Nis and Belgrade, demonstrators set the city mosques on fire. Mobs in Novi Sad, the capital of Vojvodina, damaged the premises of the Islamic center and damaged bakeries and pastry-shops owned by ethnic Albanians and Muslims. Angry crowds in Novi Sad attempted to break into settlements inhabited by Roma and Ashkali (Albanian-speaking Roma) families. In other towns in Vojvodina and elsewhere in Serbia, smaller groups of people damaged bakeries and pastry-shops belonging to ethnic Albanians.

Nis, March 17, 2004: Islam Aga Mosque

On the evening of March 17, 2004, a group of two thousand demonstrators gathered in the central square in Nis, the second largest city in Serbia. Around 10 p.m., demonstrators marched toward the nearby Islam Aga mosque and set it on fire, chanting "Kill, kill Shiptar!"[41] When police arrived the mosque was already burning. Police allowed the crowd to block fire fighters access to the mosque, leaving them unable to extinguish the fire.[42] The fire destroyed most of the mosque and its tower (*minaret*).[43]

The municipal prosecutor in Nis indicted eleven individuals for participating in a group which inflicted damage on the mosque in the amount of 5 million dinars (equivalent of

---

[40] For a detailed account of the March 2004 events in Kosovo see Human Rights Watch, "Failure to Protect: Anti-Minority Violence in Kosovo, March 2004," July 2004, Vol. 16, No 6 (D).

[41] "Zapaljena dzamija u centru Nisa" ("Mosque in the Center of Nis Set on Fire"), B92 web site, March 17, 2004 [online], http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=17&nav_id=135524&nav_category=11 (retrieved July 6, 2005); see also "Pojacane mere bezbednosti vitalnih objekata u gradu" ("Measures To Protect Key Objects in the City Strengthened"), *Danas*, March 19, 2004 [online], http://www.danas.co.yu/20040319/dogadjajdana1.html#2 (retrieved July 6, 2005). Shiptar is a derogatory term used by Serb nationalists to describe ethnic Albanians. Most Albanians in Kosovo and in Serbia are Muslims.

[42] "Pojacane mere bezbednosti vitalnih objekata u gradu" ("Measures To Protect Key Objects in the City Strengthened"), *Danas*, March 19, 2004 [online], http://www.danas.co.yu/20040319/dogadjajdana1.html#2 (retrieved July 6, 2005)

[43] Zorica Miladinovic, "Bosko Ristic: Postupak moze da zastari" ("Bosko Ristic: Statute of Limitations Might Run Out"), *Danas* (Belgrade), July 6, 2005 [online], http://www.danas.co.yu/20050706/terazije1.html#2 (retrieved July 8, 2005).

US$90,000).[44] But the indictment failed to consider the attack as an attempt to incite religious hatred within the meaning of article 134 of the Basic Penal Code. The indictment treated the mosque simply as "property" rather than taking into account its symbolic nature.[45] Since damaging property and causing arson through common violent activity are prohibited under article 230 of the Serbian Penal Code ("participation in a group that commits violent acts"), the prosecutor relied on this provision in bringing charges against the alleged perpetrators.

Nis district public prosecutor told Human Rights Watch that her office was in a dilemma as to the legal nature of the crime, and that the decision not to use article 134 "may have been a mistake."[46] She insisted, however, that the decision was not related to any political considerations. The anticipated difficulty in proving that the perpetrators of the mosque burning acted with intent to incite religious or ethnic hatred was the decisive factor in the prosecutor's decision to use article 230 instead. According to the prosecutor,

> It is true that we could have started the case as one of incitement to hatred, because we would always have a possibility to amend the indictment during the trial, if we assessed that we were not making progress in proving perpetrators' intent to incite. We could, in that case, change the indictment into one of participation in a violent group, which is a crime easier to prove. But, upon examining the investigation files, we concluded that the evidence was not sufficient to prove the intent to incite, and we could not expect anything new to appear during the trial to change that. So we decided that we should from the start treat the case as one of participation in a violent group.[47]

The reasoning on the part of the prosecutor appears misplaced. The critical element a prosecutor needs to prove in an Article 134 case – the intent to provoke ethnic or religious hatred or advertent recklessness that such hatred would result – is obvious from the highly symbolic nature of the mosque as the target and from the slogan "Kill,

---

[44] Office of the District Public Prosecutor in Nis, Indictment No. KT 528/04, June 1, 2004 (on file with Human Rights Watch).

[45] Ibid.

[46] Human Rights Watch telephone interview with Svetlana Savovic, District Public Prosecutor in Nis, June 6, 2005.

[47] Ibid.

kill Shiptar!" the demonstrators in Nis chanted during the attack.[48] Moreover, the prosecutor also appears erroneously to consider that article 134 requires specific intent to incite hatred when advertent recklessness is sufficient.

The way the district court in Nis dealt with the case suggests a bias in the administration of justice. The court sentenced eight defendants on July 26, 2005, to prison sentences ranging from three to five months for their roles in the mosque burning. In the oral explanation of the decision, the presiding judge did not make any reference to the grievances and interests of the Muslim community against whom the crime was directed. The court only considered the interests and sentiments of the Serb community, including those of the accused. While ignoring their nationalistic bigotry as a potential aggravating circumstance in the determination of the sentences, the court emphasized "the partly justified revolt" of the accused as an element purportedly mitigating their responsibility. The presiding judge also remarked that the conduct of the accused damaged the interests of Kosovo Serbs rather than helped them, implying that the gravity of the crime would be lesser if the mosque burning had positive consequences for Kosovo Serbs.[49]

Belgrade, March 18, 2004: Bajrakli Mosque

Just after midnight on March 18, a group of several hundred demonstrators set fire to Belgrade's only mosque.[50] Before reaching the Bajrakli mosque, the demonstrators broke through an undermanned and ill-equipped police cordon, injuring two dozen policemen.[51] The police were initially prohibited from using force, at the request of the Interior Minister Dragan Josic. The authorization to use force arrived only after the police cordon crumbled, at around 20 minutes past midnight.[52] Around 1.30 a.m., when

---

[48] Zorica Miladinovic, "Bosko Ristic: Postupak moze da zastari" ("Bosko Ristic: Statute of Limitations Might Run Out"), *Danas* (Belgrade), July 6, 2005 [online], http://www.danas.co.yu/20050706/terazije1.html#2 (retrieved July 8, 2005).

[49] Human Rights Watch was present in court on July 26, 2005, when the presiding judge read out the reasoning of the judgment and made a contemporaneous note of the presiding judge's words.

[50] "Sukobi demonstranata i policije u Beogradu, pozar u dzamiji ugasen" ("Clashes between Demonstrators and Police in Belgrade, Fire in the Mosque Put Down"), B92 web site, March 18, 2004 [online], http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=17&nav_id=135518&nav_category=11 (retrieved July 6, 2005).

[51] Ibid; "Policija: nismo ocekivali da mogu da zapale dzamiju" ("Police: We Did Not Expect That They Might Set the Mosque on Fire"), B92 web site, March 18, 2004 [online], http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=18&nav_id=135595&nav_category=11 (retrieved July 6, 2005) (statement by Milan Obradovic, then-head of the Belgrade police).

[52] Belgrade newspaper *Blic* reconstructed the chronology of the police actions based on the transcripts of telephone conversations between the Serbian Minister of Justice and the head of Belgrade police. Exceprts from the transcripts were published in *Blic* on June 8, 2005, in an article entitled "Dzamija gori, Jocic se ceslja"

the whole mosque was already in flame, a unit of the Serbian special police ("gendarmerie") arrived at the scene and dispersed the mob.[53] Around 1:40 a.m., firefighters arrived and extinguished the fire.[54] In contrast to the mosque in Nis, which was built mainly of wood, the solid concrete construction of the Belgrade mosque saved it from complete destruction. Most of the mosque's interior was destroyed by the fire however, together with the adjacent building of the Islamic Community in Serbia – including 14,000 books, objects of art, computers, and other items.[55]

The failure of Serbian authorities to respond promptly and properly to the arson attack on the mosque is underlined by the fact that, a year and a half after the incident, only one person has been tried in connection with the fire and one has been indicted.[56] The two prosecutions look particularly inadequate when one considers the large number of individuals involved in the attempt to burn down the mosque. Police arrested seventy-eight demonstrators in the early hours of March 18. Criminal charges were filed against thirty-six of the seventy-eight people in connection with the disturbances in Belgrade on the night of March 17 and the morning of March 18, including a number of those who had allegedly participated in the arson attack on the mosque.[57]

None of the criminal charges brought by the police involved incitement to ethnic or racial hatred. Prosecutorial authorities also have refrained from indicting the accused for that crime, although the demonstrators in Belgrade, like those in Nis, expressly invited

---

("Mosque in Flame, [Minister] Jocic is Combing His Hair") [online], http://www.blic.co.yu/arhiva/2005-06-08/strane/tema.htm.

[53] Ibid.

[54] "Sukobi demonstranata i policije u Beogradu, pozar u dzamiji ugasen" ("Clash Between Demonstrators and Police in Belgrade, Fire in the Mosque Put Down"), B92 web site, March 18, 2004 [online], http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=17&nav_id=135518&nav_category=11 (retrieved July 6, 2005).

[55] Human Rights Watch interview with Mufti Hamdija Jusufspahic, Belgrade, June 1, 2005. The City Bureau for Damage Assessment established that the damage inflicted on the buildings of the mosque and the Islamic Community in Belgrade amounted to 130 million dinars (US$2.34 million at the time of the incident). The figure does not include the value of the objects destroyed in the flame in the buildings.

[56] Human Rights Watch interview with Goran Ilic, head of Office of the First Municipal Public Prosecutor in Belgrade, Belgrade, July 7, 2005.

[57] "Policija: nismo ocekivali da mogu da zapale dzamiju" ("Police: We Did Not Expect That They Might Set the Mosque on Fire"), B92 web site [online], March 18, 2004, http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=18&nav_id=135595&nav_category=11 (retrieved July 6, 2005) (statement by Milan Obradovic, then-head of the Belgrade police); Simic: Prijave protiv 36 lice" ("Simic: Charges Against 36 Persons"), B92 web site [online], http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=11&dd=15&nav_id=155824&nav_category=12, November 15, 2004 (retrieved July 6, 2005) (quoting Milan Simic, head of the Belgrade police, in his expose to the Serbian parliament on November 15, 2004).

hatred against the targeted community by chanting "Kill, kill Shiptars!" before and during the attack[58] and by painting these same words on the *minaret*.[59]

In the only two cases so far in which criminal prosecutions have been instituted, the accused were charged with participating in a group that commits violent acts (Article 230 of the Serbian Penal Code). In the only case that has reached the trial stage, the First Municipal Court in Belgrade sentenced Stefan Gajic, age 20 on April 11, 2005, to a three-month prison sentence for participating in a group which damaged the Belgrade mosque.[60]

In addition to the two persons charged with the attack on the mosque, as of July 2005, around fifteen other persons were under investigation for attacks against the police, rather than for participation in the burning of the mosque. In those cases, the ongoing investigation concerns the crime of "preventing an official in performance of the duty to maintain safety, public order and peace" (Article 24 on the Public Order and Peace Act).[61]

Novi Sad

March 17-20, 2004: Attacks on Shops Owned by Albanians, Gorani, and Turks

On the night of March 17, as well as in the following two days, ultra-nationalistic mobs in Novi Sad violently attacked bakeries and pastry-shops owned by ethnic Albanians and other Muslims. According to the police, thirteen bakeries and four shops were damaged in the riots.

A mob damaged two bakeries under the name "Evropa," owned by an ethnic Albanian. The larger of the two is located on the main street (Oslobodjenja Boulevard) and was a

---

[58] "Neredi u Beogradu, zapaljena Bajrakli dzamija" ("Unrest in Belgrade, Bajrakli Mosque Set on Fire"), B92 web site, March 16, 2004 [online], http://www.b92.net/info/vesti/index.php?nav_id=135543&dd=18&mm=03&yyyy=2004"%20class="text-link"%20target=%20"_blank (retrieved July 6, 2005).

[59] Human Rights Watch interview with Mustafa Jusufspahic, Mufti of Nis, June 1, 2005.

[60] Human Rights Watch interview with Violeta Jovanovic, deputy president of the First Municipal Court in Belgrade, Belgrade, June 10, 2005. As the minimum penalty proscribed under Article 230 of the Penal Code, the three-month imprisonment for Gajic may appear excessively lenient. On the other hand, the accused belongs to the category of so-called "junior adult persons" (between 18 and 21 years of age) who often receive suspended sentences or, as in Gajic's case, unconditional but mild sentences. It appears therefore that the trial chamber in this case simply followed the usual sentencing policy.

[61] Human Rights Watch interview with Goran Ilic, head of Office of the First Municipal Public Prosecutor in Belgrade, Belgrade, July 7, 2005.

predictable target. Only a few days earlier, the police had protected the same bakery when ultra-nationalistic soccer fans were returning from an important match at the nearby stadium.[62] When the riots began on the night of March 17, two policemen had initially guarded the bakery, but left when the bakery closed. The demonstrators then came and broke the window and damaged the interior.[63]

At around 1:45 a.m. the following morning, demonstrators set fire to the pastry/meat-pie shop "Aziz," on Futoska Street. The shop is located near the main intersection in the center of Novi Sad. The owner of the shop is Gorani by ethnicity.[64] He told Human Rights Watch:

> We lived across the street, so we could see that there were police there, but they were just watching. The next morning we tried to clean up the wreckage, but the students from the electrical-engineering school from across the street cursed at us, "Shiptars, get out of here!" So we had to leave. Around 4 p.m., the demonstrators entered the shop and destroyed everything that may have been preserved from the previous night. Nobody from the authorities has visited us after the destruction of the shop. I do not know who wiped out the shop, and I don't know if anybody has been tried.[65]

Also on the night of March 17 or in the early hours of March 18, demonstrators damaged the bakery "Vojvodina," on Vrsacka Street. The mob had previously damaged the building of the Islamic center, several hundreds meters closer to the center of Novi Sad. When the demonstrators made a turn from the main road (Futoski road) to Vrsacka Street, the owner of the bakery heard a policeman asking over his walkie-talkie, "What are we to do? The mob [*masa*] is arriving." The owner, who was in his family house in the same street, claims he heard the person on the other end of the radio say "protect the people.…As for the damage…let them.…"[66]

---

[62] Human Rights Watch interview with B.L, Novi Sad, July 15, 2004.

[63] Ibid.

[64] Gorani are a Slavic Muslim ethnic group. The majority live in the Gora region in Kosovo. They are distinct from the other Muslim Slav community in the former Yugoslavia, the Bosniaks. The group does not appear on the Serbian government website list of the ten principal minorities in Vojvodina. Elsewhere in Serbia, not including Kosovo, 3,975 persons declared themselves Gorani at the 2002 census. See "Facts about Serbia: National Minorities," Serbian government website, http://www.arhiva.serbia.sr.gov.yu/cms/view.php?id=1016 (retrieved July 30, 2005).

[65] Human Rights Watch interview with F.K., Novi Sad, July 16, 2004. As of January 2005, there has been no criminal investigation into the case. Human Rights Watch telephone interview with Novi Sad Municipal Public Prosecutor Obrad Protic, January 27, 2005.

[66] Human Rights Watch interview with M.B., Novi Sad, July 19, 2004.

According to the owner, two police cars were parked between the crowd and bakery. The demonstrators dismantled a brick fence in front of the house across the street, and used the bricks to smash the bakery windows.[67] Several demonstrators entered into the premises and destroyed the inventory. The camera installed in the bakery recorded the scene. Human Rights Watch has viewed the tape. Its quality is diminished because the lights in the bakery were switched off. Nevertheless, the physiognomy and the movements of the perpetrators can be discerned, at least enough to complement other leads a proper investigation might provide. However, as of January 2005, there had been no investigation into the case.[68] As in other similar cases, nobody from the city authorities visited the owner in the months after the incident.[69]

On March 21, at around 3 a.m., unknown perpetrators threw a Molotov cocktail (gasoline bomb) into a bakery on Dusana Vasiljeva Street, owned by an ethnic Albanian. When the neighbors saw the flames, they called the fire service, which came and put out the fire. The bakery had been under construction and had yet to open to the public at the time of the attack. There were no inscriptions or visual signs on the building to indicate either that it was a bakery or the owner's name.[70] The brother of the bakery owner told Human Rights Watch in July 2004 that no police or political officials have contacted his brother since the March 21 incident.[71] There has been no criminal investigation into the incident.[72]

A few days after the violent incidents, the owners of "Evropa" and "Vojvodina" bakeries requested a meeting with the then-president of the city government. Their request was denied.[73] Owners of "Evropa," "Aziz," and "Vojvodina" also submitted reimbursement claims to the city council, directly or through the police. The city made a public commitment to compensate owners for their losses, but have thus far failed to do so.[74] (See below, chapter "Failure to Provide Compensation").

---

[67] Ibid.

[68] Human Rights Watch telephone interview with Novi Sad Municipal Public Prosecutor Obrad Protic, January 27, 2005.

[69] Human Rights Watch interview with D.B., wife of M.B., Novi Sad, July 19, 2004.

[70] Human Rights Watch interview with P.D., Novi Sad, July 15, 2004. P.D. is the brother of the owner of the bakery.

[71] Human Rights Watch interview with P.D., Novi Sad, July 15, 2004.

[72] Human Rights Watch telephone interview with Novi Sad Municipal Public Prosecutor Obrad Protic, January 27, 2005.

[73] Human Rights Watch interview with M.B. (owner of two "Vojvodina" bakeries), Novi Sad, July 19, 2004; Human Rights Watch interview with B.L. (owner of the "Evropa" bakeries), Novi Sad, July 15, 2004.

[74] On March 18, 2004, the Executive Council of Novi Sad Assembly decided that it would consider all individual requests by property owners for reimbursement of repair expenses. Four store owners, as well as a Hungarian theater in Novi Sad (Ujvideki Ssinhaz), eventually submitted reimbursement claims. However, since July 2004

March 17-19, 2004: Attacks on Roma and Ashkali Settlements

During the March events, mobs estimated at several hundreds of people rampaged among two Novi Sad settlements inhabited by Roma and Ashkali. Among many of the Roma and Ashkali were displaced persons from Kosovo, who left the province in 1999 following the withdrawal of Serbian troops; some ethnic Albanians suspected that Roma and Ashkali had collaborated with the Serb and Yugoslav forces during the 1999 conflict. In the immediate aftermath of the 1999 conflict, their homes were burned alongside Serb homes, and Roma and Ashkali communities also faced deadly attacks, kidnappings, and other forms of violence. On successive nights between March 17 and 19, 2004, large ethnic Albanian crowds in Kosovo again targeted Roma and Ashkali, along with the ethnic Serbs who still live in the province.

That Serb violence against ethnic Albanians would extend to Roma and Ashkali, who themselves had been targeted by the Albanians in Kosovo, appears irrational on its face. However, for many Serb ultra-nationalists, the distinctions between Albanians and Roma and Ashkali are less important than the similarities. Many Albanians and Roma are Muslims, while Serbs typically belong to the Christian Orthodox Church. Ashkali are Albanian speakers (while Roma generally speak Romani language). For the ultra-nationalistic mobs, the Roma from Kosovo, particularly those who speak Albanian, appear to serve as surrogates for Albanians.

On the night of March 17 or in the early hours of March 18, the same group that had damaged several bakeries and pastry-shops in the center, and the Islamic center on Futoski road, continued their way toward the nearby Adice settlement, at the southern outskirts. Some 500 Roma and Ashkali live in this neighborhood, most of them recently displaced from Kosovo.[75] The crowd marching on the neighborhood was estimated at around one thousand people.[76] The police blocked the entrance to Adice at the small bridge separating the settlement from the adjacent Telep suburb. Demonstrators attacked the police with bricks and stones, and even tried to penetrate the police cordon

---

the Executive Council has not acted upon the claims. Written communication by the Office the Mayor of Novi Sad to Human Rights Watch, February 3, 2005.

[75] Milorad Bojovic, "Nocne straze posle pozara na Kosovu" (Night Guards After the Eruption in Kosovo), *Danas* (Belgrade), March 26, 2004 [online], http://www.danas.co.yu/20040326/terazije1.html#4 (retrieved January 31, 2005) (the article quotes *mesna zajednica* – the administrative body in the local community – as the source for this figure).

[76] "Protesti, neredi i demoliranja na ulicama Novog Sada" ("Protests, Riots, and Demolitions in the Streets of Novi Sad"), *Dnevnik* (Novi Sad), March 19, 2004 [online], http://www.dnevnik.co.yu/arhiva/19-03-2004/Strane/hronika.htm#1 (retrieved January 5, 2004).

with a truck.[77] The police managed to ward off the attackers and arrested some among them. In the following days, the police and the Roma and Ashkali residents organized night guards to preempt any new attacks.[78]

On the night of March 18 or in the early hours of 19, some 500 demonstrators targeted the Veliki rit (Big Marsh) settlement.[79] Around 350 Roma families live in Veliki rit, of whom 150 are displaced from Kosovo. Some thirty Ashkali families, all displaced persons from Kosovo, also live there.[80] The settlement is located four kilometers from the center, across a channel separating the center from the northern suburbs. The main entrance to the settlement is located one kilometer from the bridge over the channel, with a second entrance further up north. On March 18 or in the early hours of March 19, the police failed to prevent the crowd's arrival in the immediate vicinity of the Roma houses in Veliki rit. The police could have used crowd control barriers at the bridge over the channel, but took no action, allowing the demonstrators to reach the entrance to Veliki rit. Television news media were present during the incident and filmed the event. A Roma resident from the settlement described what happened:

> Several dozens policemen stood on the main road, close to my house, blocking the entrance into the settlement. When the crowd came, around 12:30 a.m., the demonstrators threw rocks on the three houses at the entrance. Then they continued along the main road, to get to the other end of the settlement, further up north. I learnt afterwards that the demonstrators broke windows on several houses there. The whole thing lasted until four o'clock in the morning. We were afraid what might happen, so we sent the women and children to the swamps behind the settlement. They spent the whole night there, thousands of them.[81]

The Roma resident and a Serb from the neighborhood across the street from Veliki rit, interviewed separately, both told Human Rights Watch that the crowd was led by a big

---

[77] Ibid. See also Milorad Bojovic, "Nocne straze posle pozara na Kosovu" (Night Guards After the Eruption in Kosovo), *Danas* (Belgrade), March 26, 2004 [online], http://www.danas.co.yu/20040326/terazije1.html#4 (retrieved January 31, 2005).

[78] Milorad Bojovic, "Nocne straze posle pozara na Kosovu" (Night Guards After the Eruption in Kosovo), *Danas* (Belgrade), March 26, 2004 (statement by Sadrija Bahtir, president of Ashkali Peace Council in Adice) [online], http://www.danas.co.yu/20040326/terazije1.html#4 (retrieved January 31, 2005).

[79] "Mirno, pa razbijacki" ("Peaceful, And Then Thuggishly"), *Dnevnik*, March 19, 2004 [online], http://www.dnevnik.co.yu/arhiva/19-03-2004/Strane/hronika.htm#1 (retrieved January 5, 2004).

[80] Human Rights Watch interview with Rasim Osman, deputy president of the Association of Roma in Veliki rit, Novi Sad, July 19, 2004.

[81] Human Rights Watch interview, Novi Sad, July 19, 2004.

van, with a dozen persons on the roof.[82] The Roma man also said that one of the people on the roof of the van was waiving the flag of the ultra-nationalist Serbian Radical Party.

The Roma resident told Human Rights Watch that the authorities had taken no action against those responsible for the violence.

> Television cameras were recording everything that was going on, so the police could easily [have] identif[ied] the perpetrators. The police were also here. So it would be easy to know what exactly happened. But I am sure that nobody has been punished for the violence. If there are no punishments, offenders will not hesitate to do the same thing again. We told the city authorities, if this happens again, all of us will march to the border and demand resettlement in some other country.[83]

Human Rights Watch has been unable to obtain information about possible prosecutions on ordinary criminal charges against any of the participants, but has confirmed that there have been no investigations or prosecutions on charges of incitement to ethnic or religious hatred arising out of the incident.[84]

March 18, 2004: Islamic Center (medzlis)

On March 18 at around 1 a.m., a crowd of several hundred people broke windows on the premises of the Islamic center (*medzlis*) in Novi Sad. The center serves the Muslim community in the city and its surroundings, which numbers around 20,000. It is located in an ordinary apartment building. There is no inscription or symbol designating the building as a center for Muslims, but its location was evidently known to some of those involved in the attack.

Imam Fadil Murati, the supreme Islamic cleric in Vojvodina, was an eyewitness to the violence on March 18, which he recounted to Human Rights Watch:

> I lived in the backyard at the back of the building. Around a quarter to one in the morning a friend phoned to warn me that mobs were on the rampage in Novi Sad. I decided to leave the apartment, to spare other

---

[82] Ibid; Human Rights Watch interview with Z.B., Novi Sad, July 19, 2004.

[83] Human Rights Watch interview, Novi Sad, July 19, 2004.

[84] Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, Novi Sad, June 6, 2005.

> neighbors trouble if the mobs come here. When I got into the street, I saw a mass of 400 or 500 people coming from the direction of the town's center. I crossed the street, because two police cars were parked there. The mob began to break windows on the adjacent house, where a Chinese shop is located. Then they broke the windows in our center. The masses shouted "Kill Shiptars! Kill Shiptars!" I was dressed in civilian clothes, so nobody recognized me. I wonder why the police did not prevent the demonstrators from coming here? I did not identify myself to the police because I wanted to see whether they would do something to protect the center. But they were only standing by. They did not even tell the mobs "Stop, don't do that!"[85]

The failure of the police to prevent the rampage and, at a later stage, to identify, arrest and prosecute the perpetrators, was a grave dereliction of their obligations under international law. The Islamic center is located two and a half kilometers from the city center on Futoski road. The police and the Vojvodina Executive Council apparently determined that it was necessary to allow the mob to damage the center of Novi Sad, so that the police could concentrate their forces to protect the Roma/Ashkali settlements at Adice and Veliki Rit.[86] This strategy effectively meant that the police did not intervene when rioters seriously damaged the stores belonging to Albanians and Muslims in the city center.

Enquiries by Human Rights Watch indicate that, as of late June 2005, no criminal investigation had been carried out into the damage to the Islamic center, despite the presence of police cars at the scene when the attack took place.[87]

State's Failure to Prosecute Violence in Novi Sad

After the first night of riots in Novi Sad, the police arrested eighteen people, and filed misdemeanor charges for damaging property against eleven of them. A police communiqué also announced that the police would file criminal charges against two individuals.[88] After the second night, in which the perpetrators stoned the houses in

---

[85] Human Rights Watch interview with Imam Fadil Murati, Novi Sad, July 26, 2004.

[86] See Center for Development of Civil Society, *Etnicki incidenti u Vojvodini posle internacionalizacije* (Ethnic Incidents in Vojvodina After the Internationalization), January 2005 [online], http://www.cdcs.org.yu/docs/internat_engl.doc. The author of the report is current advisor to the president of Vojvodina Assembly.

[87] Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, June 6, 2005.

[88] "Privedeno 18 osoba od kojih troje maloletnika" ("18 Persons Detained, Three of Them Minors"), *Dnevnik*, March 19, 2004 [online], http://www.dnevnik.co.yu/arhiva/19-03-2004/Strane/hronika.htm#1 (retrieved January 5, 2004).

Veliki rit, the police announced that they had filed an unspecified number of misdemeanor charges.[89] The spokesperson for the Novi Sad police told the media, that police did not intervene in order "…to avoid undesirable reactions, clashes and disorder on a bigger scale. We make a record of the rioters and identify them, and subsequently we file criminal charges against some of them."[90] Given the repeated life- and property-threatening acts by the rioters, it is extraordinary that the police rejected the use of appropriate force to prevent violence, suggesting instead that it was sufficient to let the violence run its course and later bring prosecutions. Even on that score, progress has been limited. In the fifteen months after the riots, there have been no serious investigations and no prosecutions on charges of incitement to ethnic or religious hatred. The district prosecutor in Novi Sad did not receive any criminal charges, against the perpetrators and supporting evidence, from Novi Sad police.[91]

Human Rights Watch is concerned that, encouraged by the police failure to protect and the government's failure to fully prosecute those responsible for the March 2004 riots, Serb ultra-nationalists might again strike at ethnic Albanians, Muslims, Roma, and Ashkali in the event of further unrest in Kosovo. It is an imperative that the Serbian government ensure that those responsible for the March 2004 violence be adequately punished, and prevent any repetition of similar riots in the future.

Failure to Provide Compensation

The property owners in Novi Sad have been unable to get reimbursement for the repair of damaged properties, despite an expressed commitment by the city administration to compensate owners for the damage to their property. In the aftermath of the violence on March 17 and 18, 2004, Executive Council of the Novi Sad Assembly invited the owners to submit claims for reimbursement.[92] According to a former aide to the mayor, several owners whose property had been damaged duly submitted claims.[93]

---

[89] N.H., "Prijave protiv izgrednika" ("Charges against Rioters"), *Dnevnik*, March 20, 2004 [online], http://www.dnevnik.co.yu/arhiva/20-03-2004/Strane/hronika.htm (retrieved January 5, 2004).

[90] S. V. P., "Policija oprezna s maloletnicima" ("Police Careful with Minors"), *Dnevnik*, March 20, 2004 [online], http://www.dnevnik.co.yu/arhiva/20-03-2004/Strane/hronika.htm (retrieved January 5, 2004) (statement by Stevan Krstic, spokesperson for the Novi Sad police).

[91] Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, Novi Sad, June 6, 005.

[92] Human Rights Watch telephone interview with S.S., former staffer with the president of Novi Sad Executive Council, January 24, 2005.

[93]Ibid. This is consistent with what bakery owners in Novi Sad whose properties were damaged or destroyed told Human Rights Watch. Human Rights Watch interview with M.B. (owner of two "Vojvodina" bakeries), Novi Sad, July 19, 2004; Human Rights Watch interview with B.L. (owner of the "Evropa" bakeries), Novi Sad, July 15, 2004. Human Rights Watch interview with F.K. (owner of "Aziz" bakery), Novi Sad, July 16, 2004.

The then-administration, a broad coalition of parties from the center of political spectrum, remained in power until September 2004, when the ultra-nationalistic Serbian Radical Party won local elections. Between March and September, the earlier administration declined to deliver on the promise it made. In mid-January 2005, when Human Rights Watch inquired with the new administration about the fate of the reimbursement claims, the officials and civil servants said they did not know anything about the issue. On February 3, 2005, the Office of the City Mayor informed Human Rights Watch that the Executive Council had not reimbursed any claimants.[94]

Attacks on Cultural and Religious Buildings

Since early 2004, there have been a series of attacks on cultural and religious buildings in Vojvodina belonging to ethnic Hungarians, Croats, Slovaks, and Ruthenians. The attacks have followed a pattern, with unknown perpetrators smashing windows. In some cases, the police failed to identify the perpetrators.[95] It is unclear to what extent the failure arose from insufficient political will to investigate the cases, as opposed to inherent difficulties in discovering the perpetrators of such offenses. A more appropriate test of the government response to the violence is the response of the police – and judiciary – in those cases in which the police identified the perpetrators.

In only one case where the perpetrator was identified did the competent public prosecutor (in Novi Sad) initiate proceedings for incitement to ethnic and religious hatred. The case involved a minor who painted Nazi swastikas on the façade of the Catholic parish house in Petrovaradin, a suburb of Novi Sad, on November 23, 2004.[96] Because of the perpetrator's age, he was dealt with using the proceedings for cases involving minors, rather than the regular criminal courts.[97] In another case, the authorities prosecuted solely on lesser criminal charges, although there was strong evidence of incitement to ethnic violence.

---

[94] Written communication by the Office the Mayor of Novi Sad to Human Rights Watch, February 3, 2005.

[95] For example, on December 27/28, 2003: on the eve of the parliamentary elections in Serbia (December 28), unknown perpetrators broke three windows at the Croat Cultural-Educational Society "Sokadija," in Sombor. Three windows were broken with beer bottles and three bricks. Human Rights Watch interview with Milan Andrasev, art director of the Croat Cultural-Educational Society "Sokadija," Sombor, July 14, 2004.

On the night of December 28/29, in the predominantly Croat village of Tavankut, near Subotica, unknown perpetrators removed the bust from the pedestal of the statue of Matija Gubec, in the courtyard of the elementary school Matija Gubec. Mostly children of Croat ethnicity attend the school. Human Rights Watch interview with A.L., teacher in the Matija Gubec school, Tavankut, July 13, 2004.

[96] Human Rights Watch interview with Marko Kljajic, parish of the Catholic Church St. Rok, Petrovaradin, January 26, 2005; Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, June 6, 2005.

[97] Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, June 6, 2005.

Backa Palanka, March 28, 2004: Three Religious Shrines and Slovak Cultural and Publishing Society

On the night of March 27 or in the early hours of March 28, 2004, a group of six drunken Serb youths vandalized a number of premises in town Backa Palanka, including those belonging to Slovak and Protestant communities. The offenders initially damaged a window at the office of the ultra-nationalistic Serb Radical Party and a window in a store across the street. Then, a few hundred meters down the street, they broke windows of the Slovak Evangelistic Church and windows on the nearby building of the Slovak Cultural and Publishing Society (*Matica Slovacka*). Two offenders (Milos Koncar and Mladen Danilov) went to a side street and broke the window of another trade center. They then re-joined the main group, which headed toward the town center. Along the way, they left numerous stores, kiosks, and restaurants untouched, but broke windows of two more places of worship: the "Shalon" church and the Adventist church.[98] Finally, Koncar and Danilov put a used car tire on a traffic light, obscuring the signals.[99]

The municipal authorities promptly condemned the incident.[100] The head of the Slovak Cultural Center praised the police, who showed up at the site within twenty or thirty minutes.[101] The police identified and arrested the six perpetrators within a day.[102] One perpetrator was twenty-five-years old, two were twenty-one-years old, two just turned eighteen, and one was still a minor.[103]

Five days after the event, the municipal public prosecutor in Backa Palanka issued an indictment against those over eighteen, charging them with "damaging someone else's belongings" (article 176 of the Serbian penal code). Koncar and Danilov were also charged with jeopardizing traffic (article 197). At the trial, the defendants admitted to the crimes with which they were charged. On April 16, 2004, Backa Palanka Municipal Court entered findings of guilt against all five. The penalties included suspended prison sentences ranging from six months to one year, not to be served if the convicts refrain from committing criminal acts in the following three years. The court explained the

---

[98] Municipal Court in Backa Palanka, Judgment against Milos Koncar et al., April 16, 2004. The church referred to as "Shalon" in the judgment by the Backa Palanka municipal court, is actually the United Pentecostal Church/International. Human Rights Watch interview with Jan Demiter, priest in the United Pentecostal Church/International, Backa Palanka, July 27, 2004.

[99] Municipal Court in Backa Palanka, Judgment against Milos Koncar et al., April 16, 2004.

[100] Human Rights Watch interview with Mihal Kolar, priest at the Slovak Evangelistic Church of Augsburg Denomination, Backa Palanka, July 20, 2004.

[101] Human Rights Watch interview with Branislav Slivka, head of the Slovak Cultural Center, Backa Palanka, July 20, 2004.

[102] Ibid.

[103] Municipal Court in Backa Palanka, Judgment against Milos Koncar et al., April 16, 2004.

relatively light sentences by citing the defendants' youth, their remorse, and the absence of prior criminal records.[104]

Given the diversity of targets during the rampage, even the representatives of the Slovak community in Backa Palanka are hesitant to qualify the incident as anything more than ordinary vandalism by drunken youth.[105] The prosecutor used the same rationale in devising the indictment, and the presiding judge agreed in deciding the verdict.[106]

It appears, however, that in charging and sentencing the defendants, both the prosecutor and the judge failed to pursue the possibility that initially random property destruction turned into violence aimed at inciting ethnic and religious hatred. While the assailants initially damaged all public objects they found along the way, after reaching the Slovak church and cultural center they turned their destructive efforts mainly on religious shrines and Slovak institutions. The prosecutor failed to pursue the possibility that the intent of the perpetrators included a desire to provoke hatred against certain religious and ethnic groups, or at least that they were reckless as to whether hatred would result from their actions.[107]

It is also likely that different participants acted with different forms of intent. It follows from the court's judgment that Milos Koncar and Mladen Danilov used violence indiscriminately, while Vukasin Perisic and Petar Ivic targeted only religious and cultural institutions.[108] Perisic is alleged to have paraded through the town in the past wearing a *subara*, a fur cap worn by Serb extremists during the World War II and in the wars in the former Yugoslavia in 1990s.[109] Ivic had allegedly commented that the United Pentecostal Church in Backa Palanka should be set on fire.[110]

The case provides an example of the failure of the judiciary to consider whether offenses have an ethnic or religious dimension even where there is evidence to support such a

---

[104] Ibid.

[105] Human Rights Watch interview with Mihal Kolar, July 20, 2004; Human Rights Watch interview with Branislav Slivka, July 20, 2004.

[106] Human Rights Watch interview with Public Prosecutor Pavle Kolar and Judge Zora Jamusakov, Backa Palanka, January 18, 2005.

[107] Municipal Court in Backa Palanka, Judgment against Milos Koncar et al., April 16, 2004. The conduct of the demonstrators in Novi Sad, on March 17, 2004, shows that motives of the assailants may vary depending on the target. See below "Scarce Use of Article 134 (Prohibition of Incitement)."

[108] Ibid.

[109] Human Rights Watch interview with Jan Demiter, priest in the United Pentecostal Church/International, Backa Palanka, July 27, 2004.

[110] Ibid.

conclusion. The fact that the offenders' intent may have differed, or been mixed, is an insufficient explanation for the failure to properly consider the ethnic or religious dimension of the offenses.

Cemetery Desecration and "Hate" Graffiti

On a number of occasions between late 2003 and mid-2005, perpetrators engaged in various acts of vandalism expressing ethnic or religious hatred. Most often they painted hostile graffiti and desecrated cemeteries. In a majority of cases, the police failed to identify the perpetrators.

Notable incidents in which the police did not identify the perpetrators include:

- Backi Monostor: On November 7, 2003, and the night of June 5 or in the early hours of June 6, 2004, unknown persons damaged the Catholic cemetery in the mainly Croat-populated Backi Monostor. On November 7, twenty-two tombstones were knocked down, and nineteen more on June 6. The perpetrators have not been identified, but ethnic Croat youths may have been responsible for the November 2003 incident.[111]
- Djurdjevo: on an unspecified date during February or March, 2004, unknown perpetrators painted graffiti reading "national minorities – out!" at the hamburger kiosk in the center of the village.
- Coka: in mid-March 2004, unknown perpetrators painted the slogan "Get out of Serbia!" and Serbian ultra-nationalistic acronym "SSSS" on the façade of a school in the town.[112]
- Sombor: late on July 2 or in the early hours of July 3, 2004, unknown perpetrators knocked down eighteen tombstones at the Catholic cemetery. Most of the tombstones belonged to Croats, but there were also those commemorating Hungarians and Germans.[113]

[111] According to the president of the local executive board, one Croatian student told her parents, on the day before the November 2003 incident, that her friends were to party in a house near the cemetery, and that "there will be some problems." Human Rights Watch interview with Zoran Miller, president of Backi Monostor Local Community.

[112] M.M., "Ponavljaju se provokacije u Coki ("Repeated Provocations in Coka"), *Dnevnik* (Novi Sad), March 18, 2004.

[113] Human Rights Watch interview with Josip Pekanovic, parish priest in Sombor, Sombor, July 13, 2004.

- Novi Sad: on July 15, 2004, unknown perpetrators wrote the words "Hey Hungarians, alright, a deep hole is awaiting you" on the concrete fence of a Hungarian-owned house in the Novi Sad neighborhood of Teleb.[114]
- Negotin: on March 24, 2005, unknown persons scribbled anti-Semitic graffiti on the façades of various buildings in Negotin, in eastern Serbia. Some messages described equality among races as "a Jewish trap"; others contained Nazi swastikas next to crossed out Jewish Stars of David.[115]
- Nis: on June 11, numerous anti-Semitic and anti-Muslim graffiti appeared on the walls of several public building, including the town's synagogue. The graffiti glorified the July 1995 genocide against Bosnian Muslims in Srebrenica, requested expulsion of "Turks" (Muslims) from Serbia, and advocated death for the "servants of Zionism."[116]
- Belgrade: in early July 2005, unknown perpetrators scribbled graffiti at billboards commemorating the tenth anniversary of the genocide in Srebrenica, Bosnia-Herzegovina. The graffiti expressed approval of the massacre of the Bosnian Muslims in Srebrenica in July 1995. Only four of the twenty-eight posters remained undamaged. The text of one graffito was "Knife, wire, Srebrenica."[117] The slogan rhymes in Serbian (*Noz, zica, Srebrenica*) and refers to the well-established fact that the hands of a number of Muslim victims were tied with wire prior to their execution.

Belgrade, March 22, 2005: Minor Punishment in Misdemeanor Proceedings

In the early morning of March 22, 2005, anti-Semitic posters and graffiti appeared at numerous locations in Belgrade. At the entrance to the Jewish cemetery, the graffiti demanded that "Jewish parasites" be expelled from Serbia and protested "the Jewish yoke" allegedly imposed upon Serbia. The posters that covered walls in the center of Belgrade contained invectives against the independent television and radio station

---

[114] Human Rights Watch interview with Ferenc Pap, member of Novi Sad City Council and president of the Association for Protection of Historic Monuments "Nagy Sandor," Novi Sad, July 22, 2004.

[115] "Antisemitizam se siri" ("Anti-Semitism is Spreading"), B92 web site, March 24, 2005 [online], http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=03&dd=24&nav_id=164984&nav_category=12 (retrieved July 6, 2005).

[116] Zorica Miladinovic, "Primitivizam, a ne patriotizam" ("Primitivism, Not Patriotism"), *Danas* (Belgrade), June 14, 2005.

[117] Human Rights Watch telephone interview with Andrej Nosov, July 10, 2005. Nosov is the director of the nongovernmental organization Youth Initiative, which erected the billboards in Belgrade. Other messages desecrating the posters contained text such as "There Will Be A Repetition," and "Ratko Mladic" (former Bosnian Serb Army commander, indicted at the International Criminal Tribunal for the former Yugoslavia as the principal architect of the genocide).

"B92," with the name of the station inscribed within the drawing of Star of David. The messages daubed on the walls in the neighborhoods hosting the offices of the leading human rights groups in Serbia – the Humanitarian Law Center and the Helsinki Committee for Human Rights in Serbia – blamed the heads of these organizations for being "Jewish pawns" and one for being an "obedient servant of the Jewish world order."[118]

The police arrested three suspects on the same day.[119] The three ranged between nineteen and twenty-one years of age. In spite of their evident intent to incite to ethnic and religious hatred, the three adults were charged only with a misdemeanor, for "indecent, impudent, and ruthless behavior" (article 12(1) of the Misdemeanors Act). The Belgrade misdemeanor judge sentenced each of the accused on March 23, 2004, to ten days imprisonment.[120]

Stara Pazova, May 29/30, 2004: A Rare Prosecution for Incitement

On the night of May 29 or in the early hours of May 30, 2004, three minors and one eighteen-year old painted graffiti with hate messages on façades of two Slovak houses, two churches belonging to Jehovah's Witnesses and Nazarenes, and on a van owned by an ethnic Croat. The perpetrators wrote "A Sect!" and "German Ustashas!" and painted Nazi swastikas and stylized "U" letters – the latter symbol denoting Ustasha, the Croatian allies of the Nazis in the World War II.[121] The police reacted, in the words of a prominent political representative of Stara Pazova Slovaks, "amazingly fast and efficient[ly]," [122] by arresting the perpetrators and resolving the case.

On September 28, 2004, the prosecutor in the nearby Sremska Mitrovica charged the eighteen-year-old suspect with incitement to ethnic and religious hatred (contrary article 134 of the Basic Penal Code). The prosecutor also initiated an investigation against the

---

[118] "Antisemitske parole protiv B92" ("Anti-Semitic Slogans Against B92"), B92 web site, March 22, 2005 [online], http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=03&dd=22&nav_id=164838&nav_category=12 (retrieved July 6, 2005).

[119] "Vlast ocekivala antisemitski napad" ("Government Expected Anti-Semitic Attack"), B92 web site, March 23, 2005 [online], http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=03&dd=23&nav_id=164913&nav_category=12 (retrieved July 6, 2005).

[120] Human Rights Watch telephone interview with the Secretary of the Belgrade Agency for Misdemeanors, June 2, 2005.

[121] District Public Prosecutor in Sremska Mitrovica, Memorandum to the National Council of the Slovak National Minority in Serbia and Montenegro, November 19, 2004 (on file with Human Rights Watch).

[122] Human Rights Watch telephone interview with Zlatusa Totova, then-president of the Executive Council of Stara Pazova Municipal Assembly, July 28, 2004.

three minors for the same crime.[123] On December 27, the district court in Sremska Mitrovica acquitted the adult defendant, because the court considered the defendant's role in the incident as limited to driving the car, while other persons painted the graffiti.[124] As of June 2005, separate proceedings for violation of article 134 against the minors were still ongoing.[125]

The approach of the prosecutor in the Stara Pazova case should be illustrative for other courts in Vojvodina who deal with cases with apparent ethnic or religious motivation. Rather than dismissing the incident as young persons' prank, the prosecutor considered it an offense capable of generating ethnic and religious violence in a multiethnic area.[126] The messages and the symbols written on the façades clearly pointed at the requisite intent for the offense of incitement to ethnic and religious hatred. Finally, the prosecutor invoked article 134 in spite of the fact that two of the four perpetrators are of the same ethnicity – Slovak and Croat – as the groups targeted.[127] As the prosecutor told Human Rights Watch, "It is our stance that with facts like these we should charge the perpetrators with incitement to hatred, and it is for the court to make the final decision." Too often prosecutorial offices have adopted an unnecessarily restrictive approach to cases where incitement is apparent and opted for ordinary criminal charges.

Assaults on Minorities in Vojvodina

Over the past two years, a number of violent attacks on ethnic Hungarians and other minorities have taken place in Vojvodina. Political representatives of Vojvodina Hungarians have even introduced the term *atrocitet* (literally "atrocitide") to imply that that there has been a dramatic upsurge of ethnically motivated violence against ethnic Hungarians.[128] The Serbian government, for its part, has insisted that the inter-ethnic

---

[123] District Public Prosecutor in Sremska Mitrovica, Memorandum to the National Council of the Slovak National Minority in Serbia and Montenegro, November 19, 2004 (on file with Human Rights Watch).

[124] Human Rights Watch telephone interview with Ratko Galecic, District Public Prosecutor in Sremska Mitrovica, June 17, 2005. The court's reasoning is questionable, because the driver was evidently aware of the acts by his younger friends, and thus acted as a co-perpetrator, or aider and abettor.

[125] Human Rights Watch telephone interview with Ratko Galecic, June 17, 2005.

[126] Ibid. About 7,000 Slovaks live in Stara Pazova. Human Rights Watch interview with Jovan Tisma, then-president of Stara Pazova Municipal Assembly, July 28, 2004. The town population is 18,628. See official website of the Stara Pazova municipality, at http://www.stara-pazova.org.yu/naselja.html.

[127] Human Rights Watch interview with Ratko Galecic, District Public Prosecutor in Sremska Mitrovica, January 24, 2005. The Slovak offender, the only adult among the perpetrators, belongs to "*skinheads*," groups of young people who shave their heads and often engage in white-supremacist activities. Human Rights Watch interview with Branislav Dragas, director of Radio Stara Pazova, July 28, 2004.

[128] For example, in a statement of July 10, 2004, the leading political party of Vojvodina Hungarians, the party of Vojvodina Hungarians, demanded that *"atrociteti* against the Hungarians be immediately stopped and

incidents were not ethnically motivated and that the police and judiciary have responded to them adequately.[129] Human Rights Watch has looked into a dozen incidents with alleged ethnic motivation, to assess the response of the government to the allegations. The report does not discuss a number of cases investigated, in which there was no conclusive evidence of ethnic motivation.[130]

Nonetheless, since late 2003, there have been a number of attacks on minorities in Vojvodina in which ethnic hatred appears to have been a motivation. In some instances, the victims did not report the incidents to the police.[131] More often, the police did learn about the incidents and informed prosecuting authorities.

The Serbian criminal code does not contain any offenses proscribing acts of violence motivated by racial, ethnic, religious or national hatred. Nor are there aggravated forms

---

prevented." "Stranka ipak odlučila – internacionalizacija" ("The Party Finally Decided – Internalization"), *Dnevnik* (Novi Sad) , July 11, 2004 [online],

http://www.dnevnik.co.yu/arhiva/11-07-2004/Strane/vesti.htm (retrieved January 31, 2005).

[129] For example, the minister for human rights in the Council of Ministers of Serbia and Montenegro, Rasim Ljajic, was often quoted during 2004 claiming that the competent agencies were initiating proceedings against the perpetrators of ethnically motivated offenses, disregarding the fact that the charges usually pertained to misdemeanors and less serious crimes. See, D. Milivojevic, "Nijedna manjina u Srbiji nije ugrožena" ("No Minority In Serbia Is In Danger"), *Dnevnik* (Novi Sad), June 30, 2004 [online], http://www.dnevnik.co.yu/arhiva/30-06-2004/Strane/politika.htm (retrievd January 31, 2005); see also Zeljka Jevtic, "Jozef Kasa: Napada na Madjare je sve vise" ("Jozef Kasa: Ever More Attacks on Hungarians"), *Blic* (Belgrade), August 27, 2004 [online], http://www.blic.co.yu (retrieved January 30, 2005). Inspector General of the Serbian Ministry of Interior, Vladimir Bozovic, stated in September 2004 that the number of incidents "did not point at any intensification of conflicts with elements of ethnic, racial, or national hatred, discord, or intolerance." See "O etnickim incidentima u Vojvodini" ("On Ethnic Incidents in Vojvodina"), B92 web site, September 1, 2004 [online], http://www.b92.net/info/vesti/tema.php?lang=srpski&yyyy=2004&mm=09&nav_id=150003 (retrieved January 31, 2005).

[130] Some of the most prominent cases not included in this report are: the case of the Setet family from Subotica, who fled to Hungary in September 2004 and received political asylum there; the beating of a dozen of Hungarian youth at a party in Novi Knezevac (May 30, 2004); the beating of a group of young Hungarians at a party in Prozivka neighbourhood in Subotica (July 3, 2004); a car-chase targeting Marton Ziga, his brother and a friend, between Backi Vinogradi and Subotica (August 13, 2004); the beating of Zoltan Csanyi in Novi Becej (December 28, 2003); and, the beating of Tihomir Lavro in Subotica (March 18, 2004).

[131] On the night of May 21/22, 2004, for example, a group of Serbs attacked two ethnic Hungarians and Hungarian-speaking Croat, aged 19 and 20, on the main square in Subotica. One of the victims described the incident in the following way: I was with my two friends … around the table in the front of the café "Neptun." It was around 1:30 a.m., the café had already closed. A group of six to eight boys, of our age or younger, passed by our table and walked towards the café. I think they heard us speaking in Hungarian. They returned a moment later, and began to push each other. I wasn't sure whether they were joking or it was serious, and I couldn't tell whether they were drunk or not. We grew apprehensive and left the place. We made it less than a hundred meters, when we realized they were going after us. They yelled "Wait!" and "Stop!" repeatedly, and I also heard "Fuck you Hungarian mothers!" once. They reached us in front of McDonald's, which is maybe 150 meters away from "Neptun." One of them slapped me, and others hit my friends. It didn't last long, maybe a dozen seconds. (Human Rights Watch interview, December 17, 2004.) The three did not report the incident to the police, because "what happened was not that important."

of regular public order offenses that apply where the commission of those offenses involves such hatred. The absence of hate crime provisions in the Serbian criminal code means that unless violence against minorities contains the element of incitement, it is not possible to prosecute the offense in a way that would signal to the perpetrator, victim, and society at large that the state takes such offenses particularly seriously.

Where such cases are dealt with in the criminal justice system rather than as misdemeanors, prosecutors usually indict persons involved in offenses against ethnic minorities for "violent behavior" (article 220 of the Serbian Penal Code), "participation in the group that commits violent acts" (article 230), or "damaging someone else's belonging" (article 176). The law does not provide for the imposition of higher maximum sentences for offenses motivated by hatred than for the similar crimes where the underlying acts are unrelated to victim's race, ethnicity, religion or nationality. It is open to judges to consider racial, ethnic, religious or national motivation when determining the prison sentence following conviction, but judges rarely do so because the law does not explicitly mention those motives in the guidelines on sentencing.[132]

The creation of hate crime offenses in Serbia would serve a double purpose – signaling to victims, perpetrators and society as a whole that such offenses are particularly repugnant, and to courts that, where an offense involves racial, ethnic, religious or national motivation, the court has to take it into account when considering any prison sentence.

Temerin, September 21, 2003: A.S.

In September 2003, three Serbs beat A.S., an ethnic Hungarian in the town of Temerin, following a brawl triggered by racial insult. The Serb perpetrators acted with exceptional brutality and appeared to be motivated by ethnic hatred. A court in Temerin tried two offenders for inflicting serious bodily injuries, and the third for participating in a fight resulting in serious bodily injuries.[133]

On September 21, at around 11.20 p.m., T.S. and A.S., two Hungarian youths, ordered hamburgers at the bus station in the center of Temerin. A moment later, twenty-year old Branislav Djelic, a Serb, also came to order food. According to the court judgment in the

---

[132] *Basic Penal Code*, article 41 ("The court shall determine a sentence to the perpetrator of a criminal offense within the limits prescribed by the law for that offense, taking into consideration the purpose of the punishment and all circumstances in favor of a higher of lower sentence (mitigating and aggravating circumstances), and in particular: … motives out of which the offense was committed… .")

[133] Inflicting serious physical injury is punishable under article 53 of the Serbian Penal Code. Article 55 addresses participation in a fight resulting in a loss of life or in a serious physical injury.

case, when Djelic's cell phone rang, he responded, "I can't talk now, some stupid Hungarians are here." A.S. asked Djelic, "Is there a problem?" Djelic responded "Yes there is" and tried to punch A.S.. A.S. preemptively pushed Djelic against the metal fence next to the burger place. Djelic cursed A.S. and attempted to hit him.[134] The judgment is silent on the content of the curse, but A.S. and T.S. claim that Djelic cursed A.S.'s "Hungarian mother."[135] After hearing those words, A.S. threw a punch at Djelic.[136]

A young Serb who watched the event, called a group of Serb friends to help Djelic. When they came to the burger place, A.S. and T.S. ran away and found refuge in a café "Pivarium." The two Hungarians hid in the rest room, and told the owner to call the police. Two policemen came and told the Serbs to leave. When the police left, four Serbs returned. Three of the Serbs – Djelic Branislav, twenty-two year old Djelic Milan, and eighteen-year old Boris Zoric – brutally beat A.S. He suffered a brain concussion and a contusion to his testicles. T.S. managed to flee to the restroom again and lock himself in, thereby avoiding injury.[137]

Temerin Municipal Court rendered the judgment on April 21, 2004. Branislav Djelic received a 6-month prison sentence for inflicting serious bodily injuries, his brother Milan a 7-month imprisonment for the same crime, and Boris Zoric a suspended 6-month sentence, for the period of three years, for participating in a fight resulting in serious bodily injuries.[138] The judgment refers obliquely to ethnic hatred in the part listing aggravating circumstances for the purposes of sentencing; the court identified "stern hostility to otherness" on the part of Branislav Djelic.[139]

Novi Knezevac, March 20, 2004: "Aurora" Bakery

Two days after the beginning of the violent incidents targeting Albanians and Muslims in Vojvodina, two Serb youths damaged the recently opened "Aurora" bakery in Novi

---

[134] Municipal court in Temerin, Judgment No. K.49/03, January 21, 2004.

[135] Official note by the Secretariat of Internal Affairs in Temerin, September 22, 2003 (statement by T.S.) (on file with Human Rights Watch); official note by the Secretariat of Internal Affairs in Temerin, September 25, 2009 (statement by A.S.) (on file with Human Rights Watch).

[136] Municipal court in Temerin, Judgment No. K.49/03, January 21, 2004.

[137] Ibid.

[138] Six-month imprisonment is a minimum sentence for violation of article 53. Nevertheless, the presiding judge in the case told Human Rights Watch that the sentences he gave to Branislav and Milan Djelic are harsh above average: "Most other judges would give them suspended sentences, because they are young and do not have criminal records. The problem is that sentencing policies of the courts are generally too lenient." Human Rights Watch interview with Goran Rodic, president of Temerin Municipal Court, January 26, 2005.

[139] Municipal court in Temerin, Judgment No. K.49/03, January 21, 2004.

Knezevac, thirty kilometers east of Novi Sad. The owner of the bakery, A.C., is an ethnic Albanian. On March 20, around 5:40 a.m., twenty-one year old Milos Secerov and twenty-two year old Marko Jovicin entered the bakery and began making trouble. A.C., the brother of the bakery owner, told Human Rights Watch:

> J., a Serb vendor in our bakery, and I were there. Secerov and Jovicin were drunk. They ordered *burek* [meat-pies]. J. gave them the meals, and then they began to provoke us: "We want to eat with golden forks! Why don't you have golden forks"?" I thought, maybe they behave like that because I'm an Albanian, and they will calm down if I leave. So I went to the kitchen in the back. But Secerov and Jovicin began to spit on the things in the bakery; then they used metal chairs to smash the windows and the display case. I phoned the police. The two were still breaking things when the police came.[140]

On March 24, 2003, the police in Novi Knezevac brought misdemeanor charges against Secerov and Jovicin, for "indecent, impudent, and unscrupulous behavior" (article 12 of the Serbian Public Order and Peace Act). Secerov confessed the allegations at a May 26 hearing. Marko Jovicin did not make any statement in the proceedings because the misdemeanor judge in Belgrade, where Jovicin lives, failed to respond to the May 10 request for judicial assistance by the Novi Knezevac misdemeanor judge. On November 17, 2004, a misdemeanor judge in Novi Knezevac fined Secerov and Jovicin 700 dinars (US$11) each.[141]

Given the strong possibility that the violence had a ethnic motivation—the assailants did not know the owner of the bakery, and the incident took place only days after a series of similar ethnically motivated attacks on Albanian businesses – and the extensive damage caused, the prosecutor's failure to charge them with a criminal offense may reflect a general unwillingness on the part of Serbian prosecuting authorities to take violence against minorities seriously.

The misdemeanor judge, upon receiving the police file about the case and taking statements from the witnesses, failed to refuse jurisdiction and to forward the case to the competent prosecutor for criminal prosecution.[142]

---

[140] Human Rights Watch interview with A.C., Novi Knezevac, December 17, 2004.

[141] Human Rights Watch interview with Aziz Isakovic, misdemeanor judge, Novi Knezevac, December 22, 2004.

[142] The misdemeanor judge in Novi Knezevac explained the failure by the fact that Secerov and Jovicin did not make any racial slurs during the incident. Human Rights Watch interview with Aziz Isakovic, misdemeanor

Djurdjevo, February 14, 2004 & April 9, 2004: Ruthenian Cultural-Artistic Society

On two occasions during 2004, young Serbs broke windows on the Ruthenian[143] Cultural-Artistic Society "Taras Shevchenko," in the village of Djurdjevo.[144] The first incident occurred on February 14, 2004, the day of the celebration by Serbs of the 200th anniversary of the Serb uprising against the Ottoman Empire. On the evening of February 14, after the celebration in Djurdjevo had wound down, Serb youths smashed windows on two houses owned by Ruthenians, and on the "Taras Shevchenko" center.[145]

There was a second incident in the early morning hours of April 9. After the rehearsal of a Ruthenian dancing and musical group in the "Taras Shevchenko" center, some Ruthenian children were having a party in the center when a group of Serb youths came.[146] One of the youths, eighteen-year old Aleksandar Ilic, began to break windows in the premises.[147] When the police came, the intoxicated Ilic yelled that he hated Ruthenians and that he would "burn them."[148] The day after the incident, a misdemeanor judge in nearby Zabalj sentenced Ilic to a 5-day imprisonment, for threats against life of other persons (article 6(2) of the Public Order and Peace Act), and to an additional 5-day prison sentence for impudent and ruthless behavior (article 12(1) of the same law).[149] His companions were not punished because they were only standing by during the incident.[150]

---

judge, Novi Knezevac, December 22, 2004. However, making ethnic slurs is clearly not the only possible evidence indicating ethnic motivation behind criminal conduct.

[143] Ruthenians are a Slavic people. The community originates from the Western part of today's Ukraine. Most Ruthenians are Christians who consider the Pope to be the head of their church, but who celebrate the Orthodox rather than the Roman Catholic liturgy.

[144] Ruthenians make 1,300-1,500, out of about 5,000 Djurdjevo inhabitants. Human Rights Watch interview with Miroslav Cakan, former president of the local community [*mesna zajednica*], now director of the Ruthenian Cultural Home "Taras Shevchenko," Djurdjevo, July 21, 2004; Human Rights Watch interview with Bogdan Vislavski, member of the Administrative Council of the Ruthenian Cultural Home "Taras Shevchenko," Novi Sad, January 18, 2005.

[145] Human Rights Watch interview with Miroslav Cakan, former president of the local community [*mesna zajednica*], now director of the Ruthenian Cultural Home, Djurdjevo, July 21, 2004.

[146] Human Rights Watch interview with Svetlana Orlovic-Crveni, misdemeanor judge in Zabalj, January 19, 2005. Judge Orlovic-Crveni tried the case in April 2004.

[147] Decision by Zabalj Agency for Misdemeanors, administrative number 315/04, April 9, 2004.

[148] Ibid. The police established that the percentage of alcohol in Ilic's blood was 0.239 percent. Toxicologists in the former Yugoslavia consider that an average person is drunk when the percentage of alcohol in blood exceeds 0.15 percent, and heavily drunk when it exceeds 0.25 percent.

[149] Ibid.

[150] Human Rights Watch interview with Miroslav Cakan.

The municipal prosecutor has requested the opening of a criminal investigation into the April 9 incident, before the municipal court in Zabalj. The prosecutor assessed that the underlying crime was that of damaging someone else's belongings (article 176 (3) of the Serbian Penal Code).[151] The racist statement made during the commission of the crime indicates that Ilic's actions were motivated by ethnic hatred, at least in part.

Djurdjevo, March 19 and March 29, 2004: "Jasmin" Pastry-Shop

In the March and April, 2004, the "Jasmin" pastry shop in the center of Djurdjevo was attacked on at least three separate occasions. One person was given a ten-day sentence for a public order misdemeanor relating to the attacks. No one was prosecuted in the criminal courts. According to the owner, E.H., a Macedonian-born ethnic Albanian, the shop has been vandalized dozens of times over the past decade.[152]

On the evening of March 19 or in the early hours of March 20, 2004, in the aftermath of the March 17 violence in Kosovo, two young men from Djurdjevo, Robert Szabo, an ethnic Hungarian, and Marinko Stankovic, an ethnic Serb, allegedly smashed the windows and the display case in the pastry shop.[153] The alleged perpetrators, who were facing misdemeanor proceedings for other offenses committed during the same month, fled Serbia and Montenegro a few weeks after these events.[154] On March 29, at around 1 a.m., another person harassed E.H.. Referring to the March 29 incident, E.H. told Human Rights Watch:

> This guy was 21 years old, and I know that his last name is Savic. He came to my store with Szabo and Stankovic, asked that I raise three fingers [a traditional Serb salute] and cursed my "Albanian mother." I used cell-phone to call the police in Zabalj, five kilometers from here. The police told me that they could not come, because they were facing gasoline restrictions. They said that I pass them the guy, and they told him on the cell phone that he should leave. But he stayed. So I called the police again. This time they came and arrested him. The next day, I

---

[151] Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, Novi Sad, January 25, 2005. The district prosecutor in Novi Sad is in the position of seniority to the municipal prosecutor who opened the investigation before the Zabalj municipal court.

[152] Human Rights Watch interview with E.H., Djurdjevo, July 21, 2004.

[153] Ibid.

[154] Ibid. A misdemeanor judge in Zabalj, the municipal center, confirmed to Human Rights Watch in January that the two individuals had not responded to a summons to attend misdemeanor proceedings for another offense they are alleged to have committed in March 2004. Human Rights Watch interview with Zoltan Takaric, misdemeanor judge, Zabalj, January 19, 2005.

> came to the misdemeanor judge's office in Zabalj to testify. The judge was a male Hungarian. The proceeding was for the insults Savic uttered. He claimed that I was cursing his Serbian mother the previous night. The two youths, who damaged my shop ten days earlier, told the misdemeanor judge that they could not remember what Savic said, because they were too drunk. So the judge released him.[155]

On March 31, 2004, the misdemeanor judge in Zabalj found twenty-three year old Dalibor Savic guilty of threats against life, insults and use of violence (article 6, paragraphs 2-3, of the Public Order and Peace Act), and sentenced him to a ten-day imprisonment. The decision confirms that on March 29 Savic spoke an ethnic obscenity to E.H. and threatened to "slaughter" him.[156]

Novi Sad, May 3, 2004: Adventist Church

Buildings belonging to the Adventist Church are the most frequently targeted religious sites in Serbia. Between January and June 2005, church representatives registered eight incidents, in various locations, in which the perpetrators painted threatening messages or broke church windows.[157] In most cases, the attackers have not been identified.

In one case, an Adventist priest was attacked. On May 3, 2004, after the evening service at the Adventist Church in Novi Sad, three intoxicated students harassed the priests and worshippers. Around 9 p.m., twenty-year old student Rade Tomanovic arrived by taxi to the neighborhood, purportedly to visit his friend who lives nearby. Tomanovic saw worshippers leaving the service, and asked them whether they were a "sect." One woman testified in the later misdemeanor proceedings how she tried to explain to Tomanovic that the Adventists were not a sect.[158] As Tomanovic spoke with loud voice, a senior priest who passed by told him to lower his voice.[159] Tomanovic then got angry and grabbed the priest, Ljubisa Stajic, by the throat.[160] According to the priest, Tomanovic insulted him and a group of worshippers, "We should chase away you

---

[155]Human Rights Watch interview with E.H., Djurdjevo, July 21, 2004.

[156] Zabalj Agency for Misdemeanors, Decision No. 296/04, March 31, 2004.

[157] Human Rights Watch interview with Miodrag Zivanovic, president of the Main Board of the Adventist Church in Serbia, Belgrade, June 2, 2005.

[158] Novi Sad Agency for Misdemeanors, Decision no. 07-6-145/04, May 4, 2004 (testimony by witness D.S.).

[159] Human Rights Watch interview with Kamenko Kozarski, misdemeanor judge in Novi Sad, Novi Sad, January 19, 2005. Mr. Kozarski rendered the decision against Tomanovic and his friends in the misdemeanor proceedings held on May 4, 2004.

[160] Human Rights Watch telephone interview with Ljubisa Stajic, July 19, 2004.

sectarians and burn and break all this!"[161] Other persons on the site demanded that Tomanovic leave, and somebody in the group pushed him. Tomanovic fell and banged his head against the wall.[162] He stepped out to the yard, only to come back a moment later with two friends—Drazen Knezevic and Rade Karadzic, both twenty-years old. Both men were drunk. All three insulted and threatened the worshippers.[163] The police arrived soon after and arrested the offenders.

Misdemeanor proceedings were brought against Tomanovic and his friends the following day. Tomanovic was sentenced to seven days' imprisonment, for disruption of public order and peace by means of "insulting or abusing other persons, using violence, provoking brawl or participating therein" (article 6(3) of Public Order and Peace Act).[164] Knezevic and Karadzic were ordered to pay 1,000 dinars each (U.S. $17) – the maximum fine prescribed by the law for this misdemeanor.[165]

Becej, June 6, 2004: S.P. and K.K.

According to a Serbian police report submitted to the U.S. Congress by the Serbian government, seventeen-year old S.P. and seventeen-year old K.K. were attacked on June 6, 2004 by a group of young men in Becej.[166] According to police report, the intoxicated attackers used ethnic slurs against Hungarians both before and during their attack on S.P. and K.K.[167] Police found the perpetrators, and brought criminal charges against eighteen-year old Radovan Popovic, nineteen-year old Dragan Radivojevic, as well as misdemeanor charges against a fifteen-year old.

S.P. and K.K. told Human Rights Watch that they were attacked some time after midnight, on their way home to the nearby town of Novi Becej. They were discussing whether they should return to a gathering of motorcycle riders in Becej, which they

---

[161] Ibid. Stajic made the same claim in the May 4, 2004 misdemeanor proceedings against Tomanovic, Knezevic and Karadzic. Human Rights Watch interview with Kamenko Kozarski, misdemeanor judge in Novi Sad, Novi Sad, January 19, 2005.

[162] Novi Sad Agency for Misdemeanors, Decision no. 07-6-145/04, May 4, 2004 (testimony by witness Z.P.).

[163] A. Vidanovic & S.V. Popovic, "Psovali i maltretirali vernike i svestenike" ("Cursed and Mistreated Worshipers and Priests"), *Dnevnik* (Novi Sad), May 5, 2004 (account by Vencel Sili, president of the Adventist Church in Novi Sad).

[164]Novi Sad Agency for Misdemeanors, Decision no. 07-6-145/04, May 4, 2004.

[165] Ibid.

[166] The report was submitted by the Serbian Ambassador to the United States to the U.S. Congressional Human Rights Caucus in July 2004.

[167] Report submitted by ambassador of Serbia-Montenegro before Congressional Human Rights Caucus, on July 14, 2004.

attended earlier that evening. K.K., who is from a mixed Serb-Hungarian family but attends a Hungarian-language school, explained what happened next:

> A group of young people was standing just next to the road. They must have heard us speaking in Hungarian, because we were riding our bicycles slowly and we were talking loudly. One of them said "Hey, Hungarians, wait!" We did not stop. We had never seen those guys before. One of them then ran in our direction and said "Wait, do you have a watch? What time is it?" Before I was able to respond, he kicked S.[P.] and S. fell. I managed to run away, some fifty meters from there. I looked back and saw how three or four guys were beating S. There was a man there who was taking water from a well, and I asked for his help. The man then started walking toward the assailants. They let S. go.[168]

S.P. stated during the investigation that the attackers repeatedly uttered ethnic slurs, including: "Fuck your Hungarian mother!"; "What are you doing here?" and; "Go home!," during the beating.[169] He could not see how many people attacked him, because he was busy trying to protect his head. As a result of the beating, he sustained serious bruises on his face and other injuries.[170]

The municipal prosecutor in Becej charged Dragan Radivojevic with the crime of violent behavior (article 220 of the Serbian Penal Code). On December 8, 2004, the municipal court in Becej gave Radivojevic a suspended one-year prison sentence, which he will not have to serve unless he commits another offense in the next two years.[171] One of the defendants, who was a minor at the time of the incident, was tried on the same charges on December 23, 2004. The court ordered the minor, who is fatherless, to be placed under intensified supervision by the guardianship agency.[172] The Basic Penal Code provides this correctional measure as a sanction against law-breaking minors.

The presiding judge in the case against Dragan Radivojevic told Human Rights Watch that the two-year time period in which Radivojevic has to abstain from committing

---

[168] Human Rights Watch interview with K.K., Novi Becej, December 21, 2004.

[169] Human Rights Watch interview with Stevan Pavlov, judge in Becej Municipal Court, Becej, December 23, 2004.

[170] Human Rights Watch interview with S.P., Novi Becej, December 21, 2004; Municipal Court in Becej, Judgment No. K 213/04, December 8, 2004.

[171] Municipal Court in Becej, Judgment No. K 213/04, December 8, 2004.

[172] Human Rights Watch interview with Stevan Pavlov, judge in Becej Municipal Court, Becej, December 23, 2004.

crimes in order to avoid serving the prison sentence is an exceptionally harsh requirement given that the defendant had no criminal record (he had, however, been subject to misdemeanor proceedings). According to the judge: "I nevertheless decided [the sentence] in that way, because it seemed to me that Radivojevic acted out of nationalistic motives."[173] The fact that the judge regarded the suspended sentence as an exceptionally harsh one underscores the need for a perception shift among the judiciary about the seriousness of hate crimes offenses.

The State Response

International human rights law sets out the fundamental obligations by which governments must protect the rights of all persons under their authority, including members of ethnic, national or religious minorities. It is a duty of every government to undertake effective measures to prevent ethnic and religious violence and to vigorously investigate and prosecute perpetrators. Authorities should, in addition, publicly and unequivocally condemn the violence, in order to reiterate that the violence is unacceptable and express support to the minorities at risk. The authorities in Serbia have often failed to fulfill these obligations.

Under the International Covenant on Civil and Political Rights (ICCPR), which the State Union of Serbia and Montenegro succeeded to in 2001, each state undertakes to respect and to ensure to all persons their fundamental rights without distinction of any kind, including race, language, religion, national origin, or other status.[174] Each state must take the necessary steps to adopt legislative or other measures as may be necessary to give effect to the rights recognized in the Covenant.[175] According to the Human Rights Committee, the international body empowered to monitor compliance with the ICCPR, states may be in violation of the Covenant by "permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts [violating Covenant rights] by private persons or entities."[176]

The International Convention on the Elimination of All Forms of Racial Discrimination, which Serbia and Montenegro succeeded to in 2001, obliges states to guarantee

---

[173] Ibid.

[174] International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976, article 2(1); see also ibid., article 26 (equal protection under the law).

[175] ICCPR, art. 2(2).

[176] Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 8.

everyone, "without distinction as to race, color, or national or ethnic origin… security of person and protection by the State against violence or bodily harm, whether inflicted by government officials *or by any individual, group* or institution."[177]

Police Dismissal of Ethnic Motivation Behind Violence

Government officials, and the police in particular, have often denied ethnic motivation even before any meaningful investigation into the incidents was completed. Such an approach suggests that the authorities do not recognize the larger consequences of these offenses, or their impact on vulnerable minorities.

The March 22, 2005 stabbing of a young Romani man by a group of Serbs in the town of Vrsac, eastern Vojvodina, provides a recent example. The head of the local police issued a statement on the same day, claiming that the motive of the assault was not ethnic hostility. However, the testimony of the victim, twenty-four year old S.S., suggests that he was attacked because of his ethnicity. S.S. recounted the incident to Human Rights Watch:

> I was standing in the Romani part of town, *mahala*, some time around 2.30 in the afternoon, with two friends, listening music from the car. We noticed a group of five young people, who were standing in front of a café. I didn't know them, but they obviously knew me, because they called me by name. They said "Come here, S." One of my friends and I started walking toward them, to see what they wanted. I was not looking for trouble, because I've always gotten along with everybody and never violated the law. When we got close, they cursed my "Gypsy mother" and pulled out knives to attack us. We stopped and headed back toward the car, but they went after us. There were some elderly women standing there, and these men insulted them, cursed their "Gypsy mothers" and stuff. Our friend who had stayed beside the car took some sticks from the car and passed it to me and my friend to defend ourselves. But one of the attackers stabbed me in my chest, right below my left shoulder. I fainted a little bit later.[178]

---

[177] International Convention on the Elimination of All Forms of Racial Discrimination, Adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965, entered into force 4 January 1969, article 5(b).

[178] Human Rights Watch interview with S.S., Vrsac, June 11, 2005.

The police arrived soon after the beginning of the assault and arrested the attackers. The police identified the man who stabbed S.S. as nineteen year old Ilija Marinkovic. Despite the racial epithets and abuse directed at the Roma by the attackers, the head of the Vrsac police told the media that ethnic bigotry had not been a motive, and that the police would bring criminal charges against Marinkovic and others for participation in fight.[179] As of September 2005, the case was under investigation at the Municipal court in Vrsac.[180]

Police Indifference in Pursuing Perpetrators of Ethnically Motivated Crimes

In the course of Human Rights Watch's research into violence against minorities in Serbia, a number of victims expressed frustration with the indifferent reaction from the police when victims made reports about the incidents. The claims about police reactions emerge frequently, suggesting that they are credible.

Serbia's recent history provides an additional reason why allegations of anti-minority bias on the part of police appear perfectly plausible. The police force was a key institution in the ultra nationalistic government of the former Serbian president Slobodan Milosevic during 1990s. Non-Serbs were virtually excluded from its ranks. Nearly five years after the removal of Milosevic from power in October 2000, Serbia still has a long way to go before ultra-nationalism is eradicated from police service and from the Serbian society as a whole. The continued electoral strength of the ultra-nationalistic Serbian Radical Party, unparalleled in Europe, is only one illustration of the resilience of an anti-minority stance.[181] Minorities are still grossly underrepresented among the police personnel (see above, "Structure of the Police, Prosecuting and Judicial Authorities").

Minorities frequently complain that police tolerate ongoing aggressive acts by Serbian ultra-nationalists. Slovaks in the Vojvodina village of Lug, for example, told Human Rights Watch that prior to mid-2004, the Serbian police patrolling in the village were taking the side of Serb thugs who were often provoking brawls with local Slovak

---

[179] "Napad na Rome u Vrscu" ("Attack on Roma in Vrsac"), B92 web site, March 22, 2005 [online], http://www.b92.net/info/vesti/index.php?yyyy=2005&mm=03&dd=22&nav_id=164886&nav_category=12 (retrieved July 6, 2005).

[180] Human Rights Watch telephone interview with Milan Tkalac, Vrsac Municipal Public Prosecutor, September 6, 2005.

[181] The Serbian Radical Party received the largest number of votes in the parliamentary elections in Serbia in December 2003, and in the presidential elections in June 2004 its candidate Tomislav Nikolic made it into the second round of the elections, in which he was narrowly defeated by the moderate Boris Tadic.

youth.[182] On March 13, 2004, the police separated a group of Susek Serbs and Lug Slovaks who were fighting. After the two groups were separated, the Serbs allegedly continued to curse "Tot mothers" and waved metal bars to demonstrate their strength.[183] According to witnesses interviewed by Human Rights Watch, the police tolerated the Serbs' behavior, and insisted that Slovaks go home.[184]

After the most serious incident which occurred in Lug, on April 3, 2004, in which three Serbs beat the two Slovak youths M.M. and J.G., the police reportedly reacted with indifference when M.M. entered the village café covered by blood. Twenty-three year old ethnic Slovak D.H., who was present in the café when M.M. walked in, approached the police and asked "Didn't you see what the guy looked like?" According to D.H., the policemen showed little interest in what was going on outside.[185]

On March 17, 2004, according to the Mufti of Nis, when he called the police number available to the general public to report crimes, the person at the other end of the line said "We know the mosque is burning, and it should be burning."[186] On December 1, 2004, a group of four or five Serbs allegedly beat a Hungarian from the village of Doroslovo at a party for ethnic Hungarian students in Subotica. According to an eyewitness interviewed by Human Rights Watch, the police were slow to intervene, and then simply allowed the assailants to leave.[187]

Human Rights Watch received similar complaints during 2005. In the late hours of March 27, 2005, unknown perpetrators painted "Death to Adventists!" on the fence surrounding the Adventist Faculty of Theology, in Belgrade. The president of the Main Board of the Adventist Church in Serbia, Miodrag Zivanovic, reported the incident to the police the following day. According the Zivanovic, the police told him "We also get attacked, it is not a big deal."[188] In early July 2005, when Serb apologists of the July 1995 genocide in Srebrenica damaged billboards in Belgrade commemorating the genocide,

---

[182] After mid-2004, the police patrolling in Lug became more frequent in the past, and included participation of policemen who had not worked in the village before.

[183] "Tot" is a derogatory term for Slovaks.

[184] Human Rights Watch interview with D.H., Lug, July 18, 2004; Human Rights Watch interview with J.K., Lug, July 18, 2004.

[185] Human Rights Watch interview with D.H., Lug, July 18, 2004.

[186] Human Rights Watch interview with Mustafa Jusufspahic, Mufti of Nis, June 1, 2005.

[187] Human Rights Watch interview with R.K., Srbobran, December 22, 2004.

[188] Human Rights Watch interview with Miodrag Zivanovic, president of the Main Board of the Adventist Church in Serbia, Belgrade, June 2, 2005.

the police reportedly took no action to stop them and merely permitted those responsible to continue on their way.[189]

Silence or Half-Hearted Condemnation of Violence

Serbian officials, with some exceptions, have failed to adequately condemn acts of ethnic violence by ethnic Serb ultra nationalists, or to take other steps to decrease tensions among the various ethnic communities. Those in the government of Serbia who could have made a real impact, had they spoken out, have instead invested more effort on keeping the violence within certain levels and placating the perpetrators.

By contrast, local politicians in Vojvodina have in most cases unambiguously condemned the violence against minorities where it took place in their local communities.[190] The Executive Council of the Vojvodina Assembly has expressed similar disapproval of violence in Vojvodina.[191] Given the limited powers of these structures, however, the impact of these condemnations is necessarily modest.

The statement by the Serbian Minister of Interior Vladan Jocic, shortly after midnight on March 18, 2004, epitomizes the government's unwillingness to strongly confront ethnic

---

[189] Human Rights Watch telephone interview with Andrej Nosov, July 10, 2005. Nosov, the director of the nongovernmental organization Youth Initiative, which erected the billboards in Belgrade, was present at one situation in which the police spoke to the perpetrators and let them leave, and received information from an eyewitness, a woman in New Belgrade (a district of the capital), about an identical occurrence in that part of town.

[190] Examples of local authorities' condemnation of nationalistic violence include:

Sombor municipal assembly condemned the desecration of the Catholic cemeteries in Backi Monostor (June 5/6, 2004) and Sombor July 2/3, 2004. Human Rights Watch interview with Zoran Miler, secretary at the Local Community (*mesna zajednica*) Backi Monostor, Backi Monostor, July 20, 2004; Human Rights Watch interview with parish priest Josip Pekanovic, Sombor, July 13, 2004;

Backa Palanka municipal assembly condemned the smashing of the windows at Slovak cultural center and Slovak Evangelistic Church, on March 27/28, 2004. Human Rights Watch interview with Vasa Panic, then-deputy head of Backa Palanka Executive Council, Backa Palanka, July 27, 2004;

In Stara Pazova, the executive council of the municipal assembly condemned the hate messages written on May 29/30, 2004, on facades of Slovak houses, religious objects belonging to non-Orthodox communities, and a kiosk owned by an ethnic Croat. Human Rights Watch telephone interview with Zlatusa Totova, then-president of the Executive Council of Stara Pazova Municipal Assembly, July 28, 2004.

Zabalj municipal assembly condemned incidents in mid-March in the village of Djurdjevo, where, following the anti-Serb violence in Kosovo on March 17/18, groups of Serbs repeatedly beat young Ruthenians and painted nationalistic graffiti demanding expulsion of the Ruthenian minority. Human Rights Watch interview with Bogdan Vislavski, member of the Administrative Council of the Ruthenian Cultural Home "Taras Shevchenko," Novi Sad, January 18, 2005.

[191] See, for example,"PIV: Protiv nasilja i vandalizma" ("[Vojvodina Executive Council]: Against Violence and Vandalism"), *Dnevnik* (Novi Sad), March 19, 2004 [online], http://www.dnevnik.co.yu/arhiva/19-03-2004/Strane/politika.htm (retrieved January 31, 2005).

violence. At the time Jocic was being interviewed on a popular television network (TV BK), demonstrators had already set on fire the mosque in Nis, and were about to burn the mosque in the capital Belgrade. Crowds were also damaging Albanian and Gorani shops in Novi Sad. Jocic had this message to the public: "The citizens are justifiably embittered. However, in this way they will not help our citizens in Kosovo. The police have not used violence against its own people. We should be patient, because in this way we are not going to solve the problems ahead of us."[192] The minister's disapproval of the ongoing violence was easily understood to be half-hearted and his message to the rioters was effectively that the police response would not be a forceful one.[193]

Government officials have also failed to take the kind of action that would express the government support for, and solidarity with, Serbia's minorities. Prime Minister Vojislav Kostunica, for example, has never visited the mosque in Belgrade, which was damaged in the March 2004 violence.[194] For the first half of 2004, government officials refrained from condemning ultra-nationalistic incidents against Hungarians and other minorities even after they became a high-profile public issue in Serbia. The first time a significant national government official condemned the violence was in July 2004, when Prime Minister Kostunica met with the delegation of the Hungarian national council in Serbia. Kostunica "expressed concern" and condemned ethnically motivated attacks on the ethnic Hungarians.[195] In September 2004, Kostunica and the Minister of Serbia and Montenegro for Human and Minorities Rights Rasim Ljajic visited Vojvodina and vowed to end ethnic intolerance.[196] In June and July 2005, ahead of the celebration of the tenth anniversary of the genocide committed in July 1995 in Srebrenica, Serbian government officials failed to condemn repeated expressions of approval of the genocide by ultra-nationalists in Serbia.

Scarce Use of Article 134 (Prohibition of Incitement)

In spite of the numerous incidents against the minorities during 2004 and 2005, there were no criminal convictions against adults for violations of article 134. Diverting

---

[192] Human Rights Watch made a contemporaneous note of Jocic's words as the program was being broadcast. Vladan Jocic interview on TV BK, March 18, 2004.

[193] The International Convention on the Elimination of All Forms of Racial Discrimination calls upon states parties to "discourage anything which tends to strengthen racial division." International Convention on the Elimination of All Forms of Racial Discrimination, article 2 (1)(e).

[194] Human Rights Watch interview with Mufti Hamdija Jusufspahic, Belgrade, June 1, 2005.

[195] "Kostunica osudio incidente" ("Kostunica Condemned the Incidents"), B92, July 13, 2004 [online], http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=07&dd=13&nav_id=145791&nav_category=11 (retrieved January 5, 2004).

[196] "Kostunica: Incidenti ne mogu da budu povod inicijativi" ("Kostunica: Incidents Do Not Justify the Initiative"), *Beta news agency*, September 9, 2004, available at the website of the Ministry of Foreign Affairs of Serbia and Montenegro, at http://www.mfa.gov.yu/Srpski/Bilteni/Srpski/b090904_s.html#N8 (retrieved January 31, 2005).

incitement crimes into the zone of misdemeanors and ordinary offenses of violent behavior has important implications. First, the punishments are significantly lighter than for incitement to ethnic/religious hatred, and in the case of misdemeanor proceedings the penalties are almost symbolic. Second, the implicit message to society is that inciting hatred against minorities should not be taken especially seriously.

One trial started and terminated before the district court in Sremska Mitrovica, resulting in the acquittal of the defendant in December 2004.[197] In the same month, the district court in Sombor concluded an article 134 trial by ordering intensive parental supervision of a minor who painted graffiti calling for the slaughter of ethnic Croats.[198] As of June 2005, there was also an ongoing case in Sremska Mitrovica against three minors, a case against an individual in the Novi Sad district court, and a trial in the Pancevo district court, all on article 134 charges.[199] Prosecutors in Subotica and Zrenjanin, whom Human Rights Watch interviewed in the course of its research, did not issue any indictments under that article.[200] Nor have the prosecutors in Nis, Belgrade, and other towns in Serbia issued article 134 indictments for offenses described in this report.

There have been no indictments in relation to the March 2004 attacks against ethnic Albanians, Muslims and Roma in Vojvodina either under article 134 or for regular criminal offenses.[201] A small number of offenders who clashed with the police in Novi Sad in March 2004 faced misdemeanor proceedings, on benign charges such as "indecent, impudent, and unscrupulous behavior." Those who clashed with the police in Belgrade are being investigated for the crime of preventing an official in the performance of police duties. As of July 2005, two people in Belgrade and eleven people in Nis have been indicted for their alleged involvement in the March 2004 mosque

---

[197] See above, "Stara Pazova, May 29/30, 2004: a Rare Case of Prosecution for Incitement."

[198] Human Rights Watch interview with Dusan Nikcevic, acting chief prosecutor in Sombor District Court, Sombor, January 28, 2005.

[199] Human Rights Watch telephone interview with Ratko Galecic, Sremska Mitrovica District Public Prosecutor, June 17, 2005; Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, June 6, 2005; Human Rights Watch telephone interview with Milan Niskanovic, Pancevo District Public Prosecutor, September 5, 2005. The case in Sremska Mitrovica pertains to the painting of graffiti with hate messages in Stara Pazova, on the night of May 29/30, 2004. In the Novi Sad case, a 20-year-old man painted Nazi symbols on buildings in Novi Sad and the nearby town of Veternik; on the same day he also beat a boy of mixed ethnicity in Novi Sad. The prosecutor in Pancevo issued an indictment under article 134 against a married couple who allegedly cursed an officer in the police station in the nearby town of Kovin with the words "Hungarian mother."

[200] Email communication with Dragan Lazic, Zrenjanin District Public Prosecutor, January 28, 2005; Human Rights Watch interview with Novica Bojovic, Subotica District Public Prosecutor, January 28, 2005.

[201] The demonstrators in Novi Sad repeatedly chanted, "*Ubij, zakolji, da Siptar ne postoji*!" ("Kill, slaughter, and annihilate Shiptars!"), evidence of ethnic enmity. See "Protesti, neredi i demoliranja na ulicama Novog Sada" ("Protests, Riots, and Demolitions in the Streets of Novi Sad"), *Dnevnik* (Novi Sad), March 19, 2004 [online], http://www.dnevnik.co.yu/arhiva/19-03-2004/Strane/hronika.htm#1 (retrieved January 5, 2004).

attacks in those cities. The charges in those cases pertain to participation in a group that commits violent acts.

The failure to charge anyone involved in the March violence with offenses under article 134, despite strong evidence of intention to incite hatred, demonstrates the reluctance of authorities to pursue incitement charges, and the failure to take seriously the phenomenon of anti-minority violence in Serbia.

The drunken Serb youths (all of them over 18 years of age) who vandalized a number of premises belonging to Slovak and Protestant communities in Backa Palanka in March 2004, were charged with damaging someone else's belongings and received suspended prison sentences ranging from six months to one year.[202] Three Serb adults who hung anti-Semitic posters in Belgrade on March 22, 2005 were sentenced to a ten-day imprisonment for misdemeanor (for "indecent, impudent, and ruthless behavior").[203]

Prosecutors usually explain that the reason they hardly ever resort to article 134 lies in their perception that it is difficult to prove the intent or advertent recklessness to incite hatred behind the offense.[204] Prosecutors pointed out that the crowds in Novi Sad who attacked Albanian stores and Roma settlements on March 17 and 18, 2004, also smashed several windows on the building of the Executive Council of Vojvodina Assembly.[205] Similarly, in the incident in Backa Palanka on March 28, 2004, some of the property attacked belonged to ethnic Serbs.[206] Prosecutors involved in the latter case have taken this to mean than that the attackers, who later in the evening targeted Albanians and Roma, were simply hooligans.

Prosecutors may be overestimating the difficulty of proving the perpetrators' intent or recklessness. For example, the damage done to the Executive Council building in Novi

---

[202] See above, "Backa Palanka, March 28, 2004: Three Religious Shrines and Slovak Cultural and Publishing Society."

[203] See above, "Belgrade, March 22, 2005: Minor Punishment in Misdemeanor Proceedings."

[204] Human Rights Watch interview with Novica Bojovic, Subotica District Public Prosecutor, January 28, 2005; Human Rights Watch interview with Dusan Nikcevic, Acting Chief Prosecutor in Sombor District Court, Sombor, January 28, 2005; Human Rights Watch telephone interview with Svetlana Savovic, District Public Prosecutor in Nis, June 6, 2005; Human Rights Watch interview with Zoran Pavlovic, Novi Sad District Public Prosecutor, June 6, 2005.

[205] Novi Sad Municipal Public Prosecutor drew attention to that fact, which in his opinion gives a more complete picture of the March 17 events in Novi Sad. Human Rights Watch telephone interview with Novi Sad Municipal Public Prosecutor Obrad Protic, January 27, 2005.

[206] See above, case "Backa Palanka, March 28, 2004: Three Religious Shrines and Slovak Cultural and Publishing Society."

Sad in March 2004 did not mean that the attacks soon after on Albanians and Roma property were not intended to incite to ethnic violence. Motives of the perpetrators may vary depending on the target.[207] The fact that a perpetrator may have mixed motives is entirely consistent with the purpose of article 134. Existence of additional factors does not cancel out existence of nationalistic motive, required for conviction under article 134.[208]

In those cases in which religious sites were targeted, the intent or advertent recklessness required for the incitement offense can be discerned from the very choice of the target. An attack on a mosque or Islamic center is an invitation for the wider community to endorse the use of violence against the community whose identity the object symbolizes. Moreover, demonstrators in Nis, Belgrade, and Novi Sad called openly for hatred against ethnic Albanians (who are mostly Muslims) when they chanted "Kill, kill Shiptar!" during the attacks on mosques and Islamic center (see above, "Nis, March 17, 2004: Islam Aga Mosque," "Belgrade, March 18, 2004: Bajrakli Mosque," and "Novi Sad, March 18, 2004: Islamic Center (*medzlis*)." In any event, it is always open to the prosecutor to opt for lesser charges after the presentation of the evidence and before the conclusion of the trial, if incitement to hatred is not proved.

Prosecutors may also be succumbing to dominant ultra-nationalistic climate in Serbian society, in which prosecuting Serb suspects for anti-ethnic violence would be seen as unpatriotic. It is difficult to find any other explanation for the failure of prosecutors to use article 134 against the participants in the burning of the mosques in Belgrade and Nis on March 17, 2004.[209]

---

[207] The prosecutor in the Backa Palanka case, analyzed below, faced this dilemma, given the variety of targets assaulted by the offenders. See case "Backa Palanka, March 28-30, 2004: Three Religious Shrines and Slovak Cultural and Publishing Society."

[208] United Kingdom legislation governing racially-aggravated offenses, may provide a useful comparison in this respect. The relevant section of the Crime and Disorder Act specifically states that, "It is immaterial for [establishing perpetrator's hostility based on the victim's membership of a racial or religious group] whether or not the offender's hostility is also based, to any extent, on any other factor." Crime and Disorder Act 1988, section 28.

[209] On June 1, 2004, Nis District Public Prosecutor charged eleven persons for participation in the group committing violent acts [participation in mob violence] (article 230 of the Serbian Penal Code). Humanitarian Law Center, "Inadequate Response of Police and Prosecutors to Burning of Mosques," press release, June 07, 2004 [online], http://www.hlc.org.yu/english/Ethnic_Minorities/Serbia/index.php?file=753.html (retrieved January 31, 2005). The same offense under article 230 is the legal basis for the investigation into the March 17, 2004, burning of the mosque in Belgrade. See "Istraga protiv sedam osoba zbog paljenja Bajrakli-dzamije" ("Investigation Against Seven Persons Concerning the Burning of Bajrakli Mosque"), *B92 website*, March 25, 2004 [online],

http://www.b92.net/info/vesti/index.php?yyyy=2004&mm=03&dd=25&nav_id=136367&nav_category=16 (retrieved January 31, 2005).

Conclusion

The failure of the government to seriously address violence directed against ethnic, national and religious minorities in Serbia risks creating a climate of impunity. Unless the low-level violence in Serbia is curbed now, there is a real risk that the attacks will escalate, which in turn will lead to a further deterioration in inter-ethnic relations and risk the dwindling of long-established ethnic minority communities in Serbia.

As a Roma leader in Novi Sad told Human Rights Watch, following the violence against Roma in March 2004:

> If there are no punishments, offenders will not hesitate to do the same thing again. We told the city authorities, if this happens again, all of us will march to the border and demand resettlement in some other country.[210]

Even the Ruthenians in Djurdjevo, where the ultra-nationalistic incidents in February and April were much more benign than those in Novi Sad against Roma, "began to consider moving out of the village. The atmosphere resembled that of the wartime years."[211] An Albanian pastry shop owner in Novi Sad, speaking under condition of anonymity because of concerns for his safety, told Human Rights Watch that, since the March violence, windows on his store have been smashed on dozens of occasions. "I don't know whom to turn to, who to ask for help and protection," he said.[212] Another Albanian, whose bakery was attacked in March 2004, had closed his business when Human Rights Watch re-visited the location in January 2005.[213]

While the risks of inaction are great, the remedy is straightforward. It must begin with the government of Serbia taking seriously the rise of incidents targeting ethnic, national and religious minorities, speaking out against such crimes robustly, and ensuring that prosecutors and the courts hold accountable those responsible to the fullest extent of the law. Human Rights Watch also considers that legislation incorporating hate crime

---

[210] Human Rights Watch interview with R.O., deputy president of the Association of Roma in Veliki rit, Novi Sad, July 19, 2004.

[211] Human Rights Watch interview with Miroslav Cakan, former president of the local community [*mesna zajednica*], now director of the Ruthenian Cultural Home, Djurdjevo, July 21, 2004.

[212] Human Rights Watch interview, Novi Sad, January 28, 2005.

[213] The bakery was located in Dusana Vasiljeva St. On the night of March 20/21, 2004, unknown perpetrators threw a Molotov cocktail into the bakery.

provisions into the Serbian criminal code could provide an effective mechanism to signal to perpetrators, victims and society as a whole that violence and hatred against minorities will not be tolerated, and that the Serbian authorities are committed to its eradication.

Acknowledgements

This report is based on field research carried out in Serbia in July 2004, January 2005, and July 2005. The report was researched and written by Bogdan Ivanisevic, Human Rights Watch researcher on the former Yugoslavia. The report was edited by Benjamin Ward, special counsel in the Europe and Central Asia division of Human Rights Watch, James Ross, senior legal advisor for Human Rights Watch, and Widney Brown, deputy program director for Human Rights Watch. Veronika Szente Goldston, advocacy director in the Europe and Central Asia division of Human Rights Watch, helped formulate the research issues and report recommendations. Production assistance was provided by Victoria Elman, associate in the Europe and Central Asia division; Fitzroy Hepkins, mail manager; Andrea Holley, publications director; and Veronica Matushaj, photo editor and associate director of creative services.

Human Rights Watch is grateful to all those who provided information for this report, particularly members of ethnic and religious minorities who were the victims of violence and other crimes, representatives of minority civic associations and Serbian human rights groups, and members of the Serbian judiciary.