



Hostages of Tension

**Intimidation and Harassment of Ethnic Albanians in
Serbia after Kosovo's Declaration of Independence**

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Executive Summary

Kosovo's declaration of independence on February 17, 2008, sparked a dangerous chain of events in Serbia. Nationalist anger about losing a province considered to be a cradle of Serbian culture and religion found an outlet in public demonstrations, and in some cases violence, including attacks on western embassies and businesses. During a February 21, 2008 rally in Belgrade, several hundred individuals broke loose from the otherwise peaceful crowd, attacking police and journalists.

The attacks on embassies and rioting in Belgrade were widely covered by national and international media. What largely escaped attention, however, were acts of harassment and intimidation against ethnic Albanians that took place across Serbia, but particularly in the province of Vojvodina, in the days that followed. In February and March 2008, the police registered 221 incidents relating to the protests over Kosovo, including those with no ethnic motivation, of which 190 took place in Vojvodina. Predominantly affecting Albanian-owned businesses and homes, many involved criminal damage—the smashing of windows and attempted arson, the spraying of hate graffiti, intimidating protests in front of homes and businesses, and in one case an organized boycott of an Albanian-owned business and the distribution of inflammatory leaflets. Some incidents took place during or immediately after public protests, and others occurred over subsequent days, sometimes repeatedly, the vast majority after dark.

This kind of violence against minorities is not new in Serbia. Ethnic Albanians have been particularly vulnerable, particularly when developments in Kosovo inflame tension. They were targeted, for example, in 1999 during the NATO bombing campaign. A wave of violence which included attacks on minority-owned businesses and on mosques took place between late 2003 and 2005, reaching a peak in March 2004 as nationalist sentiment reacted to anti-Serbian and anti-Roma riots in Kosovo.

In the context of long-standing political and ethnic conflict in the Balkans, even low-level violence, if not curbed, has the potential to escalate dangerously. In 2005

Human Rights Watch reported on the wave of violence against minorities in late 2003 and early 2004, describing a weak government reaction that failed to take the phenomenon seriously. The police made little effort to protect vulnerable locations associated with minorities, and failed to aggressively prosecute perpetrators of attacks—failing to identify perpetrators of the great majority of incidents reported. Calling for change, the report pointed out that Serbian criminal law did not encompass so-called hate crimes.

Official reaction to events in February 2008 demonstrated that not much has changed in the intervening years. Indeed, in one important respect—the prosecution of the perpetrators of attacks—the authorities appear to have become more complacent.

On the positive side, in many instances police officers deployed to protect minority-owned property once it had been attacked, providing a deterrent physical presence for several days. On the other hand, based on the experience of ultra-nationalist reaction to events in Kosovo in previous years, attacks on minority, especially Albanian, homes and businesses were entirely foreseeable—yet the police did not take preemptive action to protect property before attacks took place.

During demonstrations the police largely failed to intervene as ultra-nationalists threw stones at property, even when the police were physically present. The police have argued that during and following demonstrations, when officers were outnumbered by angry protesters, intervening robustly to protect property alone was not always feasible.

However, even if the police are given the benefit of doubt on this issue, Human Rights Watch is concerned that in most cases they appear to have done little to identify or vigorously pursue perpetrators of attacks—even in situations where police officers were themselves witnesses, or where other eye-witnesses or CCTV footage were available.

According to information obtained by Human Rights Watch from the police, of the 221 officially registered Kosovo-related incidents (including those, such as the

criminal damage caused during protests in Belgrade, that lacked an ethnic dimension), 10 people were convicted and fined for misdemeanors. We did not obtain comprehensive statistics on prosecutions in the criminal courts, despite contacting the Chief Prosecutor of Serbia, and prosecutors across Vojvodina region. Through these officials, however, we learned of only one active case against a named perpetrator (a minor). A handful of other cases had been discontinued for lack of evidence, or were opened against “unknown perpetrators.”

None of the cases documented by Human Rights Watch in this report resulted in criminal charges or misdemeanor proceedings against named perpetrators. In some of the cases we documented, there were formal criminal investigations against “unknown perpetrators.”

The information received from Human Rights Watch from Serbian authorities was often incomplete, making it difficult to accurately and fully assess the official response of the police and justice system, both in the cases documented in the report, as well as in general. But what is clear is that few incidents (whether ethnic-related or otherwise) resulted in misdemeanor charges, let alone criminal prosecution.

Victims of attacks were often keen to point out to Human Rights Watch that attacks on their property by ultra-nationalists were not representative of the attitudes of the local population as a whole. According to Albanian business-owners, the majority of citizens continued to frequent their shops after Kosovo’s declaration of independence. Some independent Serbian journalists were proactive in investigating and condemning the violence. President Boris Tadic, Serbia’s Ombudsman, and the then-Director of the Serbian National Office of Human and Minority Rights, were robust in their condemnation.

However, the messages of other state organs and government leaders were more ambiguous. The state-owned media was silent about violent incidents against minority-owned businesses. Then Minister of Infrastructure Velimir Ilic initially appeared to justify the violent protests in Belgrade and at border posts with Kosovo, before, a few days later, apparently back-tracking, calling for the arrest of “those

who embarrassed Serbia.” Then Prime Minister Vojislav Kostunica delivered a patriotic and nationalist speech to protestors in Belgrade, but later stated that “violence and destruction most directly harm the fight for state and national interest.”

While eventually ostensibly rejecting violence, the apparent emphasis of these leaders on the negative practical consequences for Serbian interests rather than on the principle that violence was an illegitimate form of protest was widely perceived as creating a permissive atmosphere for attacks by ultra-nationalists. With one or two principled exceptions, such as the mayor of Sombor, municipal authorities appear not to have responded at all.

Four years after a wave of anti-minority violence, Serbia’s response to violence against minorities in February 2008 was again inadequate and it is hard to avoid the conclusion that the authorities still do not take attacks on minorities and their property sufficiently seriously. While police protection has improved, there was a lack of preemptive action. There remains a lack of vigor on the part of the police to find the evidence needed to bring those responsible to justice, and send the clearest signal that such attacks are unacceptable. Serbia has still to introduce criminal legislation that would allow for the imposition of greater sentences for ethnically aggravated forms of offences.

Human Rights Watch is also concerned by the apparent lack of communication between the police and prosecutors and the victims and wider communities. Such communication is essential to assure that victims are able to assert their rights, including their rights to compensation for damages “on the occasion of” public protests, and possibly to deter further attacks.

Serbia’s new government, which took office in July 2008, took a welcome first step to give more prominence to minority rights on the day it was formed, by establishing a new Ministry of Human and Minority Rights to replace the Serbian National Office of Human and Minority Rights. However, despite the upgrading of the agency responsible for minority rights, the government has yet to take concrete steps to address the long-standing weaknesses identified in this report.

The government must demonstrate a stronger commitment to investigate and prosecute ethnically motivated crimes, condemn violence, and act to protect minorities and their property from attack. The authorities must also assist victims obtain the protections and remedies to which the law entitles them, including for civil claims against perpetrators.

Until the authorities cooperate adequately to prevent, investigate, and, where appropriate, prosecute the attacks on minorities such as those described in this report, minorities in Serbia will remain hostages of societal tensions, feeling threatened, intimidated and unwelcome. The persistence of such vulnerability is detrimental not only to minorities, but also to Serbian society as a whole. If Serbia is serious about moving closer to Europe, it is crucial for the authorities and the society as a whole to create conditions for the peaceful and dignified coexistence of all of Serbia's citizens.

Methodology

Human Rights Watch returned to Serbia in April 2008 to document the violence targeting ethnic Albanians in the autonomous Serbian province of Vojvodina and central Serbia in the wake of Kosovo's declaration of independence. The areas were identified on basis of the available (but limited) Serbian media coverage, which indicated the locations of the attacks on the Albanian and other minority-owned businesses. We visited nine cities and interviewed 24 property owners, their family members and employees of affected businesses.¹

Victims of attacks were identified through press articles, which mentioned the names of businesses, and in some cases through local journalists, community activists and non-governmental organizations. The majority of the interviews were conducted in Serbian. In most cases, there were very few ethnic Albanians living in the towns and cities we visited.

Interviews with victims, NGO and other civil society representatives and reports in the local media suggest that the majority of the other ethnic Albanian business

¹ In chronological order: Zrenjanin, Novi Becej, Novi Sad, Kikinda, Sombor, Subotica, Kragujevac, Negotin and Bor.

owners in these locations were also attacked. Human Rights did not follow up on every case in the areas we visited, due to time constraints. The information we received on the other cases from victims, NGO and other civil society representatives and reports in the local media suggest that the cases documented in this report are representative of those that occurred in the areas we visited in terms of their nature and the police and justice system response.

Between May and September 2008 victims were re-contacted either in writing or by phone to assess progress. Follow up victim interviews were conducted in either Serbian or Albanian.

The majority of victims interviewed were ethnic Albanians originally from Kosovo or Macedonia. In all areas where victims were interviewed, they constituted a small percentage of the overall population (less than 1%). A few other victims attacked were of Gorani origin. Goranis are Slavic speaking Muslims originating from the Gora area in Southern Kosovo. One victim was of Turkish ethnicity (the majority of whom in the Balkan context come from the Prizren area of Kosovo).

The other minorities present in the areas Human Rights Watch visited were Hungarians, Croats and Bunjevci (ethnic Croats originating from Dalmatia and Western Herzegovina), Roma (who are both Serbian and Romani speakers), Vlachs (who are Latinized Romance language speakers), and Yugoslavs, i.e. people who identified themselves in the 1991 census as not belonging to any particular ethnicity. None of these groups were victims of the attacks discussed in this report.

Human Rights Watch also interviewed five national government officials, including the head of Serbia's Uniformed Police Directorate, four local civil society activists, and four journalists. We allowed the police and justice system time to investigate, indict and prosecute the perpetrators before contacting them over the period June-September 2008. Initially we wrote to nine misdemeanor judges and nine district prosecutors responsible for all the locations covered in the report. We received written responses from six prosecutors (four of them responded indirectly through the chief prosecutor, who compiled their responses and forwarded to Human Rights Watch). Human Rights Watch followed up with the remaining prosecutors and all the

misdemeanor judges (due to their lack of written response) by telephone, receiving information orally.

Human Rights Watch again contacted the head of the Uniformed Police Directorate on August 11, 2008, asking for the information about the progress on the cases, as well as clarification on the police response (the letter is attached in Annex 1 of this report). The police acknowledged receipt by fax on August 12, 2008. We faxed an additional letter on August 18, 2008, enquiring about the current status of police reform. Receipt was acknowledged orally on August 25, 2008. We received responses to both letters on September 16, 2008 (attached in Annex 3 and 4).

The final reply to our requests for information did not contain information about specific cases and incidents. The response to the first letter emphasized that the police force did its utmost to protect the minorities in the aftermath of Kosovo's declaration of independence, including during the protests. The response to the second letter described current activities aimed at fostering closer collaboration between the police and the communities in Vojvodina and elsewhere, as well as activities aimed at enhancing ethnic diversity in the police corps.

Key Recommendations

To the Government of Serbia

- Publicly and unequivocally condemn all instances of ethnic violence and other offenses against minorities;
- Investigate and, where necessary, take appropriate disciplinary or legal action against officials suspected of inciting, encouraging, or supporting ethnically motivated violence against people or property;
- Expand the compensation law to allow for compensation in cases of criminal damage not arising from public protests;
- 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 (hate crimes). 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 is based on, among other grounds, the victim's membership (or presumed membership) of an ethnic, religious or racial group.

To the Police

- Direct officers to take all appropriate preventive measures to protect individuals belonging to minority communities from attacks;
- Direct officers to take all appropriate measures to protect the minority-owned property and business from attacks, as well as people;
- Thoroughly investigate all violent acts directed against minorities, including destruction of property, in order to identify the perpetrators and where the evidence warrants bring criminal charges against them;
- Reopen investigations into the 2008 acts of violence against minority-owned businesses which took place after Kosovo's declaration of independence;
- Closely collaborate with investigative judges, misdemeanor judges and prosecutors to ensure adequate follow up on misdemeanors and criminal cases involving minority victims.

To Investigative Judges, Misdemeanor Judges and Prosecutors

- Closely collaborate with each other and the police to ensure that misdemeanors and criminal cases involving minorities are adequately followed up on and the perpetrators identified and prosecuted.

To the European Union

- Include the Serbian Government's successes and failures in preventing ethnically motivated crimes and, where warranted, prosecuting individuals responsible for them, as a benchmark in the Stabilization and Association ratification Process and other European Union accession processes;
- Support police reform in Serbia to better enable timely and coordinated responses to violence and public disorder, including by facilitating closer cooperation and exchange of best practices between EU national police forces and the Serbian police.

To the Organization for Security and Cooperation in Europe

- The OSCE Mission in Serbia should include monitoring trials of ethnically motivated crimes in its portfolio, and publish its findings;
- Monitor incidents of violence against minorities and publish reports documenting them.

To the Council of Europe

- The Advisory Committee of the Framework Convention on the Protection of National Minorities should visit the areas of the anti-minority violence during its November 3-7, 2008 visit to Serbia. The Advisory Committee should consider issuing a speedy report and recommendations specifically on the investigation into the violence.

To the United Nations

- The Committee on the Elimination of Racial Discrimination, the Human Rights Committee, and the Special Rapporteur on racism should use the next opportunity provided by their respective mandates to take up the issue of

- ethnically motivated violence in Serbia and make recommendations for steps the authorities should take to effectively address the problem;
- The Human Rights Council should use the opportunity of the forthcoming Universal Periodic Review of Serbia to question the authorities about the problem of ethnically motivated violence and their response to it, and make recommendations for steps taken to effectively address it.

Background

Acts of violence against ethnic Albanian and other minority-owned businesses in February 2008 were not the first incidents of this kind in Serbia. Serbia saw a wave of attacks against minorities between late 2003 and 2005, including arson attacks on mosques that peaked in reaction to the anti-minority (primarily anti-Serbian and anti-Roma) riots in Kosovo in March 2004.

Some ethnic Albanians were also targeted in the spring of 1999, during the NATO bombing of Serbia, with homes and businesses subject to arson and Molotov cocktail attacks.²

A Human Rights Watch report into the 2003-2005 attacks in 2005, concluding that the Serbian government, police and courts failed to respond adequately to the violence.³ The report documented attacks on mosques and minority cultural centers, as well as attacks on individuals belonging to minority communities and their property. The authorities responded too late to violence and downplayed the ethnic motivations behind the attacks. The criminal justice system dealt with the attacks as misdemeanors rather than ethnically-motivated crimes, resulting in lenient sentences.

The 2005 Human Rights Watch report was widely covered by the Serbian media. The Serbian government minister described the report in media interviews in October 2005 as “simplified” but did not dispute its findings in a subsequent meeting with Human Rights Watch and other NGOs later the same month. Nevertheless, the Serbian authorities failed to implement the recommendations contained in the report.

² Several of the victims interviewed by Human Rights Watch were also either attacked or had their properties attacked in 1999. Some of the 1999 retaliation attacks were documented by the Helsinki Committee for Human Rights in Serbia in its report “Status of Albanians in Serbia during and after the NATO Intervention,” http://www.helsinki.org.yu/reports_t11.html (accessed August 28, 2008).

³ Human Rights Watch, *Dangerous Indifference: Violence against Minorities in Serbia*, vol.17, no. 7(D), October 2005, <http://hrw.org/reports/2005/serbia1005/>.

The European Parliament's Foreign Affairs Committee (AFET) sent several ad hoc delegations of committee members in 2005. The European Parliament subsequently adopted a resolution in March 2005 (prior to the publication of the Human Rights Watch report) calling on Serbia to increase protection of minority communities and ensure the police played a more active role in that protection.

After the release of the "Dangerous Indifference" report, the European Parliament discussed the situation in Vojvodina during the Brussels visit of the Minister of Human and Minority Rights Rasim Ljajic on October 13, 2005, pressing for the Serbian government to tackle inter-ethnic crime more efficiently. The EU Enlargement Commissioner Olli Rehn stated on October 10, 2005 that Serbia's progress towards Europe would depend on the degree in which it respects the rights of the minorities.

Kosovo's declaration of independence on February 17, 2008, immediately provoked renewed mass protests and patriotic rallies across Serbia. Although most protests were peaceful, a few spiraled out of control, resulting in vandalism and, in Belgrade, widespread rioting. Groups attacked the embassies of Belgium, Canada, Croatia, Germany, Italy, Turkey, UK and US and a number of McDonald's and other foreign-owned commercial premises, some of which were looted.⁴

During further mass protests in Belgrade on February 21, some groups among the crowds chanted "Kill, kill the *Shiptars* (a derogatory term for Albanians)," while others chanted "Knife, wire, Srebrenica," a reference to the mass killing of Muslims by Serbs in the Bosnian town of Srebrenica in 1995.⁵ Several hundred broke loose from the otherwise peaceful crowd and attacked police and TV crews covering the

⁴ B92, "Bilans Jucerasnjih Nereda," ["The Balance of Yesterday's Riots"] February 22, 2008, http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=02&dd=22&nav_id=285931 (accessed May 21, 2008). The damage to public property amounted to 8.2 million dinars (around EUR 100 000). 192 people were arrested and one of the protesters died inside. A post-mortem identified suffocation with smoke inside the building as the cause of death.

⁵ Human Rights Watch telephone conversation with a Serbian human rights activist, February 22, 2008.

protests.⁶ Besides embassies and foreign-owned commercial premises, rioters also damaged cars, as well as public property such as benches and street lamps.⁷

The Belgrade independent news organization B92 was the target of attempted arson during the mass protests in Belgrade on February 21; the attempt was thwarted by a police cordon around the building. B92 continued to receive threats in the following days. A well-known human rights activist was also targeted. The Socialist Party of Serbia (SPS) started to collect signatures to lodge a criminal complaint against Natasa Kandic, the Executive Director of the Humanitarian Law Center, accusing her of acting against the constitutional order and threatening the state's independence and integrity by attending the Kosovo Assembly's session at which independence was proclaimed. Some media outlets supported the action against Kandic.⁸

There was a mixed response from the Serbian government to the rapidly unfolding events. President Boris Tadic, on state visit to Romania, called for calm and an immediate end to the violence.⁹ However, some members of the Serbian government condoned the violence in response to Kosovo's declaration of independence. The minister for infrastructure, Velimir Ilic, initially described violence in the immediate aftermath of the protest in Belgrade as "democratic."¹⁰ After the riots spread, with foreign embassies attacked and widespread damage of publicly and privately owned property, he called for an investigation on what happened and who is responsible for the acts of violence.

⁶ Two journalists from Russia Today (a globally broadcasted English language channel from Russia) were beaten, and journalists from the Dutch newspaper *NRC Handelsblad*, Serbian National TV, and Serbian National Radio were attacked or threatened. Human Rights Watch interview with an independent journalist who asked not to be identified, Belgrade, April 6, 2008.

⁷ B92, "Bilans Jucerasnjih Nereda," ["The Balance of Yesterday's Riots"] February 22, 2008, http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=02&dd=22&nav_id=285931 (accessed May 21, 2008).

⁸ Dailies *Kurir* and *Vecernje Novosti* respectively referred to Kandic as a "traitor" and "the woman who does not exist." B92, "Istraziti Pretnje Natase Kandic," ["Investigation of the Threats Against Natasa Kandic"] February 24, 2008, http://xs4.b92.net/info/vesti/index.php?yyyy=2008&mm=02&dd=24&nav_category=640&nav_id=286219 (accessed May 20, 2008).

⁹ BBC Serbian language service, "Jedna zrtva nereda u Beogradu," ["One Victim of the Riots in Belgrade"] February 22, 2008, http://www.bbc.co.uk/serbian/news/2008/02/printable/o8o221_belgrade_kosovo.shtml (accessed May 20, 2008).

¹⁰ *Blic*, "Ilic: Demokracija je i kada se razbije neki prozor na ambasadi," ["Ilic: It is Democracy When Some Windows are Broken on the Embassies"] February 20, 2008. You Tube, <http://youtube.com/watch?v=Z7Tv68QA6tQ&feature=related> (accessed May 25, 2008).

In the weeks that followed, a wave of attacks on Albanian-owned property and businesses swept through Vojvodina and various other locations throughout Serbia. According to the information from major general Mladen Kuribak, the head of the Uniformed Police Directorate¹¹, the police across Serbia registered 221 incidents connected to Kosovo's declaration of independence during the period of February 17-March 20, 2008, most of them involving attacks on property.¹² The figures do not differentiate between incidents with an ethnic motivation and ordinary crimes.

However, the attacks do not appear to be representative of the attitudes of the local population in the areas visited by Human Rights Watch. According to Albanian-business owners whose shops were attacked, the majority of citizens continued to frequent their shops after Kosovo's declaration of independence. Although the state media was silent about the attacks on the minority-owned businesses, some independent journalists and civil society activists were proactive in investigating and condemning the attacks, writing articles and publishing press releases about them. Human rights activists, accompanied by the national and regional ombudsmen and the mayor of Sombor organized a solidarity visit to the boycotted bakery there.

¹¹ The head of the Uniformed Police Directorate is a senior official in charge of all uniformed officers in the Serbian police, who make up the vast majority of the force.

¹² Human Rights Watch interview with major general Mladen Kuribak, head of the Uniformed Police Directorate, Belgrade, April 24, 2008.

Institutional and Legal Framework for Investigating and Prosecuting Offenses with Ethnic or Religious Motives

Structure of the Police, Prosecuting and Judicial Authorities

Police

The police in Serbia, including the autonomous province of Vojvodina, are centralized. The minister of interior has the power to appoint local police commanders in the municipalities. The proportion of ethnic minorities in the Serbian police remains below the percentage of the minorities in the overall population. In 2005 Human Rights Watch recommended that the government of Serbia intensify efforts to ensure greater participation of minorities in the police in Vojvodina. At the time of this writing, the level of representation remains comparable to that in 2005.

Since 2004, the Serbian authorities, advised by Organization for Security and Co-operation in Europe (OSCE), have been encouraged to reform policing structures and methods, including by introducing a community model of policing. This approach seeks to enhance collaboration and communication between the police and communities, in order to create trust, reduce community fears and apprehension, thereby promoting operational problem-solving. It emphasizes the decentralization of control, giving local forces greater autonomy. An important aspect is building capacity to investigate hate crimes. Community policing has been used in other post conflict areas, including Bosnia and Kosovo, motivated by the desire to improve police cooperation with citizens, especially minority communities.

Over the past four years, the OSCE has organized a number of pilot trainings by international experts for selected groups of high-ranking police officials.¹³ These constitute only the first small step towards training the entire police force and larger-scale police reform proposals are still pending with the Ministry of Internal Affairs. At the time of this writing, the reforms have not yet been agreed, and there is no timeline for their implementation.¹⁴

¹³ Human Rights Watch phone interview with an international official working in Serbia, May 19, 2008.

¹⁴ Human Rights Watch e-mail correspondence with an international official in Belgrade, August 19, 2008.

According to one international official close to the process, there remains resistance at high levels within the Ministry of the Interior, apparently resulting from fear that reform would eventually lead to decentralization of police structures and diffusion of power away from Belgrade. The change of government in July, and the appointment of a new Interior minister, does not appear to have altered this.¹⁵

Human Rights Watch wrote to the head of the Uniformed Police Directorate, in August 2008 seeking comment on the status of police reform (see Annex II). His response referred to a series of ongoing measures to improve relations between the police and the minority communities, including training workshops for the police, the creation of local “safety councils” with representatives of minority communities and the police, and outreach to encourage recruitment of minorities.¹⁶ While welcome, the measures have yet to translate into effective investigation of attacks on minorities or greater minority representation in the police. Nor do the measures amount to the introduction of a community policing model, not least because the police remain under centralized control.

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 selected by the Serbian parliament in the capital Belgrade. 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. 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.

Misdemeanor judges

Minor offences defined as “misdemeanors” are dealt with outside the criminal justice system by misdemeanor judges, who are appointed by the Serbian executive

¹⁵ Human Rights Watch email correspondence with international official working in Serbia, May 19, 2008.

¹⁶ Written response from the Serbian Uniform Police Directorate to Human Rights Watch, September 16, 2008.

branch. Despite their formal titles, they are not members of the judiciary. Administrative agencies, inspectorates, and other bodies “empowered with public authority” are in charge of initiating misdemeanor proceedings.

The law on misdemeanors, adopted in 2006, and which entered into force on January 1, 2007, identifies a misdemeanor as “an unlawful, wrongfully committed act, which has been identified by the competent authority as misdemeanor.”¹⁷ Misdemeanors can be prescribed by law or decree, or by decision of an assembly of a town or city. Misdemeanor sanctions include: penalties, cautions, orders of court and corrective measures. According to the law on misdemeanors, “a fine, penalty of imprisonment, community service or penalty points, including the cancellation of a driver’s license, can be prescribed for a misdemeanor.”¹⁸

This updated misdemeanor law does not differ from the old version as far as specifying types of punishable conducts, and the provisions on specific misdemeanors are identical. One substantial change in the new misdemeanor law is the provision elevating the misdemeanor system, which would elevate misdemeanor judges into members of judiciary. However, this provision is still to be implemented at the time of this writing.¹⁹

Misdemeanor judges operate in most municipalities in Serbia. Appeals of their decisions go to one of the misdemeanor chambers that exist throughout Serbia.²⁰ The misdemeanor chamber in Novi Sad, for example, hears appeals of the decisions by misdemeanor judges in Vojvodina.

Investigating and prosecuting offences

In Serbia, responsibility for carrying out investigations is diffused among the police, investigative judges and prosecutors. A shortcoming of this system is that it is

¹⁷ Serbian Law on Misdemeanors, <http://www.undp.org.yu/tareas/reports/details.cfm?id=119&navPage=6> (accessed September 1, 2008).

¹⁸ Ibid.

¹⁹ The revised and current versions of the Law on Misdemeanors are available on the Serbian Parliament’s website, <http://www.parlament.sr.gov.yu/content/lat/akta/zakoni.asp> (accessed October 4, 2008).

²⁰ ABA CEELI, “Comparative Overview of Basic Principles on the Position of the Prosecution Service,” February 21, 2007, http://www.abanet.org/rol/publications/serb_basic_principles_prosecution.pdf (accessed May 21, 2008).

conducive to confusion over who leads the process and who has ultimate oversight authority over it. The new criminal code empowers prosecutors and investigative judges to work with the police and supervise their activities more closely.

The process starts when the police receive a report of an alleged offense. They are charged with conducting a preliminary investigation in order to gather initial information about the case. On the basis of their preliminary investigation, the police evaluate the appropriateness of legal proceedings.

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 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. 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.

In case of charges determined by the police to be of a criminal nature, a district prosecutor has to accept these charges and send them to an investigative judge to supervise the police investigation. Under the new criminal code enacted in June 2006 (which entered into force in June 2007), a district prosecutor can assume the similar role to an investigative judge in terms of overseeing the police investigation. This new role for prosecutors further diffuses responsibilities for investigations, making it harder to assess where responsibility for inaction may lie.

An investigative judge works in a close cooperation with the police to collect all information pertinent to the proceedings and to secure evidence.²¹ When there is sufficient evidence to support an indictment, an investigative judge needs to hand the file over to a prosecutor, who then drafts an indictment. The role of an investigative judges ends at this points. With respect to the incidents addressed in this report, prosecutions are initiated by offices of public prosecutor.²²

Prosecuting Offences with an Ethnic or Religious Motivation

There are three legal avenues for prosecuting offences with an ethnic motivation. The first option is to charge the suspect with general public order offenses under the criminal code, such as violent behavior or participation in group violence.

The second option is to treat the offense as a misdemeanor, an administrative charge that may encompass public order offenses, which are under the jurisdiction of the misdemeanor courts (outside of the criminal justice system) and prosecuted by municipal prosecutors.

The third way to charge suspects is to use Article 317 of the criminal code, which prohibits incitement to ethnic, racial and religious hatred. For an offense to qualify as an Article 317 crime, it is not necessary that the perpetrators' motive is hatred. Criminal responsibility under Article 317 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 such hatred resulted ("advertent recklessness"). District courts have jurisdiction over alleged Article 317 crimes, which are prosecuted by district prosecutors.

Human Rights Watch has previously advocated for the more robust use of the Article 317 (Article 134 of the old criminal code), in order to ensure that ethnically and religiously motivated crimes result in criminal convictions against adults. In 2005,

²¹ Criminal Code of the Republic of Serbia, <http://www.abanet.org/rol/news/news-serbia-cpc-training.shtml> (accessed September 1, 2008).

²² Zakon o Krivicnom Postupku [Serbian Criminal Procedure Law], [http://www.projuris.org/DOC/zakoni/krivicno_pravo/krivicni_postupak/01.ZAKONIK_O_KRIVICNOM_POSTUPKU_\(2006\).pdf](http://www.projuris.org/DOC/zakoni/krivicno_pravo/krivicni_postupak/01.ZAKONIK_O_KRIVICNOM_POSTUPKU_(2006).pdf) (accessed May 21, 2008).

we reported out that most crimes committed against national minorities as acts of retaliation in response to events in Kosovo (the anti-Serbian riots) were classified as misdemeanors and in some cases ordinary offenses of violent behavior. This classification resulted in light punishments—and in case of misdemeanors in symbolic penalties.

Despite the introduction of the 2006 criminal code, the way offenses with ethnic or religious motivation are being prosecuted has not changed. In 2008 Article 317 (Article 134 of the previous criminal code), which prohibits incitement to ethnic, racial and religious hatred was still not used to prosecute cases of inter-ethnic violence.

Absence of hate crimes legislation

Furthermore, Serbian criminal law still lacks a clear provision that would allow for the imposition of greater sentences for ethnically aggravated forms of offences, which Human Rights Watch recommended in 2005. Article 54 of the criminal code called “General Rules on Sentencing” states that the “court shall determine the penalty for the perpetrator of a criminal offence within boundaries prescribed by the law for that crime, and taking into consideration the purpose of punishment as well as all mitigating and aggravating circumstances, and in particular: degree of guilt, motives out of which the offense was committed . . .”²³ But neither Article 54 nor any other provision of the criminal code explicitly states that the court may impose a harsher penalty if the victim has been targeted because of his or her actual or perceived race, religion, or ethnicity. Moreover, in practice prosecutors do not tend to argue that ethnic motivation is a factor justifying a higher sentence under Article 54 and judges do not take such motivation into account when passing sentence.²⁴

²³ Criminal Code of the Republic of Serbia, November 2006, <http://www.legislationline.org/upload/legislations/dc/a9/576c23dc41967e427086bf4c2b45.pdf> (accessed August 16, 2008).

²⁴ In contrast, the Croatian Criminal Code, amended in 2006, contains such an explicit provision. Amendments to the Penal Code, *Narodne novine [Official Gazette]*, no. 71/2006, June 28, 2006, article 14 (amending article 89).

International human rights law permits but does not require states to adopt “hate crime” legislation, apart from the requirement to prohibit violence or incitement to such acts against any race or group of persons of another color or ethnic origin.²⁵ Typically, “hate crime” 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 as long as they are appropriately enforced to protect the rights of all ethnic, racial, and other groups.

Serbia’s Obligations under International Human Rights Law

The clearest statement’s of Serbia’s duties in the area of protection of minorities is set out in the Council of Europe’s Framework Convention on the Protection of National Minorities²⁶, Article 6(2), which provides that:

“The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.”

The main monitoring body of experts for this treaty, its Advisory Committee, is currently considering Serbia’s second state report. The Committee is due to make its official visit to monitor Serbia’s compliance with the treaty on November 3-7, 2008.

Moreover, Article 4 of the International Convention for Elimination of All Forms of Racial Discrimination (ICERD) and Article 20 of the International Covenant of Civil and Political Rights (ICCPR) contain the requirement to prohibit violence or incitement to such acts against any race or group of persons of another color or ethnic origin.

²⁵ This provision is granted by both Art.4 of the International Convention for Elimination of All Forms of Racial Discrimination (ICERD) and Art. 20 of the International Covenant of Civil and Political Rights (ICCPR).

²⁶ Serbia is the successor state to the Federal Republic of Yugoslavia, which acceded to the treaty on 11 May 2001. Council of Europe, http://coe.org/rs/eng/tdoc.sr/serbia-and-coe/conid_26 (accessed August 31, 2008).

The Article 14 of the Protocol no. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which entered into force in Serbia in 2005, adds:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.²⁷

Finally, the Article 21 of the Declaration on the Rights of Person belonging to National or Ethnic, Religious and Linguistic Minority affirms the right for national minorities to participate effectively in cultural, religious, social, economic and public life, and particularly to participate in decisions at national and regional levels which concern the minority to which they belong or the regions in which they live.²⁸

The last report of the European Commission against Racism and Intolerance (ECRI) on Serbia, adopted on 14 December 2007 (and made public on April 28, 2008) recommends that Serbia ratify the revised European Social Charter, signed by Serbia in 2005, which reinforces the principle of non-discrimination for the whole set of rights stipulated by the Charter.²⁹

²⁷ Council of Europe, <http://conventions.coe.int/Treaty/en/Treaties/Html/177.htm> (accessed September 22, 2008).

²⁸ International Declaration on the Rights of Person belonging to National or Ethnic, Religious and Linguistic Minority, http://www.unhcr.ch/html/menu3/b/d_minori.htm (accessed September 22, 2008).

²⁹ Council of Europe, European Commission against Racism and Intolerance (ECRI), Report on Serbia adopted on 14 December 2007 and made public on 29 April 2008, http://www.coe.int/t/e/human_rights/ecri/1-ecri/2-country-by-country_approach/serbia/serbia_cbc_3.asp#P209_44483 (accessed September 22, 2008).

Attacks in February 2008 in Vojvodina

Most of the attacks against minorities that followed the Kosovo declaration of independence occurred in the province of Vojvodina. The province is situated in the northern part of the Serbia, between Croatia to the west, Hungary to the north and Romania to the east. According police statistics, 190 of the 221 incidents linked to the Kosovo declaration (including those with no ethnic dimension) registered in February and March took place in Vojvodina province. Seventy-seven incidents of the incidents the province were registered in the city of Novi Sad, 48 in the town of Sombor, and 23 in Zrenjanin.

Vojvodina was the scene of much of the anti-minority violence between 2003 and 2005. This could be explained by the fact that Vojvodina is the most ethnically diverse region of Serbia, which creates much more possibilities for inter-ethnic interactions, but also opportunities for clashes.

What differentiates the violence in 2008 from that of previous years is that property was almost exclusively targeted rather than people. The vast majority of the incidents involved damage to property caused by attacks with stones and bricks, including 56 of those registered in Novi Sad, 41 in Sombor, 19 in Zrenjanin and 11 in Kikinda.³⁰ There were six attacks registered in which Molotov cocktails were used, two of them in Vojvodina (one in Sremska Mitrovica and one in Zrenjanin.) Other incidents included the painting of hate graffiti (15 in Novi Sad, seven in Sombor), anonymous threats and physical altercations.³¹

According to Petar Ladjevic, then Director of the Serbian National Office of Human and Minority Rights, in the 56 incidents registered in Novi Sad in February alone, “there was not a single incident that included physical violence against a person, there were no incidents in which explosives were used, and the great majority of the

³⁰ Altogether 171 of the 221 incidents across Serbia were attacks on property with stones and bricks.

³¹ Human Rights Watch interview with major general Mladen Kuribak, head of the Uniformed Police Directorate, Belgrade, April 24, 2008.

incidents that occurred consisted of smashing windows of properties belonging to minorities.”³²

Novi Sad

On February 17, 2008, there was an authorized public protest in Novi Sad against Kosovo’s declaration of independence. With 260,000 inhabitants, Novi Sad, the capital of Vojvodina, is the second largest city in Serbia, after the capital Belgrade. Statistical data confirms its reputation as one of the most ethnically diverse municipalities in the country, with Serbs composing 65.3% of population; persons declaring themselves to be “Yugoslavs” (a national identity linked to the former Yugoslav communist state) 12.4%; Hungarians 7.6%; Croats 3.3%; Slovaks 3.1%; Montenegrins 2.3%; Ruthenians 0.9%; and others (including Albanians and Roma) 5.1 %.³³ According to the 2003 census, there were 299 Albanians living in Novi Sad.³⁴

Attacks on “Vojvodina” bakery

According to Drita Binaj, one of the two ethnic Albanian owners, the “Vojvodina” bakery in Novi Sad was attacked three times following the February 17 mass protests. The first time, in the immediate aftermath of the protests, the attackers smashed windows and the glass counter inside the bakery with bricks. After the attack, the police arrived promptly at the scene and filed a report.³⁵

A few days later in the afternoon, four young men with baseball bats arrived by car, briefly parked in front of the bakery, and smashed the windows and glass counter with baseball bats, destroying furniture and breaking equipment. They also set fire to the premises and then fled the scene.³⁶ The overall material damage was significant,

³² Human Rights Watch interview with Petar Ladjecic, director of the National Office for Human and Minority Rights, Belgrade, April 22, 2008. Ladjecic left his post after the change in government on July 8, 2008.

³³ Email from the National Statistical Office of the Republic of Serbia to Human Rights Watch, dated May 22, 2008.

³⁴ Ibid.

³⁵ Human Rights Watch interview with Drita Binaj, Novi Sad, April 8, 2008.

³⁶ The damage had been repaired by the time of Human Rights Watch’s visit on April 8, 2008, with the exception of the neon sign.

including to a large neon sign, which Binaj estimated would cost 2,800 Euro to replace.³⁷

The incident was caught on a CCTV security camera located inside the shop. According to the victim, the faces of the attackers were visible on the security tape. When the police arrived, Ms. Binaj showed them the footage on the tape, but did not give them the tape as she “did not want it to get lost”.³⁸ The Novi Sad police claimed in a written statement to have no record of the tape.³⁹ According to Ms. Binaj, the police took no follow-up action after the second incident.

A third attack took place in the evening on the following day, during which the attackers smashed the newly replaced windows yet again. According to Ms. Binaj, the bakery workers were too intimidated by this violence to resume their jobs, and she had to hire new workers to replace them. As a result of the repeated attacks, the bakery lost some of its customers, which resulted in further material damage in the form of lost business income.

Human Rights Watch contacted the Novi Sad district prosecutor Branka Atanackovic to further inquire about this case, receiving an official answer dated May 5, 2008. The district prosecutor informed Human Rights Watch that the police had not transferred any files regarding any attacks on the business owned by Drita Binaj to the district prosecutor at that time.⁴⁰

Human Rights Watch received a written response to its inquiries from the Novi Sad police on June 19, 2008. Although Binaj told Human Rights Watch that the police had failed to follow up after the second attack, the police statement said that they had conducted an on-site investigation after the first and second attacks, after which “the district prosecutor qualified the attack as a criminal act of destroying property from Article 212 of the criminal code.”⁴¹ However, according to the information

³⁷ Human Rights Watch saw the broken sign during the visit on April 8, 2008.

³⁸ Human Rights Watch phone conversation with Drita Binaj, June 27, 2008.

³⁹ Written reply from the Novi Sad police information department to Human Rights Watch, June 19, 2008.

⁴⁰ Written reply from the Novi Sad district prosecutor Branka Atanackovic to Human Rights Watch, May 5, 2008.

⁴¹ Written reply from the Novi Sad police information department, June 19, 2008.

received from the district prosecutor Branka Atanackovic, no criminal complaint was filed in relation to the attack on the bakery.⁴²

Human Rights Watch re-contacted the same district prosecutor on September 2, 2008, and was informed that as of that date no further steps had been taken with relation to the case.

*Attack on a flower shop, city center*⁴³

Human Rights Watch spoke to an ethnic Albanian flower shop owner in the market located in the center of Novi Sad.⁴⁴ On the evening of the 17 February mass protest, he decided to close his shop early, around 6 p.m., because he believed that the demonstration would pass in the vicinity of his shop. He watched the protest from a location across the street from his premises.

The owner told Human Rights Watch that he saw a group of youths he estimated at between 300-400 people marching, screaming and chanting during the protest, and that there were around 30 policemen following them. “At some point, a group of protesters, who were part of the protest, started smashing the windows in my shop” said the victim. “I kept watching from the other side of the street as they continued. The police only watched and did not intervene. Afterwards, I found 52 bricks smashed inside and in the close vicinity of my premises.”⁴⁵

The overall material damages incurred by the flower shop owner, which had been repaired at the time of our visit, were estimated by him at EUR 2,000. According to a letter from the Novi Sad District Prosecutor, as of May 2008 no criminal charges had been brought in relation to the case.⁴⁶ Human Rights Watch wrote on August 11, 2008, to the Uniform Police Directorate (see Annex 1), asking for comment on the allegation that the police failed to respond when protestors smashed windows. The

⁴² Written reply from the Novi Sad district prosecutor, May 23, 2008.

⁴³ The owner of the flower shop wishes to remain anonymous.

⁴⁴ Human Rights Watch interview with the flower shop owner, Novi Sad, April 8, 2008.

⁴⁵ Ibid.

⁴⁶ Letter from the Novi Sad district prosecutor Branka Atanackovic to Human Rights Watch, May 5, 2008.

reply received on September 16 (see Annex 3) did not provide any information on the case.

*Attacks on a bakery, city center*⁴⁷

Human Rights Watch also spoke to a second bakery owner from Novi Sad city center whose bakery was attacked on two different occasions. He told Human Rights Watch that the first attack took place during the night of the mass protest on February 17. Following the advice of the police, he did not close the shop early to “avoid creating suspicion that he had gone home early to celebrate [Kosovo’s declaration of independence].”⁴⁸ That evening during the protest, he saw a group of protesters he estimated to number approximately 100 passing his bakery. Some threw stones and bricks at his business, breaking the windows and glass inside. According to the victim, the police walked behind the protesters and must have seen what was happening, but did not respond. Human Rights Watch wrote on August 11, 2008, to the Uniform Police Directorate (see Annex 1), asking for comment on the allegation that the police failed to respond when protestors attacked the bakery. The reply received on September 16 (see Annex 3) provided no information about the case.

Five days later (the night of February 22-23), while the owner was absent, a group of men in a car stopped in front of his bakery. According to the owner, who did not witness the incident, they broke the windows and tried to set the bakery on fire.⁴⁹ One of the neighbors called the police, who promptly arrived and extinguished the fire.

For eight days after the second attack, policemen in civilian clothes maintained frequent patrols in the vicinity of the bakery. Petar Ladjovic, then Director of the National Office of Human and Minority Rights, visited the bakery’s owner the day

⁴⁷ The owner of the bakery wishes to remain anonymous.

⁴⁸ Human Rights Watch interview with a bakery owner, Novi Sad, April 9, 2008.

⁴⁹ Human Rights Watch was unable to interview the neighbour who witnessed the alleged arson attack on February 22-23, 2008.

after the second attack, together with the local police commander.⁵⁰ No further attacks on the bakery took place after this visit.⁵¹

Attacks in Other Parts of Vojvodina

While these attacks documented in Novi Sad were committed during and in the immediate aftermath of public protests, the majority of attacks that Human Rights Watch documented in other cities and towns occurred outside the context of protests. In each of the locations that Human Rights Watch visited, the number of ethnic Albanians is very small, constituting less than 1% of the overall population. Several Gorani-owned businesses and one Turkish-owned business were also attacked but Albanian-owned businesses appeared to be the primary targets.⁵² The repeated number of the attacks on the same objects suggests that the incidents detailed below may not have been spontaneous but carefully planned.

Zrenjanin

Zrenjanin is a town located in the eastern part of Vojvodina, with approximately 80,000 inhabitants. The town's population, according to the most recent census, is composed of 70.9% Serbs, 14.55% Hungarians, 2.44% who described themselves as Yugoslavs, 1.98% Roma and 78 Albanians.⁵³

Snezana Ilic, a local human rights activist from the Centre for Development of Civil Society in Zrenjanin, reported that 12 Albanian-owned bakeries in Zrenjanin were attacked during the period of 10 days following February 17.⁵⁴

⁵⁰ Human Rights Watch interview with a bakery owner, Novi Sad, April 9, 2008.

⁵¹ Human Rights Watch re-contacted the owner by phone on June 27, 2008.

⁵² According to both non-Albanian victims attacked and the ethnic Albanian businessmen interviewed by Human Rights Watch, the Gorani and Turks were attacked due to "the confusion of the attackers" who considered everybody from Kosovo as Albanian.

⁵³ Email from the Serbian National Statistical Office to Human Rights Watch, May 22, 2008.

⁵⁴ Human Rights Watch interview with Snezana Ilic, human rights activist, Center for Development of Civil Society in Zrenjanin, April 7, 2008.

Attacks on the bakery “Zrenjaninka”

Burim Binaj originally comes from Kosovo and has been living in Zrenjanin for 28 years. His bakery, “Zrenjaninka” is located in the outskirts of the town. Mr. Binaj’s bakery was attacked on three separate occasions during the week following Kosovo’s declaration of independence. Each time, the windows and display glasses were smashed with bricks and stones. All of the attacks took place at night. The same bakery had been damaged in 1999 and in 2004.⁵⁵ The bakery owner reported material damage he estimated at EUR 3,500. Human Rights Watch observed that the display window glass had been broken and not fully fixed (it was boarded up). “If these things keep happening, I will have to leave” the owner told Human Rights Watch.⁵⁶

Mr. Binaj informed Human Rights Watch that he had received a visit from Petar Ladjecic, then Director of the Serbian National Office of Human and Minority Rights, a few days after the second attack.

Attack on the bakery “Zlatni Klas”

Cazim Hoxhaj is an owner of four bakeries in Zrenjanin, two of which were attacked in the aftermath of Kosovo’s declaration of independence. The first bakery that was attacked is called “Zlatni Klas” and is located in the center of the town. On February 18, at around 11 p.m., a young man threw stones at his bakery, breaking the windows and display glasses. The attack was filmed on a CCTV security camera installed in the shop, and the identity of the perpetrator is reportedly recognizable on the security tape. The second bakery was attacked on three separate occasions, each time at night with no witnesses.⁵⁷ According to the owner, the police frequently patrolled the areas surrounding the bakeries after the attacks. Human Rights Watch wrote on August 11, 2008, to the Uniform Police Directorate (see Annex 1), to ask whether the police had charged anyone for the attack on the “Zlatni Klas” bakery, and if the police were aware of, and had viewed, the CCTV footage. The reply received on September 16 (see Annex 3) contained no information about the case.

⁵⁵ During anti-Albanian violence following the NATO bombing of Serbia in 1999 and anti-Serb riots in Kosovo in 2004.

⁵⁶ Human Rights Watch interview with Burim Binaj, Zrenjanin, April 7, 2008.

⁵⁷ Human Rights Watch interview with Cazim Hoxhaj, Zrenjanin, April 7, 2008.

Mr. Hoxhaj attributed responsibility for the attacks on his shop to the hateful discourse “spread by the nationalist politicians.” He commended the attitude of the majority of citizens, who continued to purchase bread in his shop. “The day when they stop coming, I will not have a place here anymore” he said.⁵⁸

Novi Becej

Novi Becej is a small town in the Vojvodina region, in the north of Serbia. Novi Becej has a population of approximately 14,500 people. Its population includes 61.36% Serbs, 26.63% Hungarians, 2.68 % Roma, and 2.44% Yugoslavs. According to census data, there are only 14 Albanians living in the municipality.⁵⁹

Attacks on a bakery “Plavi Jadran”

Fatim Dacaj is an owner of a bakery “Plavi Jadran” in Novi Becej. His bakery was attacked three times: on the night of 20-21 February, the night of 22-23 February, and again on the night of 29 February-1 March. According to Dacaj, the police apprehended a youth suspect on suspicion of attempting to break the windows with his leg during the third attack.

The owner told Human Rights Watch he is unaware of any charges or disciplinary measures against the alleged perpetrator. During the second attack, a brick thrown at the glass window wounded the victim’s brother. The owner estimated the overall material damage at 500 Euro. Human Rights Watch observed that the glass of the display window was cracked in a few places and covered with paper. Nobody had contacted him about compensation at the time Human Rights Watch spoke to him.⁶⁰

In general, the victims Human Rights Watch interviewed were interested in getting compensation (especially those uninsured), but appeared reluctant to approach the authorities or ask for information about the procedures for fear it would cause “more trouble” or “appear greedy.”⁶¹

⁵⁸ Ibid.

⁵⁹ Email from the Serbian National Statistical Office to Human Rights Watch, May 22, 2008.

⁶⁰ Human Rights Watch interview with Fatim Dacaj, Novi Becej, April 7, 2008.

⁶¹ This explanation was given to Human Rights Watch by almost all victims interviewed.

For a couple of days after the first attack, the police kept a patrol car parked in front of the bakery. The second attack took place during the patrol's shift rotation, just after the first police car departed and minutes before the second police car arrived. The shift rotation left the bakery unattended for only a few minutes.⁶²

Human Rights Watch wrote on August 11, 2008, to the Uniform Police Directorate to enquire further about this case (see Annex 1), to enquire confirm whether a suspect had been apprehended by police, other suspects identified, or charges brought against anyone. The reply, received on September 16 (see Annex 3), contained no information about the case.

The bakery owner attempted to contact the municipal authorities a few times to talk about his situation and see if “anything else could be done to safeguard him.”⁶³ He told Human Rights Watch that despite his efforts, nobody from the municipal authorities showed any interest in his plight. He said that the attacks left him feeling threatened and unwelcome in the community:

Even though the majority of people here continued to behave well with me, I could not help thinking, why do I seem to bother some of them? I have been living here many years, I am a good businessman and citizen, I often sponsor community events, frequently sponsor the junior female sports team in the local school. I give employment to people of all ethnicities but somehow nothing I do seems to be enough...⁶⁴

Human Rights Watch spoke to a second ethnic Albanian business owner from Novi Becej whose property was attacked and damaged. The owner did not authorize the release of any information related to his case, fearing for his safety and what he termed “possible consequences” of an unspecified nature.⁶⁵

⁶² Human Rights Watch interview with Fatim Dacaj, Novi Becej, April 7, 2008.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Human Rights Watch interview with a business owner from Novi Becej, April 7, 2008.

Sombor

Sombor is located in the north-west part of Vojvodina and has approximately 52,000 inhabitants. The population there is composed of 64.09% Serbs, 7.27% Hungarians, 6.46% Yugoslavs, 6.21% Croats, and 4.32% Bunjevci⁶⁶, with approximately 100 Albanians.⁶⁷

Attack and boycott of the bakery “Dva Brata”

Shtjefin Kerhoni, the owner of a number of bakeries and a restaurant in Sombor experienced a week-long boycott of one of his bakeries, the result of an initiative of a group of people who publicly called for the boycott and denounced the Kerhoni family as providers of weaponry and drugs for Kosovo Albanians. The number of people demonstrating outside the bakery during the week-long boycott suggests that there was an element of planning involved.

On February 17, after Kosovo’s declaration of independence, the police contacted Kerhoni and asked him to keep them informed of any incidents. The following day, a protest took place in the center of Sombor. Sometime that night, the windows of the bakery “Dva Brata” were smashed by unknown perpetrators. The police responded by placing patrol cars in front of the bakery and the Mr. Kerhoni’s house for 5-6 days after the attack.

On February 22, the boycott of the “Dva Brata” bakery began. A few young men (whom the owner estimated to be around 20-25 years old) handed out free bread in front of the bakery, along with leaflets calling for a boycott of the business, which the leaflet alleged was “funding guns and drugs in Kosovo.”⁶⁸ During that week, Mr. Kerhoni’s house in another part of town was vandalized with derogatory anti-Albanian graffiti.⁶⁹

⁶⁶ Bunjevci are ethnic Slavs originating from Dalmatia (in Croatia) and Herzegovina (in Bosnia).

⁶⁷ Email from the Serbian National Statistical Office to Human Rights Watch, May 22, 2008.

⁶⁸ Human Rights Watch interview with Shtjefin Kerhoni, Sombor, April 10, 2008.

⁶⁹ Human Rights Watch saw both the graffiti and the copies of the leaflets.

The Sombor boycott was covered by the Serbian newspapers and TV stations, including Blic, Danas, and B92, as well as local publications.⁷⁰ The city mayor Jovan Slavkovic, national Ombudsman Sasa Jankovic, Vojvodina Ombudsman Petar Teofilovic, and a number of human rights activists from the local community and Belgrade organized a solidarity visit to Sombor on March 4, 2008, during which they ate breakfast together in the boycotted bakery.⁷¹

According to the owner, some customers continued to shop there, despite the threatening presence and actions of the men organizing the boycott. However, some other frequent customers stopped. Mr. Kerhoni stated that, in addition to damage from the smashed windows resulting from the attack on his bakery, he lost regular customers and a significant amount of business: “My bakery has been working at only 65-80% of its normal capacity ever since [the boycott].”⁷² At the time of this writing, nobody had contacted Mr. Kerhoni about compensation for damages incurred during the night of protest. Nor had he contacted the authorities about compensation—he told Human Rights Watch that bringing those responsible for the attacks on his property to justice was his key concern, not obtaining compensation.⁷³

On September 1, 2008 Human Rights Watch re-contacted Slobodan Dimitrijevic, the deputy district prosecutor of Sombor to follow up on the case. He said that the district prosecutor has not opened the case “due to the lack of sufficient evidence that the actions taken [both the boycott and the physical attack] were based on national hatred.”⁷⁴ As for the derogatory graffiti spraying of the victim’s house,

⁷⁰ *Gradjanski List* (a local newspaper in Sombor), “Tadic zahteva pronalazenje organizatora i inspiratora akcije protiv somborskih Albanaca,” [“Tadic requests investigation of the organizers and instigators of actions against Albanians from Sombor”] March 20, 2008, <http://www.gradjanski.co.yu/navigacija.php?vest=19116&najcitiranje=1> (accessed May 21, 2008). *Blic*, “Leci uznemirili Somborce,” [“Pamphlets Upset People from Sombor”] March 21, 2008, <http://www.blic.co.yu/drustvo.php?id=34817> (accessed May 21, 2008). *Danas*, “Prelamanje visoke politike naobicnim ljudima,” [“High Politics Trickling Down to Normal People”] March 4, 2008, <http://www.danas.co.yu/20080304/terazije1.html> (accessed May 21, 2008).

⁷¹ B92, “Sombor: Dorucak u pekari Albanaca,” [“Sombor: Breakfast in an Albanian Bakery”] March 5, 2008, http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=03&dd=05&nav_id=287759&nav_category=11 (accessed May 21, 2008).

⁷² Human Rights Watch interview with Shtjefin Kerhoni, Sombor, April 10, 2008.

⁷³ Ibid.

⁷⁴ Human Rights Watch phone conversation with Slobodan Dimitrijevic, the deputy district prosecutor of Sombor, September 1, 2008.

the district prosecutor found sufficient motivation of ethnic hatred and asked the police to investigate the case and report the findings to him. The police failed to identify any perpetrators.

Kikinda

Kikinda is a town in the north-east part of Vojvodina, close to the border with Romania. Its population of 41,000 is composed of 74.68% Serbs, 12.62% Hungarians, and 3.23% Yugoslavs. According to the census there are 841 Roma, and 56 Albanians living in the town.⁷⁵

Four Albanian and one Turkish business owners whose premises in Kikinda were attacked during February 2008 agreed to speak to Human Rights Watch on condition of anonymity. In each of these cases, the attack took place at night, with no witnesses to identify the perpetrators.⁷⁶

One of the owners told Human Rights Watch about a demonstration that took place in front of his house. Around 300 elementary school students, accompanied by some teachers, stood in front of his home for around half an hour. Some of the children threw stones at his house, smashing one of the windows.⁷⁷ The police were there, but did not intervene when the stones were thrown. The police did, however, guard the house for some days after the demonstration.

Human Rights Watch wrote on August 11, 2008, to the Uniform Police Directorate (see Annex 1), seeking to confirm whether any suspects were been apprehended following the incident. The reply, received on September 16 (see Annex 3), contained no information on the case.

A few hours after the demonstration, a school director visited the victim to apologize. He referred to the protesters as “hooligans”. The victim, however, did not feel that this explanation was adequate:

⁷⁵ Email from the Serbian National Statistical Office to Human Rights Watch, May 22, 2008.

⁷⁶ Human Rights Watch separate interviews with Albanian and Turkish business owners, Kikinda, April 9, 2008.

⁷⁷ Human Rights Watch interview with a business owner, Kikinda, April 9, 2008.

“These children were from the schools my sons go to. They came accompanied by their teachers. So how is it that later on the director comes and tells me they were some random hooligans? I feel very sorry for my children, they understand that something wrong is happening, they ask me why, and I don’t know what to tell them.”⁷⁸

To the victim’s knowledge, nobody (i.e. neither students nor the professors) who attended the demonstration was subsequently disciplined. Human Rights Watch was unable to contact the school principal.

The victim told Human Rights Watch about his efforts to integrate himself in the community by actively participating in civic life through sponsoring various cultural and sports events. He told Human Rights Watch that he was particularly saddened to be targeted despite those efforts.⁷⁹

Subotica

Subotica is the second largest city in Vojvodina, with approximately 100,000 inhabitants. It is located in the north of Vojvodina, about 10 kilometers from the border with Hungary. Subotica is a multiethnic city composed of 34.99% Hungarians, 26.25% Serbs, 10.87% Bunjevci, 10.43% Croats, 1.60% Montenegrins, and 1.17% Roma. It has 256 Albanian inhabitants according to census data.⁸⁰

Attack on a bakery, city center

An Albanian-owned bakery in the city center of Subotica was attacked on the night of February 17, during which some groups of individuals protested on the streets. The policemen stood in front of the property as the protesters passed. Despite the police presence, stones and rocks were thrown in the direction of the bakery, smashing the windows and the glass counter. According to the owner, the police present witnessed the acts but did not intervene.⁸¹

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Email from the Serbian National Statistical Office to Human Rights Watch, May 22, 2008.

⁸¹ Human Rights Watch interview with an owner of a bakery in Subotica, April 10, 2008.

After this incident, two uniformed police guarded the premises round-the-clock for the next five days. The owner told Human Rights Watch he was unaware of any action to identify or charge those responsible.

The owner says that he twice spoke to the police to ask why they did not respond when witnessing the protesters damaging his shop. The answer he reportedly received was that the police had orders not to intervene when the attack amounts only to property damage.⁸² This allegation was strongly rejected by the head of the Uniformed Police Directorate in Belgrade, who said that no such orders had been given.⁸³

Despite the police protection provided in the days that followed February 17, the owner did not feel safe either while working or sleeping at night (his family occupies the floor of the house above the bakery). He complained about what he felt to be a permissive atmosphere which arose from inflammatory statements by some Serbian politicians:

I had two policemen in front of my house, but I did not feel safe. I have seen on TV government officials saying that people like the ones who attacked my shop are not hooligans but patriots angry about Kosovo. Sometimes I think if somebody offers me a good price for my business, perhaps I should take my family and go somewhere else, to be able to live like a human being, not like this.⁸⁴

Human Rights Watch spoke to two more ethnic Albanian business owners from Subotica whose property was attacked and damaged. The owners did not authorize the release of any information related to their cases, fearing for their families' safety.⁸⁵

⁸² Ibid.

⁸³ Human Rights Watch interview with major general Mladen Kuribak, the head of Uniformed Police Directorate, Belgrade, April 24, 2008.

⁸⁴ Human Rights Watch interview with an owner of a bakery in Subotica, April 10, 2008.

⁸⁵ Ibid.

Attacks in February 2008 outside Vojvodina

The attacks on Albanian and other minority-owned property were not limited to the territory of Vojvodina. Human Rights Watch also traveled to Kragujevac, Negotin and Bor, cities and towns outside Vojvodina where attacks took place. Serbian independent media also reported attacks in Cacak and Nis.⁸⁶ As in Vojvodina, there were very few ethnic Albanians living in the towns and cities in central Serbia where attacks took place.

Kragujevac

Kragujevac is the fourth largest city in Serbia. It is located in central Serbia and it is the center of the Sumadija district. Its population of 148,000 inhabitants is mainly of Serbian ethnicity, with a small percentage of Montenegrins, Croats and Roma. There are only 32 Albanians in the municipality of Kragujevac.⁸⁷

Attack on the shop “Avala”

Abdyl Murselji is a Gorani⁸⁸ owner of the “burek” (pie) shop “Avala” in Kragujevac. His shop was stoned on the night of 19 February, resulting in minor damage. He was defiant about the attack, telling Human Rights Watch that “nobody will manage to intimidate me like that” and called the perpetrators “people brainwashed by hate speech spun by politicians.” He praised the police for providing him with adequate protection for a period of over two weeks after the attack took place. “There was a car parked day and night in front of my shop.” He said that the police also informed him that he could apply for compensation from the municipality, even though this attack did not happen in the context of a protest.⁸⁹

⁸⁶ B92, “Neredi u gradovima Srbije,” [“Riots in Cities of Serbia”] February 19, 2008, http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=02&dd=19&nav_id=285477 (accessed May 27, 2008).

⁸⁷ Email from the Serbian National Statistical Office to Human Rights Watch, May 22, 2008.

⁸⁸ The Gorani are the Slavic Muslims originating from the Gora area in Kosovo. Gorani names sometimes sound similar to names of ethnic Albanians, thus some Serbs may mistakenly believe that a particular Gorani person is an Albanian.

⁸⁹ Human Rights Watch interview with Abdyl Murselji, Kragujevac, April 10, 2008.

Human Rights Watch wrote on August 11, 2008, to the Uniform Police Directorate to enquire further about this case (see Annex 1), seeking to confirm whether any suspects had been identified and whether the victim had received compensation. The reply, received on September 16 (see Annex 3), contained no information on the case.

*Attack on a bakery, city center*⁹⁰

Human Rights Watch spoke to an owner of a bakery in Kragujevac city centre that was attacked twice during the night of February 17 resulting in approximately EUR 100 of damages. He also received protection from the police during the 10 days following these two attacks, but says that the perpetrators of the attacks were never found, which worries him because he is concerned for the safety of his two small children.⁹¹

Human Rights Watch wrote on August 11, 2008, to the Uniform Police Directorate (see Annex 1), seeking to confirm whether any suspects had been identified in the attack of the bakery. The reply, received on September 16 (see Annex 3), had no information on the case.

The owner told Human Rights Watch that he thought his work was appreciated by the community and that he was able to work even during the NATO bombing of Serbia in 1999, when his bakery was the only place that did not close down in the area, which he said had led many in the community to praise him.⁹²

Human Rights Watch also contacted three more Albanian and Gorani owners of businesses in Kragujevac, whose shops were also attacked. One of them declined to speak to Human Rights Watch at all, while the other two briefly confirmed that their businesses were attacked but were reluctant to give any further details regarding the attacks.⁹³ None gave any reason for their reluctance to speak to us.

⁹⁰ The owner of the bakery wished to remain anonymous.

⁹¹ Human Rights Watch interview with a bakery owner, Kragujevac, April 10, 2008.

⁹² Ibid.

⁹³ Human Rights Watch interviews with the Albanian and Gorani business owners in Kragujevac, April 10, 2008.

Negotin

Negotin is a town in the north-eastern part of Serbia situated near the borders between Serbia, Romania and Bulgaria. According to the 2002 census, the population of the Negotin municipality is 43,551, 88% Serbs and 7% Vlachs.⁹⁴ Only a handful of Albanian families live there, and they have lived there since the early 1950s. The town is considered peaceful and no major incidents against minorities, including ethnic Albanians, had previously occurred there.

*Albanian-owned business, city center*⁹⁵

Human Rights Watch spoke to an Albanian business owner whose premise was stoned on the night of February 14-15. The attack resulted with a few broken windows. He was not present at the time of the attack, and he did not see the perpetrators. He initially dismissed the attack as the isolated action of a “hooligan,” repaired the damage himself the next day and did not follow up with the police or the municipality.

However, on February 17, around midnight, a few individuals ran by his premises, which were open for business at that time, throwing stones and bricks, which smashed the windows and scared customers, who left immediately.⁹⁶ The owner was present during the attack and called the police who promptly arrived on the scene and wrote a report. For the next few days, the police maintained a presence outside his business to protect it. Nevertheless, the owner told Human Rights Watch that some of the workers had resigned following the attack, and most of the clients were too scared to continue going there.

A few days after this incident, the owner told Human Rights Watch that a group of school children had demonstrated in front of the business. The victim said he was too distressed to talk about the details of this incident, as it had greatly affected him and the well being of his family:

⁹⁴ Human Rights Watch e-mail correspondence with the Serbian National Statistical Office, May 22, 2008.

⁹⁵ The owner of the business wishes to remain anonymous, and does not wish to have the nature of his business disclosed for fear that it would identify him.

⁹⁶ Human Rights Watch interview with a businessman, Negotin, April 11, 2008.

“After [the schoolchildren’s demonstration] had happened, my child came up to me and asked whether it was ok to go to school that day. This was the most horrible of all, much worse than the loss of workers, customers and money. I did not know what to say. My child is big enough to understand what was happening.”

According to the victim, there was no further action by the police or the municipality with respect to the events described above. The victim passed onto the police information about the possible identity of the perpetrators of the attacks on the business, but said he was unaware of any further action taken by the police in the case.⁹⁷

Human Rights Watch wrote to the head of the Uniformed Police Directorate on August 11, 2008 (see Annex 1), asking whether the police had received any indication from the victim or others witness of who was behind the attacks and whether any suspects had been identified. The reply, received on September 16 (see Annex 3), had no information on the case.

Bor

Bor is a town in the eastern part of Serbia, close to the town of Negotin and the border with Romania and Bulgaria. Bor has 40,000 inhabitants, 72% Serbs, 18% Vlachs, 3% Roma, 1% Macedonians, and 115 Albanians.⁹⁸

Human Rights Watch spoke separately to two Albanian businessmen whose bakeries/ice cream shops were attacked after February 17. There were not present during the attacks, which took place at night. One of the businessmen’s cars was also damaged when the perpetrators threw bottles, stones and bricks at it. The police responded to the attacks by dispatching frequent patrols to the area of one of the businesses and by physically guarding the premises during the period of two weeks that followed. One of the owners told Human Rights Watch he had incurred material damage of around EUR 700 due to the attack, and said that the police had

⁹⁷ Human Rights Watch interview with a businessman, Negotin, April 11, 2008.

⁹⁸ Email from the Serbian National Statistical Office to Human Rights Watch, May 22, 2008.

told him that he would “get the money back” without specifying who would be responsible for compensation. At the time of the interview, neither of the victims has received any compensation, and both were unaware of any further official actions related to the attacks.⁹⁹

Human Rights Watch wrote to the Head of the Uniformed Police Directorate on August 11, 2008 (see Annex 1), asking whether the police had identified any suspects in the attacks on the two businesses and whether the victims had received compensation. The reply, received on September 16 (see Annex 3), contained no information on either case.

⁹⁹ Human Rights Watch interview with two business owners, Bor, April 11, 2008.

Response of the Police

In several cases, the police sought to protect Albanians and other minorities in the aftermath of Kosovo's declaration of independence, especially after the occurrence of a first attack against a particular individual or business. In most cases documented in this report, the premises of the victims with whom Human Rights Watch spoke were kept under observation by police patrols in the days or even weeks following a first attack.

While the deployment of police patrols after initial attacks to prevent further incidents is commendable, Human Rights Watch is concerned by the absence of a pro-active strategy to protect minorities. Given the experience of 1999 and 2004, it was not difficult to predict that the aftermath of Kosovo's declaration of independence might produce violence directed against minorities, and particularly ethnic Albanians. In most of the locations where trouble occurred, the numbers of ethnic Albanians was relatively small. Preventive deployments might have prevented trouble, especially where specific individuals and businesses had been previously attacked during 1999 and 2004, as was the case for some business owners in Novi Sad.

In one case, a victim explicitly stated that the police had said they were under instructions to act only if someone's physical integrity was jeopardized during the protests.¹⁰⁰ This allegation was dismissed by major general Mladen Kuribak, the head of the Uniformed Police Directorate, when Human Rights Watch met him on April 24, 2008, to discuss the policing of attacks on minorities. In this meeting and in subsequent written enquiries, Human Rights Watch asked about the reasons for not intervening when attacks took place during demonstrations, such as those on the flower shop and bakery in Novi Sad described above. Major general Kuribak said that there was no instruction from Belgrade's headquarters for police officers to remain passive in cases of attacks on property rather than individuals.¹⁰¹ However, he said

¹⁰⁰ Human Rights Watch interview with an owner of a bakery in Subotica, April 10, 2008.

¹⁰¹ Human Rights Watch interview with major general Mladen Kuribak, the head of Uniformed Police Directorate, Belgrade, April 24, 2008.

that during the demonstrations, when there are few police officers available, it was not feasible for them to intervene robustly in cases where property alone was attacked.¹⁰² He reiterated this message in a letter in response dated September 19, 2008 to further enquiries from Human Rights Watch, explaining that the police did their utmost to ensure order during the demonstrations but that due to the extremely large number of protesters, there were insufficient officers available to protect every object at risk.¹⁰³

Even if the police are given the benefit of doubt on this issue, at the very least the police presence at protests when vandalism occurred should have provided excellent eye witness accounts—by the police themselves—that could have contributed, where legally warranted, to charges against the alleged perpetrators.

In a letter to the police sent in August 2008 (see Annex 1), Human Rights Watch asked for further information in relation to the specific cases detailed in this report. The response did not contain any comment on specific allegations or information about the status of investigations into specific cases. It simply said that the police together with prosecutors had taken the necessary steps to establish the facts, had arrested people caught damaging property, and were continuing in their efforts to identify perpetrators. However, Human Rights Watch remains concerned that the police appear to have done little to identify or vigorously pursue perpetrators, despite in some instances being physically present when attacks took place.

Based on data provided by district prosecutors, it appears that police investigations failed to determine the identity of perpetrators in the vast majority of the attacks. According to the head of the Uniformed Police Directorate, as of April 24, 2008, 10 perpetrators had been convicted and fined for incidents arising from Kosovo protests and involving damaging property. In each case, the underlying act was qualified as a misdemeanor (an administrative offence) rather than a criminal offence.¹⁰⁴ None of the 10 perpetrators was charged in relation to incidents documented by Human

¹⁰² Human Rights Watch interview with major general Mladen Kuribak, the head of Uniformed Police Directorate, Belgrade, April 24, 2008.

¹⁰³ Letter from major general Mladen Kuribak, the head of Uniformed Police Directorate in Belgrade to Human Rights Watch, September 19, 2008.

¹⁰⁴ Human Rights Watch interview with major general Mladen Kuribak, April 24, 2008.

Rights Watch in this report. In some cases, where investigations failed to identify suspects, formal charges were brought against “unknown perpetrators” were laid. In many of the cases cited in this report, it is not clear whether a complete investigation was conducted.

The failure to identify perpetrators, even in cases where security cameras or police witnessed the attacks, prevents victims from seeking legal redress through criminal charges or civil suits for compensation. This result in further hardship to the victims, allows individual perpetrators to escape punishment, and contributes to an atmosphere of impunity for attacks against minorities or their property.

According to an international official, “nothing happens [in Serbia] without a clear order from Belgrade.”¹⁰⁵ In the light of this, it is critical for the police chiefs in Belgrade to clearly communicate to the municipal police forces (through the appropriate chain of command) that protecting minorities and thoroughly investigating offences against them should be a priority.

¹⁰⁵ Human Rights Watch phone interview with an international official working in Serbia, May 19, 2008.

Response of the Justice System: Misdemeanor Judges and District Prosecutors

Due to the previous history of violent attacks against minorities being primarily dealt with as misdemeanors, Human Rights Watch contacted all of the misdemeanor judges as well as the district prosecutors responsible for the cities and towns included in this report.¹⁰⁶ As described above, misdemeanor judges are not members of judiciary, but rather administrative agencies in charge of misdemeanor proceedings, based on information forwarded by the police. The police make an initial determination as to whether a particular case should be treated as a misdemeanor (and forwarded to misdemeanor judges) or a criminal charge should be filed (and forwarded to district prosecutors).

According to the responses that Human Rights Watch received in May and June from all the misdemeanor judges we contacted, none had received cases from police related to the post-February 17 incidents.¹⁰⁷ The head of the Uniformed Police Directorate told Human Rights Watch in April 2008 that 10 people had been convicted and fined for misdemeanors relating to Kosovo.¹⁰⁸ Those 10 individuals must therefore have been dealt with by misdemeanor judges elsewhere in Serbia.

One of the misdemeanor judges noted that cases such as those Human Rights Watch documented represent either the criminal offense of incitement to ethnic hatred (Article 317 of the Serbian criminal code) or the civil offense of destroying or damaging someone else's belongings (Article 212 of the Serbian criminal code).¹⁰⁹ In a civil case for destruction of property, the proceedings must be always initiated by a private lawsuit.¹¹⁰ The victims interviewed by Human Rights Watch were unaware that

¹⁰⁶ Written queries were faxed to the misdemeanor judges and district prosecutors of Zrenjanin, Novi Becej, Novi Sad, Kikinda, Sombor, Subotica, Kragujevac, Negotin and Bor between May 6 and 16, 2008.

¹⁰⁷ All misdemeanor judges were also re-contacted by Human Rights Watch in June 2008.

¹⁰⁸ Human Rights Watch interview with major general Mladen Kuribak, head of the Uniformed Police Directorate, Belgrade, April 24, 2008.

¹⁰⁹ Written response from the Subotica misdemeanor judge Ljubo Simic to Human Rights Watch correspondence May 15, 2008.

¹¹⁰ Written response from the Serbian chief prosecutor Slobodan Radmanovic to Human Rights Watch, June 21, 2008.

they had to initiate civil proceedings. Such claims would in any event have required them to know the identity of the alleged perpetrators.

The response from the district prosecutor of Novi Sad indicated that there was only one relevant criminal complaint (an alleged violation of Article 317) filed by the police with respect to the attack on a bakery in Bac (not documented by Human Rights Watch).¹¹¹ The alleged perpetrator in that case is a minor.¹¹²

The Sombor district prosecutor informed Human Rights Watch that he requested that the investigative judge in Sombor open investigations in three cases of ethnically derogatory vandalism since Kosovo's declaration of independence in February 2008.¹¹³ The district prosecutor also requested a judge to open a criminal investigation of three individuals based on suspicion that they may have been distributing leaflets calling for the boycott of the Albanian-owned bakery Dva Brata described in this report. By September 1, 2008, no decision had been made by the judge about opening the case.¹¹⁴ The district prosecutor has told Human Rights Watch that the delay was because there was insufficient evidence to bring charges against any named individuals.¹¹⁵

In Kragujevac, the district prosecutor informed Human Rights Watch that his office has received four criminal complaints against unidentified perpetrators for the crime of property damage.¹¹⁶ One of the cases opened was related to the attack on the "Avala" burek shop, which Human Rights Watch documented in this report. In all four cases, the complaints were filed without knowledge of the perpetrators' identities, and, at the time of writing, the perpetrators had not yet been identified in the course of police investigations.

¹¹¹ Written response from the Serbian chief prosecutor Slobodan Radmanovic to Human Rights Watch, June 21, 2008. The Bac case was not covered by Human Rights Watch during its research.

¹¹² Written response from the Novi Sad district prosecutor Branka Atanackovic to Human Rights Watch, May 23, 2008.

¹¹³ Human Rights Watch phone conversation with the Sombor district prosecutor Slobodan Dimitrijevic, May 20, 2008.

¹¹⁴ Written response from the Sombor district prosecutor Slobodan Dimitrijevic, May 16, 2008 and phone conversation on September 1, 2008.

¹¹⁵ Human Rights Watch phone conversation with the Sombor district prosecutor Slobodan Dimitrijevic, September 1, 2008.

¹¹⁶ Human Rights Watch phone conversation with the Kragujevac district prosecutor Darko Polojac, June 2, 2008.

Human Rights Watch also wrote to the Chief Prosecutor of the Republic of Serbia, Slobodan Radovanovic, on June 2, 2008, requesting national statistics regarding attacks against Albanians and other minorities in the aftermath of Kosovo's declaration of independence. The letter specifically requested information related to cases in this report in locations where, at that time of writing, local prosecutors had not yet responded to Human Rights Watch's requests for information.

On June 19, Human Rights Watch received a written response from the Office of the Chief Prosecutor, which stated that as of June 17, 2008, no criminal charges had been brought with relation to incidents of violence against minorities in the aftermath of Kosovo's independence declaration in Subotica (or in the other towns under the responsibility of the Subotica district prosecutor, including Backa Topola and Senta).¹¹⁷

In Zrenjanin, there were no criminal cases opened related to the victims interviewed by Human Rights Watch.¹¹⁸ One criminal complaint received related to an arson attempt of a minority-owned kiosk, which took place on March 26, 2008.¹¹⁹ The letter from the chief prosecutor stated that on April 16, 2008 "the criminal complaint was thrown out because of a lack of elements of the crime under the district jurisdiction."¹²⁰

In Negotin, the district prosecutor opened a criminal case under Article 317 against an unknown perpetrator in the case of the owner of a commercial premises interviewed by Human Rights Watch.¹²¹

The Chief Prosecutor also provided information on another incident in Negotin (not documented by Human Rights Watch), in which a minor smashed the windows of a

¹¹⁷ Letter from Slobodan Radovanovic, Chief Prosecutor of the Republic of Serbia, June 19, 2008, in response to a communication from Human Rights Watch dated June 3, 2008.

¹¹⁸ Ibid.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

minority-owned bakery. The victim decided not to press charges after speaking with the father of the minor.¹²²

In Kikinda, eight cases of minority-owned property destruction were reported to the police and formal investigations opened. In all eight cases, the perpetrators have not been identified, as of the date of the correspondence.¹²³ The Chief Prosecutor's written response did not specify whether the investigations were ongoing.¹²⁴

Based on the information that Human Rights Watch has obtained, it appears that no criminal indictments have been filed or misdemeanor proceedings brought in the cases involving the victims whom Human Rights Watch interviewed. In some of the cases we documented, there were criminal charges brought against "unknown perpetrators."

We interviewed only a proportion of the total number of victims, whose businesses were attacked and damaged in February 2008, and were unable to obtain comprehensive statistics on prosecutions in the criminal courts. But it is notable that despite contacting the Chief Prosecutor of Serbia, and prosecutors across Vojvodina, we learned of only one active criminal case against a named perpetrator (a minor). A handful of other cases had been discontinued for lack of evidence, or were opened against "unknown perpetrators."

With the near complete lack of criminal prosecutions, and a few as ten perpetrators convicted across Serbia with misdemeanors, none of them in areas where attacks on minorities were concentrated, it is evident that the violence in February went largely unpunished. After the violent incidents in March 2004 a similar situation occurred—few persons were charged and then only with misdemeanors (although there were a handful of criminal prosecutions for other attacks on minorities in 2004 and 2005). This demonstrated then and demonstrates now the reluctance of authorities to bring the full weight of the criminal justice system to bear on those who use violence

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

against minorities, and more broadly, to adequately address the phenomenon of anti-minority violence in Serbia.

Response of the National Authorities

Kosovo's declaration of independence, though it was internationally anticipated, was met by public shock and disbelief in Serbia. According to one independent journalist, "the government did not do anything to prepare public opinion for this eventuality. Unfortunately, the crowds took it out on the reporters, many of whom were attacked during the night of the February 21 rally in Belgrade."¹²⁵ In addition to national and international journalists, the building serving as the headquarters of B92, an independent news organization, which is perceived as "unpatriotic" in ultra-nationalist circles, was also a target.¹²⁶

The mass protests and rallies which took place across Serbia in the days following Kosovo's declaration of independence provided an outlet for frustration and anger. During the February 21, 2008, rally in Belgrade, key Serbian politicians delivered patriotic, and sometimes nationalist, speeches. The then Prime Minister Vojislav Kostunica said that "The people of Serbia together and loudly said what they think about Kosovo and Metohija and what they think of the brutal violence which is launched against Serbia."¹²⁷ Then Minister of Infrastructure Velimir Ilic's justification of the violence on February 21 ("We have broken a few windows, they have broken our state"¹²⁸) was widely reported.

Several days later, Kostunica changed his rhetoric, saying that: "Violence and destruction most directly harm the fight for state and national interest. All who favor a false Kosovar state are glad when they see violence in Belgrade."¹²⁹ Similarly, Ilic

¹²⁵ Human Rights Watch conversation with an independent journalist, Belgrade, April 7, 2008.

¹²⁶ Ibid.

¹²⁷ Radio Europa Funkhaus (German radio station), "Crni dan u Beogradu sokirao svetsku javnost," ["A Dark Day in Belgrade Shocks the World Public"] http://www.funkhauseuropa.de/sendungen/radio_forum/beitraege/2008/02/crni_dan.phtml (accessed May 25, 2008).

¹²⁸ *Blic*, "Ilic: Demokracija je i kada se razbije neki prozor na ambasadi," ["Ilic: It is Democracy when Windows are Broken at the Embassies"] February 20, 2008. You Tube, <http://youtube.com/watch?v=Z7Tv68QA6tQ&feature=related> (accessed May 25, 2008).

¹²⁹ Ibid.

demanded that police investigate and establish “what really happened that night” and arrest “those who embarrassed Serbia.”¹³⁰

While eventually ostensibly rejecting violence, the apparent emphasis of these leaders on the negative practical consequences for Serbian interests rather than on the principle that violence was an illegitimate form of protest.

Serbia’s new government, which took office in July 2008, took a welcome first step to give more prominence to minority rights on the day it was formed, by establishing a new Ministry of Human and Minority Rights to replace the Serbian National Office of Human and Minority Rights. However, despite the upgrading of the agency responsible for minority rights, the government has yet to take concrete steps to address the long-standing weaknesses identified in this report, and take more proactive stand to condemn, investigate and prosecute the attacks on the Albanian and other minority-owned businesses, which occurred in the aftermath of Kosovo’s declaration of independence.

Official Condemnation of Attacks on Minorities

While some in the government condemned the attacks on ethnic Albanians and other minorities, others remained silent, notably the then Prime Minister Kostunica. President Boris Tadic, who earlier called for restraint during the first night of violent protests in Belgrade,¹³¹ publicly spoke out against about the Sombor bakery boycott, demanding that the police establish who was behind the boycott, condemning the “chauvinist actions” and affirming the rights of all citizens of Serbia, regardless of ethnic or religious background.¹³²

Petar Ladjevic, the then Director of the Serbian National Office of Human and Minority Rights, visited the town of Zrenjanin on February 23, 2008 and spoke to

¹³⁰ B92, “Ilic: Ambasadori dobro prosli,” [“Ilic: The Embassies Got By Well”] February 22, 2008, http://xs4.b92.net/info/vesti/index.php?yyyy=2008&mm=02&dd=22&nav_category=640&nav_id=286006 (accessed May 25, 2008).

¹³¹ Bostjan Videmsek and Dan Bilefsky, “Protesters in Belgrade attack U.S. Embassy,” *International Herald Tribune* <http://www.ihf.com/articles/2008/02/22/europe/22kosovo.php> (accessed May 25, 2008).

¹³² Associated Press, “Serbia President Tadic Urges Probe into Calls for Boycott of Albanian-owned Bakeries,” March 20, 2008, <http://www.ihf.com/articles/ap/2008/03/20/europe/EU-GEN-Serbia-Kosovo.php> (accessed May 25, 2008).

some of the ethnic Albanian owners of the businesses that were attacked.¹³³ He also called on the Albanians and Gorani “not to fear, because the government of Serbia will protect them” and classified the attacks as a “violation of human rights.”¹³⁴

During a meeting with Human Rights Watch, Serbia’s Ombudsman, Sasa Jankovic, emphasized the importance of strong and unequivocal condemnation of violence by government officials, regardless of their political affiliations or views on Kosovo.¹³⁵ Many victims with whom Human Rights Watch spoke, as well as Serbia’s Ombudsman, felt that the government statements were not categorical enough and that the overall message was ambiguous.

Human Rights Watch also spoke to officials from the Vojvodina Ombudsperson’s office in Novi Sad on April 8, 2008. The officials shared their thoughts on the attacks which took place in Novi Sad and other locations in Vojvodina, arguing that a “permissive atmosphere” was created after public political statements, which were understood by some radical youth groups as a green light to commit attacks “against minorities, but also general acts of destruction of private and public property.”¹³⁶

Serbia’s Ombudsman was active in responding to the wave of attacks that took place after Kosovo’s declaration of independence. On March 4, 2008, he visited Sombor, where he participated in the solidarity action of buying bread in the boycotted Albanian-owned bakery. He also visited a man in Subotica who had reported that his house was attacked with explosives a couple weeks after his home was vandalized with racist graffiti, and who reported that he was receiving threatening calls.¹³⁷ Mr. Jankovic also publicly condemned anti-Albanian violence on multiple occasions.

¹³³ Centre for Development of Civil Society press release “Saopštenje povodom nedeovoljnog medijskog pokrivanja susreta Petra Ladevica sa Albancima i Gorancima,” [“Public Statement About the Inadequate Media Coverage of the Meetings of Petar Ladjevic with Albanians and Gorani”] February 26, 2008.

¹³⁴ *Danas*, “Gest neprijateljstva i mrznje,” [“A Gesture of Hostility and Hate”] March 3, 2008, <http://www.danas.co.yu/20080303/hronika1.html#1> (accessed May 25, 2008).

¹³⁵ Human Rights Watch interview with Sasa Jankovic, Serbian Ombudsman, Belgrade, April 24, 2008.

¹³⁶ Human Rights Watch interview with Zoltan Gobor, Vojvodina Ombudsman Office, April 8, 2008, Novi Sad.

¹³⁷ B92, “After graffiti, a petrol cocktail (bomb),” April 25, 2008.

Compensation for Damage to Property

As well as criminal prosecution, compensation for damage to property is also required following the attacks on minority businesses and homes.

Petar Ladjevic, then Director of the National Office for Human and Minority Rights made a statement to the TV station B92 on March 2, 2008, in which he promised to follow-up on the incidents, including on the issue of compensation for those owners who were not insured, whose damages he said would “be paid by the municipality.”¹³⁸

Some owners with whom Human Rights Watch spoke were not insured, and were interested in compensation, but did not know whom to turn to or how to go about claiming compensation.

Human Rights Watch spoke to Mr. Ladjevic in order to clarify his comments regarding compensation. He referred to aggregate information he had obtained from the police, indicating that in only one case did the damage resulting from the attacks exceed 120 Euros, and none of the owners had sought compensation.¹³⁹ The first point is contradicted by the damage estimates given to Human Rights Watch by property owners in at least twelve cases.

Mr. Ladjevic informed Human Rights Watch that victims would need to apply for compensation for damages to their municipalities rather than the national government of Serbia, which would only be responsible only if the damage was done during authorized¹⁴⁰ demonstrations.¹⁴¹ However, the legal basis of this is not clear to Human Rights Watch. For example, it does not appear to be legally clear that owners can apply for any compensation when the damage does not arise from authorized demonstrations. Human Rights Watch is unaware of any provision of

¹³⁸ You Tube, “Kome smetaju somborske pekare” [“Whom do the Bakers of Sombor Bother?”] (4th minute of the recording), <http://www.youtube.com/watch?v=wMgROVzs74A> (accessed May 23, 2008).

¹³⁹ Human Rights interview with Petar Ladjevic, then-director of the National Office for Human and Minority Rights, Belgrade, April 22, 2008. Ladjevic did not provide a copy of this document to Human Rights Watch.

¹⁴⁰ In Serbia, demonstrations are usually authorized by the Ministry of Internal Affairs (MUP).

¹⁴¹ Human Rights Watch interview with Petar Ladjevic, then-director of the National Office for Human and Minority Rights, Belgrade, April 22, 2008.

Serbian law that would allow for claims against municipal authorities for criminal damage not linked to such demonstrations.

Under Serbia's Law on Obligatory Relationships, the state is obligated to compensate victims who suffer material damage during public protests. The relevant articles of the law are in the section entitled, "Responsibility for Terrorist Acts, Public Demonstrations or Manifestations." Article 180 reads:

(1) For damage caused by death, serious bodily injury or by damage or destruction of property owned by a physical person, due to acts of violence and terror, and on the occasion of public demonstrations or manifestations, the state whose organs were responsible under the laws in force to prevent such damages are responsible. (3) The state has the right and the obligation to request compensation for the payment [of damages] from the person who caused the damage. (4) That right is limited by the statute of limitations on seeking damages.

According to this law, those individuals whose businesses and homes were attacked during or in the immediate aftermath ("on the occasion of") public demonstrations could be entitled to compensation by the state whose bodies "were responsible to prevent such damages."

In the Novi Sad cases arising out of public demonstrations, and one case in Subotica, and one in Kikinda, it appears that according to this law the state might be directly financially liable to the victim, while the state could later sue the perpetrator of the crime for compensation. This information was not clearly communicated to individual victims interviewed in this report, if the information was communicated at all, and so the victims were not well-situated to enforce the rights that the law guarantees them.

For those whose property was not damaged during public demonstrations, it appears that no avenues are open to them beyond bringing civil claims against those who caused the damage, which would require the identification of those responsible. But

those we interviewed have not been informed about the possibility of bringing civil claims.

The failure of the authorities to communicate with ethnic Albanians and other minorities whose businesses and homes had been attacked was not limited to the matter of compensation. As discussed above, the police and prosecutors did not adequately report on the progress of investigations, if there was any, to the victims and the local communities. Such communication is essential to assure that the victims feel safe and protected and to deter future attacks.

Expanded Recommendations

To the Government of Serbia

- Publicly and unequivocally condemn all instances of inter-ethnic violence and other offenses against minorities;
- Investigate and, where necessary, take appropriate disciplinary or legal action against officials suspected of inciting, encouraging, or supporting ethnically motivated violence against people or property;
- Fulfill the publicly-given promise and legal obligation to compensate victims of violence whose property was destroyed on the occasion of public protests after Kosovo's declaration of independence;
- Implement programs designed to assist victims of violence, including damage to property. Assistance should include help accessing legal remedies, including financial compensation where eligible and civil claims for damages against perpetrators if they are identified;
- Conduct outreach in the areas affected by violence to inform the victims how to pursue compensation for damage;
- Expand the compensation law to allow for compensation in cases of criminal damage not arising from public protests;
- 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 (hate crimes). 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 is based on, among other grounds, the victim's membership (or presumed membership) of an ethnic, religious, or racial group.

To Police in Serbia

- Direct officers to take all appropriate preventive and protective measures to protect individuals belonging to minority communities and their property and businesses from attack especially when political events indicate that they may be at heightened risk;
- Implement procedures designed to minimize opportunities for attacks once the risk is apparent, including timing shift rotations such that properties under protection are not left unprotected during the shift change;
- Thoroughly investigate all violent acts directed against minorities, including destruction of property, in order to identify the perpetrators and where the evidence warrants promptly pass it to district prosecutors to bring criminal charges against them;
- Renew investigations into the 2008 acts of violence against minority-owned businesses which took place after Kosovo's declaration of independence;
- Communicate with victims and affected local communities as investigations progress in order to assure the victims of their safety and deter further attacks;
- Ensure greater ethnic diversity among the police force to facilitate communication and contacts with all communities in Serbia;
- Closely collaborate with investigative judges, misdemeanor judges and prosecutors to ensure adequate follow up on misdemeanors and criminal cases involving minority victims.

To Investigative Judges, Misdemeanor Judges and Prosecutors

- Closely collaborate with each other and with the police to ensure that misdemeanors and criminal cases involving minorities are adequately followed up on and the perpetrators identified and prosecuted.

To the European Union

- Include the Serbian government's success in preventing ethnically motivated crimes and, where warranted, prosecuting individuals responsible for them as a benchmark in the Stabilization and Association ratification process and other European Union accession processes;
- Support police reform in Serbia to better enable timely and coordinated responses to violence and public disorder, including by facilitating closer cooperation and the exchange of best practices between EU national police forces and the Serbian police.
- Support efforts to ensure that the police force adequately reflects Serbia's ethnic diversity;
- Continue to affirm that a multi-ethnic Serbia in which the rights of all inhabitants are respected is one of the principle objectives of the international community.

To the Council of Europe

- The Advisory Committee of the Framework Convention on the Protection of National Minorities should visit the areas of the anti-minority violence during its November 3-7, 2008 visit to Serbia. The Advisory Committee should consider issuing a speedy report and recommendations specifically on the investigation into the violence;
- Continue pressing the government of Serbia to uphold the standards in the Framework Convention for the Protection of National Minorities.

To the Organization for Security and Cooperation in Europe

- The OSCE Mission in Serbia should include monitoring trials of ethnically motivated crimes in its portfolio, and publish its findings.
- Monitor incidents of violence against minorities and publish reports documenting them;

- Continue visits to Serbia by the OSCE High Commissioner of National Minorities to assess progress in protecting national minorities.

To the United Nations

- The Committee on the Elimination of Racial Discrimination, the Human Rights Committee, and the Special Rapporteur on racism should use the next opportunity provided by their respective mandates to take up the issue of ethnically motivated violence in Serbia and make recommendations for steps the authorities should take to effectively address the problem.
- The Human Rights Council should use the opportunity of the forthcoming Universal Periodic Review of Serbia to question the authorities about the problem of ethnically motivated violence and their response to it, and make recommendations for steps taken to effectively address it.

**Appendix I: Human Rights Watch Letter to Mladen Kuribak, Head of
the Uniformed Police Directorate, Ministry of Interior, Serbia, dated
August 11, 2008**

Mladen Kuribak
Head of Uniform Police Directorate
Ministry of Interior
Serbia

Dear Mr. Kuribak,

I am writing to you as a follow up to the meeting we had with you on 24 April 2008 as a part of our research on the attacks on ethnic Albanian and other minority-owned businesses in the aftermath of Kosovo's declaration of independence. We are very grateful for the information you have provided on that occasion and we would like to follow up with you on some of the information we received from the victims during the interviews we conducted in Vojvodina and Central Serbia in April 2008.

We would be very interested to hear the police account of the incidents in order to get a complete picture. We have interviewed the victims of the attacks during our research trip to Serbia, and the information provided below is based on the conversations we had with them.

Respecting the police hierarchy and the existing chain-of-command, we are contacting directly, instead of approaching local police stations. We would greatly appreciate any information you could generate and we would like to thank you in advance for responding to us in due time.

Please find below the incidents we would like to get the information about, with particular questions we would greatly appreciate a response to:

Novi Sad

Flower Shop [...]¹⁴²

On the evening of the mass protest in Novi Sad (17 February), the shop owner observed the protest from a location across the street from his shop, reporting that 300-400 youth were marching, screaming and chanting during the protest, and that there were around 30 policemen following them. The owner noticed a group of protesters smashing the windows of his shop, but allegedly the police failed to intervene. According to the correspondence Human Rights Watch received from the Novi Sad District Prosecutor, no criminal charges were brought in the context of this case by May 2008, nor were criminal charges brought as of May 2008 for other violent incidents in Novi Sad which took place during and in the immediate aftermath of the protest that night.

Question from Human Rights Watch

We would be grateful if you could comment on the allegation that the police failed to respond when protestors smashed windows, and indicate what police investigations took place into the incident.

Bakery [...]

This bakery was reportedly attacked on two different occasions. The first attack was during the night of the mass protest on February 17. Following the advice of the police, the owner decided to keep the business open. That evening, he saw a group of approximately 100 protesters passing his bakery during the protest. Some of them threw stones and bricks at his business, breaking the windows and glass inside. According to the victim, the police walked behind the protest and must have seen what was happening, but they did not respond.

Five days later (the night of February 22-23), a group of four men drove by and parked the car in front of his bakery. Again, they broke the windows and tried to set the bakery on fire. One of the neighbors called the police, who promptly arrived and extinguished the fire. For eight days after the second attack, policemen in civilian clothes maintained frequent patrols in the vicinity of the bakery. Petar Ladjevic,

¹⁴² The letters have been redacted to protect privacy of the victims, who requested to remain anonymous.

Director of the National Office of Human and Minority Rights, visited the bakery's owner the day after the second attack, together with the local police commander.

Questions from Human Rights Watch

We would be grateful if you could comment on the allegation that the police failed to respond when protestors smashed windows, and indicate whether there has been an investigation opened in this case and whether any suspects have been identified or charged.

Zrenjanin

Bakery "Zlatni Klas", owner Cazim Hoxhaj

Cazim Hoxhaj is an owner of four bakeries in Zrenjanin, two of which were attacked in the aftermath of Kosovo's declaration of independence. The first bakery that was attacked is called "Zlatni Klas" and is located in the center of the town. On February 18, at around 11 p.m., a young man threw stones at his bakery, breaking the windows and display glasses. The attack was filmed on a CCTV security camera installed in the shop, and the identity of the perpetrator is reportedly recognizable on the security tape. Mr. Hoxhaj understands that a minor may have been charged by the police with a misdemeanor for the attack on the "Zlatni Klas" bakery. A second bakery belonging to Mr. Hoxhaj was attacked on three separate occasions, each time at night with no witnesses. According to the owner, the police frequently patrolled the areas surrounding the bakeries after the attacks.

Question from Human Rights Watch

We would be grateful if you can indicate whether the police charged anyone for the attack on the "Zlatni Klas" bakery. We would also appreciate it if you can indicate whether the police are aware of the CCTV footage and if so, if they viewed the footage.

Novi Becej

Bakery "Plavi Jadran", owner Fatim Dacaj

The bakery was attacked three times: first on the night of 20-21 February, second on the night of 22-23 February, and the third on the night of 29 February-1 March. The police reportedly apprehended a young alleged perpetrator who is suspected of

attempting to kick in the windows with his leg during the third attack. The victim was not aware of any charges or disciplinary measures against the perpetrator. During the second attack, a brick thrown at the glass window wounded the victim's brother. For a couple of days after the first attack, the police kept a patrol car parked in front of the bakery. The second attack took place during the patrol's shift rotation, just after the first police car departed and minutes before the second police car arrived. The shift rotation left the bakery unattended for only a few minutes.

Question from Human Rights Watch

We would be grateful if you can confirm that an alleged perpetrator was apprehended by the police at the bakery, and indicate whether other suspects have been identified and whether charges have been brought against anyone in the case.

Subotica

Bakery [...]

This bakery in the city center of Subotica was attacked on the night of February 17, during which some groups of individuals protested on the streets. The policemen stood in front of the property as the protesters passed. Despite the police presence, stones and rocks were thrown in the direction of the bakery, smashing the windows and the glass counter. The police present allegedly witnessed the acts but did not intervene.

After this incident, two uniformed police guarded the premise for the next five days. Reportedly, no further action followed to charge those who committed the violence with a criminal or misdemeanor offense. The owner spoke to the police on two separate occasions asking why they did not respond when witnessing the protesters damaging his shop. The answer he received was that the police had orders not to intervene when the attack amounts "only to material damage."

Question from Human Rights Watch

We would like to verify if there were orders not to intervene in cases of "only" material damage. We would also be grateful if you could comment on the allegation that the police failed to respond when protestors smashed windows, whether an

investigation was opened in this case and whether any suspects have been identified or charged.

Kikinda

Bakery [...]

A demonstration took place in front of the owner's house (he lives on the top floor of the house, where his bakery is located) on February 20, 2008. Around 300 elementary school students, accompanied by some teachers, stood in front of his home for around half an hour. Some of the children threw stones at his house, which smashed one of the windows. The police were there, but did not intervene when the stones were thrown. The police did, however, guard the house for a few days after the demonstration.

Questions from Human Rights Watch

We would like to verify that the police was present at the protest and would like to know why they did not intervene when stones have been thrown.

Kragujevac

Burek shop "Avala", owner Abdyl Murselji

The shop was stoned on the night of 19 February, resulting in minor material damages. He praised the police for providing him with adequate protection for a period of over two weeks after the attack took place. Reportedly, the police also informed him that he could apply for compensation from the municipality, even though this attack did not happen in the context of a protest.

Question from Human Rights Watch

We would like to know if there were any suspects/perpetrators identified and whether the victim has received the compensation.

Bakery [...]

The bakery was attacked twice during the night of February 17. The premise received protection from the police during the 10 days following these two attacks, which resulted in material damages of approximately EUR 100. According to the victim, the

perpetrators of the attacks were never found, which worries him because he is concerned for the safety of his two small children.

Question from Human Rights Watch

We would like to know if there were any suspects/perpetrators identified.

Negotin

[...]

The [business premise] was attacked on the night of February 14-15. The owner was not there at the time of the attack, and he did not see the perpetrators. He initially dismissed the attack as the isolated action of a “hooligan” and repaired the damages himself the next day and did not follow up with the police or the municipality.

On February 17, around midnight, a few individuals ran by his place, throwing stones and bricks, which smashed the windows and scared customers, who left immediately. The police arrived on the scene and wrote a report. For the next few days, the police maintained a presence outside his business to protect it.

Reportedly, there was no further action by the police or the municipality with respect to the events described above. The victim heard rumors providing some indication of people who may have been involved in the attacks, which he passed along to the police. The victim is not aware of any further action taken by the police upon this information.

Questions from Human Rights Watch

We would like to confirm whether the police have received any indication from the victim (or others) of who was behind the attacks and whether any suspects/perpetrators have been identified.

Bor

[Two separate bakeries/ice cream shops]

These two adjacent bakeries/ice cream shops were attacked after February 17. One of the businessmen’s cars was also damaged when the perpetrators threw bottles,

stones and bricks at it. The police responded to the attacks by dispatching frequent patrols to the area of one of the businesses and by physically guarding the premises during the period of two weeks that followed. The police informed one of the owners, who incurred material damage of around EUR 700 due to the attack, that he would “get the money back” without specifying who would be responsible for compensation. At the time of the interview, neither of the victims has received any compensation, and they are not aware of any further official actions related to the attacks against them.

Questions from Human Rights Watch

We would like to know whether any suspects/perpetrators of the above-mentioned attacks were identified and whether the victim(s) received compensation.

Thank you very much in advance for responding to our request. Do not hesitate to contact us if you need more information about our research.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Wanda Troszczyńska-van Genderen', written on a light-colored background.

Wanda Troszczyńska-van Genderen
Western Balkans Researcher
Human Rights Watch

**Appendix II: Human Rights Watch Letter to Mladen Kuribak, Head
of the Uniformed Police Directorate, Ministry of Interior, Serbia,
dated August 18, 2008**

Mladen Kuribak
Head of Uniform Police Directorate
Ministry of Interior
Serbia

Dear Mr. Kuribak,

Excuse another follow up question, but we would greatly appreciate if you could kindly inform us of any recent changes in the police structure and operations, which took place after the new government took charge. In particular, we wonder about:

- Status of the efforts to ensure more ethnic diversity in the police service in Serbia, particularly in Vojvodina;
- Status of the efforts to introduce the community policing model in Vojvodina.

This information would be tremendously useful for us to understand the operations of the police in Serbia and we intend to reflect this accordingly in our report.

Many thanks in advance for your response.

Best wishes,

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Wanda Troszczynska-van Genderen', written over a light blue rectangular background.

Wanda Troszczynska-van Genderen
Western Balkans Researcher
Human Rights Watch

Appendix III: Reply letter from the Uniformed Police Directorate to Human Rights Watch, dated September 16, 2008

The Republic of Serbia
Ministry of the Interior
Police Directorate
03/05 Ref. Number: 214-3520/08
16 September 2008
Belgrade

Human Rights Watch
350 Fifth Avenue, 34 Floor
New York, NY 10118-3299, United States of America
FAO: Ms. Wanda Troszczynska van Genderen

Dear Ms. Troszczynska Van Genderen,

You have sent a letter to the Republic of Serbia Ministry of Internal Affairs requesting information concerning the events in the aftermath of the illegal proclamation of Kosovo's independence when some commercial properties owned by Albanians and other minorities were damaged.

We will use this opportunity to point out that the Police in the Republic of Serbia are performing its duties with the aim to provide everybody with equal security and protection of rights and freedoms, to apply the law and support the rule of law.

In accordance with the above, the Police undertook necessary activities in order to protect all citizens and their property during public gatherings organized to express discontent with the unilateral and illegal proclamation of Kosovo independence.

Police officers performed their duties and in most cases prevented potential threats to citizens' property, however, despite the measures undertaken, certain properties were damaged, some of them belonging to the minority communities.

In those cases where property was damaged the Police officers, in cooperation with prosecutor's office, have undertaken steps and measures envisaged by the law in order to assess the situation, identify the perpetrators and file respective criminal reports.

In relation to those cases, a certain number of persons were caught in the act while damaging the property of other citizens and were arrested on the spot, and more persons were identified afterwards and criminal reports were filed against them with the relevant prosecutors.

Police officers of the Ministry of Internal Affairs are continuing to apply measures envisaged by the law in order to identify remaining persons that participated in the activities related to the damaging of properties during public gatherings organized to express discontent with the unilateral and illegal proclamation of Kosovo's independence.

Sincerely yours,

Head of Administration
Police General
Mladen Kuribak
[signed]

Appendix IV: Reply letter from the Uniformed Police Directorate to Human Rights Watch, dated September 16, 2008

The Republic of Serbia
Ministry of the Interior
Police Directorate
Office of the Police Administration
03/05 Ref. Number: 112-3696/08
16 September 2008
Belgrade

Human Rights Watch
350 Fifth Avenue, 34 Floor
New York, NY 10118-3299, United States of America
FAO: Ms Wanda Troszczynska van Genderen

Dear Ms. Troszczynska van Genderen,

The Office of Police Administration of the Serbian Ministry of Interior has received your fax with questions related to the activities undertaken by the Ministry in the field of community policing and with regard to increased representation of various ethnic communities in the police service.

In response to your questions, we would like to outline the activities undertaken by the Ministry of the Interior towards setting high standards of policing and their development across the whole territory of the Republic of Serbia.

The police force in the Republic of Serbia undertakes its activities under current legislation with the aim and in such a manner as to provide safety to each individual, protect his or her rights and freedoms, and ensure the rule of law. In this respect, in order to build trust, strengthen security partnerships, and solve security issues, the police force has initiated and sought to promote good relationships with citizens, to ensure efficient cooperation with other state offices and agencies, local

communities, non-governmental organizations and other associations of citizens, including minority ethnic communities.

As part of the development of policing, the Ministry has implemented and undertaken a series of activities related to fostering communication and building trust between police and communities; setting up and developing mechanisms for crime prevention; and developing partnership models between the police and communities. A range of trainings, seminars, workshops, roundtable discussions and conferences in the field of contemporary policing standards, human rights, community policing, strategic management, analysis and problem-orientated policing have been held.

Citizens and community actors are informed of safety and security issues through public discussions and presentations focusing on the safety of students in schools, family violence, youth delinquency, drug-related safety issues and traffic safety. Citizens are informed through brochures, flyers, posters, etc. on a range of safety and security matters. Consultative meetings in local communities are held at all levels. Furthermore, door-to-door activities are also carried out, through which police officers directly communicate with citizens and thus foster their safety and security.

Advisory bodies are created at the level of local communities in order to involve all relevant actors in solving safety and security issues. Many local communities have advisory boards and councils for safety and security; traffic safety boards, addiction prevention boards, boards for the prevention of youth delinquency; safety-in-schools boards, etc. By cooperating with both teachers and students and in order to foster the safety of students and schools, police officers focus on crime prevention.

The police have developed a problem-orientated methodology that entails identifying and analyzing problems, undertaking appropriate measures focused on individuals, situations and local communities, and evaluating results and processes. From 2001 to 2008, in cooperation with the National Police Directorate of the Kingdom of Sweden, the following projects aimed at developing problem-oriented work have been implemented: JU-NO 1, at the police station Backa Palanka; JU-NO 2, with the police administration in Novi Sad; JU-NO 3 – all police administration offices

in the Autonomous Province of Vojvodina; and JU-NO 4 in all police administration offices in the territory of the Republic of Serbia.

Police work with marginalized groups, minorities and socially vulnerable groups is fostered through better communication and cooperation on increasing the safety and security of members of these groups. For instance, some police officers have been trained in sign language. In addition, significant activities have been undertaken to improve communication with representatives and members of the Roma community as well as encouraging members of this community to apply for vacancies within the police force.

Employment procedures are objective and non-discriminatory. When recruitment into the police force is advertised, all ethnic communities are informed. Representatives and members of all minority groups are contacted and informed about vacancy requirements in the languages of these minority groups and are encouraged to apply to work in the police force.

For example, when the call for applications for the first class of officers in the Centre for basic police training in Sremska Kamenica was announced, in addition to advertising in the languages of ethnic minorities (Hungarian, Albanian and other languages), members of the Ministry carried out an intensive recruitment campaign in multi-ethnic communities in the Autonomous Province of Vojvodina, as well as in the south of Serbia so as to encourage ethnic minorities to apply. Such activities resulted in a far more representative ethnic composition of the first class of recruits for basic training.

Furthermore, with the aim of ensuring greater representation of Albanians and Roma in the police force, in the municipalities of Presevo, Bujanovac and Medvedja, several successful training sessions were held for attendees from these communities, after which they were deployed to police stations in these municipalities.

It needs to be emphasized that the Ministry of Interior of the Republic of Serbia is committed to practices and strategic guidelines which will ensure efficient and

sustainable reform of the police force, improved training of police officers, further professionalization of police activities and the adoption of contemporary policing standards.

We would like to use this opportunity to invite the respected international organization Human Rights Watch to offer its support to those activities of the Ministry that are aimed at ensuring greater ethnic and gender representation within the police force, and through such engagement in multi-ethnic areas in the Republic of Serbia, to encourage ethnic minorities, both male and female, to apply to work in the police force.

Sincerely yours,
Head of Administration
Police General
Mladen Kuribak
[signed]

Acknowledgements

This report was researched and written by Wanda Troszczynska-van Genderen, researcher in the Europe and Central Asia Division of Human Rights Watch. The report was edited by Benjamin Ward, associate director in the Europe and Central Asia Division. Clive Baldwin, senior legal advisor provided legal review, and Andrew Mawson, deputy program director, provided program review. Veronika Szente Goldston, Europe and Central Asia Division advocacy director reviewed and provided comments on the summary and recommendations. Laurie Ball, Emina Redzic, Kreshnik Zhega and Helene Blary, interns in the Europe and Central Asia Division, helped to conduct follow-up research with various individuals in Serbia. Production assistance was provided by Iwona Zielinska, associate in the Europe and Central Asia Division. Anna Lopriore coordinated photo preparation; Grace Choi and Fitzroy Hepkins prepared the report for publication.

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