

DIVIDE AND DEPORT

ROMA & SINTI IN AUSTRIA

The Roma (Gypsies) remain to date the most deprived ethnic group of Europe. Almost everywhere, their fundamental civil rights are threatened. Disturbing cases of racist violence targeting Roma have occurred in recent years. Discrimination against Roma in employment, education, health care, administrative and other services is common in many societies. Hate speech against Roma deepens the negative stereotypes which pervade European public opinion. The *European Roma Rights Center* is an international initiative for monitoring the human rights situation of Roma and providing legal defense in cases of human rights abuse.

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*“In a small city in the East,
a letter from an emigrant is a sensation.
All the young people of the town—as well as
the old ones—are gripped by the desire
also to emigrate: to leave this land,
where any year a war or any week a pogrom
can break out. And they emigrate on foot,
by train, and over water, towards the countries
of the West, in which another Ghetto,
slightly reformed but not any less awful,
prepares its darkness and waits to receive
the new guests...”*

Joseph Roth, 1927

1. INTRODUCTION

Between 20,000 and 30,000 Roma and Sinti live in Austria today. Some are descended from Roma and Sinti who have lived for generations in Austria, especially in the Burgenland district. Others are migrants or the children or grandchildren of migrants who came to Austria to work and live, attracted by its favorable post-World War II economic climate. Still others are persons receiving or seeking asylum as a result of poverty and ethnic pogroms in contemporary Central and Eastern Europe.

This report will deal with this exceedingly diverse group of people as if it were a single social phenomenon. Individual members of the Romani community might not agree with this unified treatment. However, the group as a whole has been forced in recent years to respond to a rise in right wing, racist, xenophobic, or specifically anti-Romani sentiments, actions and legislation targeting Roma as Roma, regardless of internal distinctions. Since at the end of the day all Roma must adjust in some way to the new hostile climate in Austria, this report treats the various abuses of their rights as similar, and their fate as common.

The research for this report was carried out over the period of February–May, 1996, in accordance with contemporary methodology in human rights investigation. Victims and witnesses were interviewed, wherever possible, in private. All statements were subject to sceptical scrutiny, and again wherever possible, corroboration was sought from second and third parties. Comment was also sought from competent authorities, although these were, in Austria, singularly unhelpful and, with several notable exceptions, the Austrian police and Interior Ministry did not respond to queries made by the *European Roma Rights Center*.

The purpose of the report will be to show the disastrous consequences on Roma of a series of new laws on legal residence and asylum, ratified between 1991 and 1993. The report will also investigate how the ground was prepared for the systematic exclusion of Roma in Austria through the recognition of a narrow and unrepresentative group of Roma as an Austrian “ethnic group” (*Volksgruppe*). A connection will be made between this systematic exclusion and the recent appearance in Austria of episodes of public violence specifically targeting Roma. Finally, the report will make a series of concrete recommendations to the Austrian government for improving the legal situation of Roma in Austria.

2. THE RACIST CLIMATE

On February 6th, 1995, a plastic sign appeared on the dirt track leading up to the Roma settlement in the town of Oberwart, in the Austrian region called Burgenland, near the Hungarian border. The sign read “*Roma zurück nach Indien*” (Roma back to India). The Oberwart Roma are roughly a hundred people who, starting in 1989, led the fight for state recognition of the legal rights of Roma in Austria, and their organization *Verein Roma* had become known for its tough stance in the face of small-town discrimination and hypocrisy.

Oberwart after World War II was the living assertion of the Austrian status quo; home of the largest rural settlement of Austrian Roma, Oberwart is also quite near the post-war home of Tobias Porchy. As *Gauleiter* (regional governor) of Steiermark from 1938, Tobias Porchy had directed the Nazi program on Austrian Roma and Sinti. In this capacity, he presided over the deportation of Austrian Roma to the Lackenbach, Mauthausen, Slazburg-Maxglan and Weyer deportation and collection camps where they starved, froze or were beaten to death, or were deported on to death camps such as Buchenwald, Ravensbruck, Chelmno, Dachau and Auschwitz. Following the war, ex-Gauleiter Porchy spent just under two years in prison for his war-time activities and then returned to settle in Burgenland, where he enjoyed the reputation of being an upstanding member of the community, while the Roma were still essentially confined to a mud-mired ghetto of cluster-housing without adequate lighting or sewage facilities.

On the morning of February, four Roma from the settlement, Erwin and Karl Horvath, Josef Simon and Peter Sarközi walked down the dirt track to where the sign was planted, intending to remove it. The stem of the sign was packed with plastic explosive, and as they pulled it out of the ground, it blew up. All four men were killed.

Although the circumstances of the bombing are not identical, there are reasons to believe that it is related to a series of letter-bomb attacks in Austria, targeting pro-minority left-leaning, liberal or environmentalist politicians; clergy and members of the press; representatives of minority organizations such as Roma, the Burgenland Croats and the Carinthia Slovenes; or persons working in the human rights field. One such letter bomb blew up the same day as the Oberwart bomb, in the nearby town of Stinatz.

One early reaction to the bombing at Oberwart came from Jörg Haider, the leader of the far right Freedom Movement (*Freiheitliche Bewegung* or *Die Freiheitlichen* for short)¹, who used the media spectacle of murdered Roma and the stunned Roma of the Oberwart settlement as an occasion to whip up anti-Roma sentiment, adding to the anti-foreigner sentiments already poisoning the Austrian public sphere. Haider speculated that the bombing was part of an internal Romani dispute, an act of mysterious people connected to the East, involved in drug smuggling or arms dealing. In fact, this version of events was accepted by the police, who used the bombing as a pretext to search thoroughly all of the houses in the Roma settlement. The search turned up no evidence of any drugs or weapons of any kind.

Haider’s campaign, meanwhile, was quite effective in setting the tone for press coverage: the link between Roma and secret economic cabals quickly ignited in the Austrian imagination through the press coverage surrounding the bombing. Press reflexes were for the most part vague, unsure and unconvincing when sympathetic to Roma, and loud and sure when apologetic or relativizing of the bombing. All the major papers regarded the idea that “Roma blew themselves up” as plausible and worthy of coverage. After the press had grappled incompetently for several days for a way to cover the sudden return of violent racist attack to the Austrian scene, on February 9, the regularly anti-foreigner column “Staberl” in the *Neue Kronen Zeitung*² blurted out:

The minority long recognized as one of our ethnic groups (*Volksgruppen*), the Gypsies (*Zigeuner*)-- why one nowadays has to say “Roma and Sinti” can be understood

exactly as little as why one now automatically is required to substitute “Black” for “nigger” (*Ersetzung des Vokabels “Neger” durch “Schwarze”*)...³

In fact, the Roma are not a long-recognized ethnic group in Austria, but only a very recently recognized one. That the bomber or bombers themselves had used the term “Roma”, rather than the much more common German word “Zigeuner”, hinted at an educated background, and public debate ensued on the exact social origins of the attacker.

Whether *Staberl* spoke for the majority or not, he had certainly kidnapped the rhetoric of “normal people”; a subsequent study conducted by the Austrian Gallup Institute revealed that 42% of Austrians did not want Gypsies (*Zigeuner*) as neighbors. To the question of which group’s behavior was least appealing to Austrians, “Zigeuner” came in third with 26% after the heavily politicized Serbs and Turks.⁴

The mainstream press followed the strident tone of bigotry set by *Staberl* with breathtaking complacency; despite a 36-hour-long suspicion by the police that four Roma in Oberwart had blown themselves up,⁵ despite an admission by the police of possible error during the investigation (including the spontaneous search of all Roma houses in the Oberwart settlement), despite the recognition of possible racism and rightist sympathy among certain police officers (“*Braune Flecken in der Polizei*”)⁶, and despite the total failure of the police to turn up any suspects whatsoever, 88% of articles about the bombing in the Austrian press during the first four weeks after the bombing praised the efforts and success of the police.⁷

As of June, 1996, police in Austria still had made no arrests in the case of the Oberwart bombing.

3. ROMA AND SINTI IN POLITICAL AUSTRIA

It is likely that Oberwart was selected as a target for bombing precisely because the Roma there had begun demanding civil rights and equal treatment. Oberwart is the birthplace of the first Austrian Roma organization, the *Verein Roma* that was founded in 1989 in response to a ban on serving Roma in nearly all local pubs and discos. The founding of Verein Roma was quickly followed by the establishment of other groups—two in Vienna and one in Villach representing Austrian Sinti—and this ground-swell of political activity ultimately led to the first real success of Roma in Austria: recognition as an “ethnic group” (*Volksgruppe*) in 1993.

In Austria, recognition as an ethnic group⁸ conveys two advantages not enjoyed by unrecognized groups. The first advantage is state financial support for cultural projects and the second is the right to form an advisory council (*Beirat*), which has the ear of the Prime Minister. The exact form of the advisory council, as well as whether the ethnic group is afforded other positive rights, such as bilingual schooling and the use of first language in the administrative setting, vary by ethnic group, and are generally worked out at the local political level.⁹

It is easy for a non-Austrian to get lost while trying to discover what, if any, real power the various advisory councils hold or where in fact the political decisions affecting Roma in Austria are made. From a distance, Austrian politics often seem shrouded in a fog of mysterious mechanisms and legally unsanctioned processes. This is the legacy of Austria’s political history, and largely its traumatic 20th century, which gave rise to the huge power of the small committee.

Austria’s political system is the system of multiple pillars, often called in political science jargon, “consociationalism”¹⁰; Austria in the early 20th century was marked by state-collapse, civil war, clerico-fascism, a popular *Anschluss* with Germany whose appeal soon soured in light of wartime circumstances, and ten years of Allied occupation. By the time Austria regained full political sovereignty in 1955, Austrians had trained themselves in the idea that they were victimized by Nazism, and Austrian politicians had learned a method of “arranging” everything under the table, quietly, and with consensus.

The main arrangers in this system were a group of politicians whose reputation during World War II had remained untainted by the stain of collaboration by the fact that many of them had spent the war in the Buchenwald concentration camp. The Parity Commission (*Paritätische Kommission*), made up of this political generation, wielded power derived heavily from their moral authority. In the post-war period, the Parity Commission often presented Parliament with policy *fait accompli*, to the point where the latter body verged at points on powerlessness. As a result, it is no surprise that as the various ethnic groups began to organize themselves, the most attractive political form available would be one similar in structure to the Parity Commission: hence the advisory council. What remains to be seen is how effective an advisory council is, if it is not reinforced by the kind moral authority derived from the concentration camp, or by real political power.

The right to form an advisory council is anchored in the 1976 “Law on Ethnic Groups” (*Volksgruppengesetz*), although minority rights are prefigured in the constitution (*Staatsvertrag*, 1955), which recognized the rights of Croats and Slovenes as Austrian ethnic groups. The advisory councils have no formal powers, other than to act as advisor to the Prime Minister; the advisory councils have “the right to be heard” by the Prime Minister before a law goes into effect. Heavy criticism of the powerlessness of the advisory councils led to a two-tiered proposal by the ruling coalition for a reform of the powers of the advisory councils. In their new form, according to the proposal, if an advisory council disapproved of a particular law, the council could demand a position paper from the authorities. Secondly, a biannual conference of the presidents of the various ethnic-group advisory councils would become standard. Both ideas were rejected by the ethnic groups as unacceptable solutions to the problem, since they fail to

remedy the essential powerlessness of the advisory councils.¹¹

Although Roma were recognized as an ethnic group in 1993, and therefore entitled to form an advisory council since that date, it took the bombing of the Roma settlement at Oberwart in 1995 to catalyze the formation of an advisory council. In the aftermath of the bombing, which received international media attention, pressure on the Austrian government and indignation among the Roma provided the impetus for the formation of the advisory council. The Roma advisory council was initially made up of representatives of the four Roma organizations in Austria: *Verein Roma* in Oberwart, *Kulturverein Österreichischer Roma* in Vienna, *Romano Centro* in Vienna, and *Verein Österreichischer Sinti* in Villach.

The Roma advisory council does not, however, consist only of representatives of Romani organizations; due to the aforementioned consociational political arrangements in Austria, four places were reserved for non-Romani representatives of other aspects of Austrian political life, to counter-balance the four seats allotted to Romani representatives. Of these four non-Romani seats, one went to a representative of the Catholic Church and the three others to representatives of political parties. At present, these seats are filled by the ruling left-center Socialist Party of Austria (SPÖ); the traditionally church- and farm-oriented and sometimes coalition partner of the SPÖ, the Austrian Peoples Party (ÖVP); and the aforementioned Freedom Movement (F-Bewegung). The latter were accepted into the Roma advisory council over the protests of at least one Roma organization, who wanted the place to go instead to the Green Party; Green Party representative Terezija Stojsits is an ethnic Croat and speaks regularly on the subject of minority rights (she, incidentally, was the target of a letter-bomb which failed to explode).

On March 1, 1996, the *Verein Österreichischer Sinti* announced that it would withdraw from the advisory council and disband itself, indicating that its reasons were a desire to avoid public scrutiny and an historically supported belief that nothing good ever came of support from non-Roma. It is still unclear who will occupy the abandoned fourth seat allotted to representatives of the ethnic groups.

The initial advantages afforded by recognition as an ethnic group have been clear for those Roma, especially rural Roma living in Roma settlements, who can clearly demonstrate that they are “autochthon”—that is, that they are *Austrian Roma* and belong to the group recognized as an Austrian ethnic group. These advantages include far more rapid redress of local discrimination complaints, which can now be taken straight up to the Prime Minister through the mechanism of the advisory council, and most importantly, the sudden end to the practice of automatically relegating Roma children to schools for the mentally retarded (*Sonderschulen*); the latter was commonplace before recognition and now, according to one source within the *Verein Roma* in Oberwart, less than 10% of the Roma children in Oberwart are in schools for the mentally retarded. *Verein Roma* in Oberwart reports a significant drop in cases of discrimination by the police and local authorities since the recognition as an ethnic group. More informally, a clear awareness of the language of rights is becoming more widespread among the Burgenland Roma. In Vienna, too, the situation among autochthon Roma is described by Rudolf Sarközi, chairman of *Kulturverein Österreichischer Roma*, as greatly improved.¹² Nonetheless, the anonymity of the big city still leaves Roma vulnerable to more random acts of hate-crime and discrimination.

The definition of membership in an ethnic group remains vague, however: judicial rulings have offered the definition of Austrian ethnic groups as those which have lived in Austria at least three generations. A generation is measured as 30 years. By the strict measurement, then, a Rom or Romni who can prove that their family has been in Austria for more than 90 years can claim the status of “autochthon” or membership in the *Volksgruppe*.

The definition has not been strictly applied, however, and in the case of Roma, there are two differing views of who is, and who is not autochthon. Rudolf Sarközi of *Kulturverein Österreichischer Roma* and the Oberwart group *Verein Roma*, the two Roma organizations which concern themselves exclusively with autochthon Roma, consider autochthon Roma to be those Roma

and Sinti who are descended from the Roma and Sinti forcibly settled in Burgenland during the 18th century. This definition is also cultural, in that it sees Austrian Romani culture as bound up with Hungarian Romani culture, history and Hungarian Gypsy music; Burgenland, the region of Austria annexed in 1920, was formerly a part of Hungary, and remains to the present day the main area of Roma settlement in Austria outside Vienna. This is, for Sarközi and other autochthon Roma, the Austrian Romani heartland.

The Austrian state, however, tacitly takes the view that Austrian Roma are those Roma who survived and returned from concentration camps such as Lackenbach and Mauthausen in Austria, where nearly all Austrian Roma were interned during the Nazi period and a high percentage were killed. By this view, if a Rom was present in the country before the *Anschluss* to be interned, he or she counts as autochthon.

However defined, the number of Roma receiving political rights through the recognition is seriously limited; an initial count of Roma living in Burgenland, presented in *6 X Österreich* (a sympathetic publication), reported that 93 Roma lived in Burgenland in 1991. While this figure is clearly wrong, it stands to reason that no more than 5000 Roma in Austria received political and social rights through the recognition, and a likely estimate of 20,000–30,000 were, at the same moment, excluded.

The legal division of the Romani community in Austria into two camps had the effect of creating not two unified camps, but rather total atomization. Where previously the possibility for unified political action had existed, individual Roma were now left to face the hostile state on their own, without legal recourse to justice. A scant 5000 were permitted to carry on as before, with an occasional subsidy from the state, while the remaining 20,000–30,000 were delivered into legal limbo. From the moment of division, every Rom in Austria who did not qualify for the potemkin village of autochthon status would wear vulnerability as the color of his skin. And this vulnerability was almost instantly exploited; between 1991 and 1993, the Austrian Parliament ratified three new laws which had the practical effect of stripping long-time resident aliens of their rights.

4. THE NEW SITUATION

4.A. EXCLUSION 1: ILLEGALIZED POVERTY

In May, 1995, Vladimir Adamović's visa expired, and since he did not possess a valid work permit, he was denied an extension of his visa. Vladimir Adamović is a Rom from Serbia who has been legally residing in Austria for the past ten years. His wife has thyroid cancer, which has metastasized and become breast cancer, so it has never been so important that Vladimir Adamović be allowed to continue working. His wife, Vera Adamović is a Serbian Romni born in Austria. At the point when she was offered Austrian citizenship, which is not given automatically to individuals born in Austria, she could not produce the valid residence permit necessary to claim her citizenship.

The Austrian authorities intend to make Vladimir Adamović and his family leave Austria by refusing to allow him to work, and then denying him a residence permit because he is unemployed. Since 1993, they have had the legislative power to do so.

Between 1991 and 1993, the Austrian Parliament approved a series of significant legal changes in the field of rights for aliens. On July 1, 1992, a new "Asylum Law" (*Asylgesetz*) came into effect; on January 1, 1993, a new "Law on Aliens" (*Fremdengesetz*); and on July 1, 1993, a new "Residence Law" (*Aufenthaltsgesetz*). The intention of the new laws was sharpening the criteria for asylum and restrictively regulating new immigration. The government hastened to reassure the public that the new laws would not affect non-citizens already living in Austria. This is, however, precisely what happened; non-citizens who had been legally living in Austria for a long period of time, or who had been born in Austria, began to have serious difficulties maintaining legal residence in Austria. In contrast to the successive development and accruing of rights typically heralded by international agreements, whereby long-term residence leads to a level of rights enjoyed by citizens, the new laws led directly to insecurity or actual loss of right-of-residence for long-time resident aliens in Austria.

The Law on Aliens and the Residence Law demand that new immigrants file their application for a residence permit from a country outside Austria. On the application, the applicant must state the purpose of stay (private stay, work, study, etc.) which—with few exceptions—cannot be altered during the period of stay in Austria. A yearly quota (*Bundeshöchstzahl*) of the highest possible number of new permissions of stay (*Aufenthaltsgenehmigung*) is fixed by the National Council (*Nationalrat*). In 1995, the council sanctioned 17,000 persons; in 1996, 16,140. The residence permit is at first limited to a fixed period, and after five years can be given without expiration. There is no unlimited right of residence, however, and all decisions about who receives a residence permit lie in the hands of the authorities assigning the permit. At present in Austria, even family reunification falls under this quota system.

Receiving permission of residence depends on proving in advance the possession of satisfactory income, health insurance, and "accommodation according to the standards of the community" (*ortsüblichen Unterkunft*).¹³ These criteria are also used in cases of the extension of the residence permit, and are applied regardless of the length of time an individual has been in Austria, or even if they were born in Austria. Failure to successfully fulfil these criteria results in the loss of residence permit.¹⁴ These regulations are currently being sharpened further, both through a series of new austerity budgets (*Sparpaketen*), as well as through so-called "harmonization" policies from an EU level.

The first foreigners to disappear from Austria following the implementation of the new laws were those who missed the deadline for applying for an extension of their residence permits. The deadline for residence permit extensions was at first set at four weeks prior to the expiration of the residence permit. Failure to meet this deadline resulted in the immediate loss of the

residence permit, a loss which could not be challenged by appeal, and the authorities were obliged by law to forward the applicant's files straight to the Foreigner Police (*Fremdenpolizei*).

Since the government did not advertise the consequences of the new law, thousands of people who followed the letter of the law as they had previously understood it lost the right of legal residence. These people went from being long-term residents to "new immigrants" overnight, and were forced to leave Austria and file a new application from abroad. According to Karin König at the *Wiener Integrationsfond*,

A huge number of people lost their residence permits during this period. The information during this period was extremely confusing and it was very difficult to inform people about the new law... Now the four-week deadline has been lifted as a result of a series of suits at the Constitutional Court, and there is some possibility for reapplication within Austria, but only if one is in possession of a work permit.¹⁵

It is also necessary to still be in the country and not yet have been deported. The *European Roma Rights Center* has reason to believe that Roma were seriously affected during this early stage in the process of removing foreigners from Austria.

The second group of foreigners to become seriously affected by the new laws were the poor—families like that of Vladimir Adamović. The second time Vera Adamović was refused a residence permit, the reason given was that her income was too low. At the time, she was receiving state health support, which was based on her employment record. This health support was not considered a high enough income for an alien to be awarded a residence permit, although an Austrian citizen would be forced to live on it.

In late July, 1996, an appeal at Austria's highest Administrative Court (*Verwaltungsgerichtshof*) returned Vera Adamović's file to the Ministry of the Interior, indicating that she should be reconsidered for a residence permit. However, her husband's file continues to be treated independently of hers. The Austrian authorities do not view her terminal disease as a mitigating circumstance in the consideration of his application for continued residence. This eerie and deliberate atomization is the dominant feature of the contemporary atmosphere in the Austrian bureaucracy.

Like many Roma in Austria, Vladimir Adamović's ability to support his wife depends on seasonal work. This has, however, recently been made a criminal offense in Austria; access to the labor market is regulated by the "Foreigner Occupation Law" (*Ausländerbeschäftigungsgesetz*). The "Foreigner Occupation Law" allows for the assignment of a quota of accepted applicants from other countries. Access to the labor market is achieved in three steps. The first acceptance, called the *Beschäftigungsbewilligung*¹⁶ work permit, is tied to one particular employer and is given for one year. Both employer and employee must apply in order for a *Beschäftigungsbewilligung* work permit to be given. The *Arbeitsgenehmigung* work permit, the second step, is assigned for two years and can be extended. It allows access to the labor market within one area/state (*Bundesland*) in Austria. Free access to the work force in all of Austria can be achieved after five years in the form of the *Befreiungsschein* work permit. This system makes it nearly impossible for a seasonal worker to acquire and keep a valid work permit.¹⁷

Thus, with the passage of the new laws regulating foreigners, the way-of-life of an entire class of working people became criminalized. Renata Erich from Romano Centro characterizes the effects of this criminalization on Roma as follows;

Roma often, in the past, took on seasonal work. Construction companies and cleaning firms have less to do in winter, and they tend to lay off their help during slow periods. For this reason, there are many Roma who don't meet the very strict requirements for a work permit. Short-term work permits of the kind which bind the worker to one company are lately often refused because the quota for foreign workers

(Höchstbeschäftigungszahl) has already been reached. Foreigners who cannot demonstrate a minimum income have no chance to extend their residence permit. The result of this is that many Roma become illegal, even if family members are working and the whole family is living from the income. They risk daily winding up being arrested and deported.¹⁸

Perhaps most ironic has been the actual effect of the change in legal atmosphere on the work force. Contrary to the intent of the laws, which was to remove foreigners from the labor market (and from the country), there is now, according to Karin König, massive pressure to keep a job, any job, no matter what the conditions, since loss of a job is the beginning of the short road to deportation. First of all, then, since the burden of punishment for working illegally falls disproportionately on the employee (the employer is subject to fines, the employee to deportation), there has been a rapid rise in illegal employment. Secondly, foreign workers are now strongly discouraged from reporting dangerous conditions, long hours, sexual harassment, and other abuses, since the most likely outcome of such complaints is, again, loss of work followed quickly by loss of legal residence.

Once a non-citizen has lost his work permit, his fate becomes the workers row (*Arbeiterstrich*). The workers row is a strip in Vienna where non-citizens without valid work permits line up—usually in summer—to await temporary work. This group has no recourse to legal justice when their rights are violated. In the words of Stephan Müller, “anything can happen to them—anything is possible; it’s uncontrolled, and everything happens under cover. It is a situation ripe for exploitation.”¹⁹ According to a report by Konrad Hofer, physically intensive construction work pays 60–70 Austrian shillings (6–7 US dollars) per hour through private contracts and 50 Austrian shillings (5 US dollars) through one of the large building companies. The black market price is 15–20 Austrian shillings (1–2 US dollars) per hour.²⁰ The range relates to language ability, nationality, experience and gender.

The lawmakers who had drafted the new, stringent legislation, also included passages which left little room for sympathetic acts by those assigned with carrying out the legislation; until the Residence Law was reformed in May 1995, the authorities were obliged to revoke unlimited residence permits if any of the conditions had not been fulfilled. A missed deadline meant that the authorities were required, by law, to deny an extension of the residence permit.

The reform of May, 1995, which returns the power of decision-making to the local authorities, looks like an improvement. However, Roma who have had work permit and visa difficulties in the past have by now either been deported, or have had so many hassles with the authorities that their records make them look like criminals. And while the reformed laws allow for discretion on the part of the authorities, they also include a handbook on the application of the laws which, since it is not a law in the strict sense of the word, cannot be made the subject of legal challenge. The reform is therefore unlikely to improve the situation of the remaining Roma to any great degree.

Since the criteria are now increasingly subjective, Roma will again fare worse; anti-foreigner sentiment and legislation in Austria affects Roma more than it affects other groups. This is true even where bald discrimination is not at issue; as recently as the Second World War, state institutions were used for rounding up Roma and detaining, starving and killing them. Now, since the legal status of foreigners is dependent on such things as a general impression made during a short interview in an office at the Ministry of the Interior or city hall, Roma do especially badly; a scared or defensive person is unlikely to be convincing as a worthy candidate for a residence permit to a bureaucrat, although this impression may have nothing to do with any legitimate criteria by which one might award a residence permit.

Cases of experiences similar to that of Vladimir Adamović are now commonplace for Roma, as is clear from the rich bureaucratic atmosphere evoked by the statement of this Macedonian

Rom;

Four years ago I applied for Austrian citizenship. I received a refusal. Then I applied again, and in 1994, I received an invitation to claim Austrian citizenship—exactly when the company I was working for went out-of-business. I had an appointment to claim citizenship. But I needed my visa and I didn't have one anymore—my visa was in the Interior Ministry; so they told me to wait. Then everybody started giving me trouble; the work office wanted to see a visa, the Interior Ministry wanted me to have a job. All the jobs I went to apply for wanted to see a visa. I couldn't do anything. And everybody said, "I'm very sorry."

Last year in July, my visa came, so I went again to claim citizenship. But they still wanted me to prove that I was working. But at that point they weren't giving out anymore work permits until January. So I had to wait.

So finally in December I got a job working for Julius Meinl working two days a week. This got me, with overtime, 6000 shillings per month. But two weeks ago they told me they didn't need me anymore. I cried and begged that I have three children to feed and they said, "I'm very sorry."

Now I'm still waiting for my visa—but I was just there and they said I wouldn't get anything until I find a job. They said I earn too little. I need to submit a paper showing that someone guarantees me (*Verpflichtenerklärung*). I did that, but then they said that my visa ran out anyway, so I need a new one—so I have to go to city hall. So I was there again and I just received a letter of invitation saying I should go back. But city hall will want a visa, and mine ran out in January, so until they issue me a new one, I can't go to city hall. I've applied for new jobs at the work office—I did that two weeks ago—and now I have to wait. There is one company that wants to hire me...

The woman at the citizenship office already hates me because I've been down there so often. She doesn't want to see me there anymore, she's so sick of my face. Now they want all of the foreigners out; I know several people who are citizens of Austria and whose wives have to leave because they can't get a visa. I know another person who can't get any passport, because the red Yugoslav no longer applies and he should have a new Macedonia one, but they refused his application and so did the Austrians. They keep telling him to take his family and leave the country.²¹

The experience of this Macedonian Rom, whose family has been in Austria for 25 years and whose mother is buried in Vienna, is typical of the new situation of Roma in Austria.

4.B. EXCLUSION 2: "ACCOMMODATION ACCORDING TO THE STANDARDS OF THE COMMUNITY"

Čevrije Asanoska also did not benefit from the return of decision-making power to the local authorities. She is a Macedonian Romni who discovered that the subjectivity implicit in the legislation worked against foreign Roma, even when they were perfectly correct in all formal respects, were employed, and followed the instructions of the authorities to the letter. Additionally, Ms. Asanoska discovered that her Austrian citizenship did not protect her from being treated as an alien.

Čevrije Asanoska is a 22-year-old Austrian citizen, born in Skopje, Macedonia. In contrast to Vladimir Adamović, it was not possible for the Austrian authorities to get rid of her by revoking her work permit, since she did not commit the fatal mistake of being unemployed for any period of time, nor did she miss any of the deadlines by which an uncounted group of Roma were deported in 1993. Additionally, Čevrije Asanoska has Austrian citizenship, so she should have been exempt from any attempt at deportation whatsoever. However, because she belongs to

the politically empowered Austrian ethnic group, her fate began to be bound up with those Roma who were being pushed out when she married a Macedonian Rom in 1993.

Late in 1994, her husband came to visit her in Austria; she was pregnant with their child, and several days before his tourist visa was due to expire, they telephoned the police to ask if he could be given an extension. The police agreed, and asked Ms. Asanoska to put the request in writing. The couple followed the instructions of the police and wrote a letter explaining their situation. During the time which elapsed while they waited for a reply, Čevrije Asanoska's husband's visa expired. He was informed that he was in Austria illegally, and he left to avoid being deported.

Since 1994, Čevrije Asanoska's husband has not been once in Austria. The police will not approve his tourist visa to visit his wife and child, since they claim he illegally overstayed his visa in 1994. Since Čevrije Asanoska and her husband never received a written copy of the agreement they made with the police, the police now claim that they never made such an agreement.

Čevrije Asanoska's husband's application for a residence permit has also been repeatedly turned down. The first time his residence permit was refused, the quota was full. The next time, the authorities claimed that her salary was too low, and that her flat was too small for the three of them. Since neither claim was true, she wrote an appeal pointing out that her salary was not too low, and that the authorities should please take into account the fact that her parents live next door to her and that their flat should also be considered as part of her residence. In response to this, Ms. Asanoska received a visit from the Ministry of the Interior, who surveyed her flat and then rejected her husband's application for a residence permit. Their explanation was that, in accordance with the "accommodation according to the standards of the community" clause of the Residence Law, Ms. Asanoska, "did not have enough open space in the flat". The "accommodation according to the standards of the community" clause is unacceptable, in that it adds an element of subjectivity to the law which renders the individual vulnerable.

It is generally presumed that those who attain citizenship pass from a tenuous state wherein few of their rights are guaranteed by the state, into a state of legal parity with all other citizens of the state. This is, however, no longer true in Austria; through the combined effects of "recognizing" a small fraction of all Roma in Austria as legitimate and passing legislation designed to rid Austria of the rest, Austria now offers a gerrymandered citizenship. As a result, Austria ignores Article 8 of the European Convention on Human Rights, which makes explicit the right to an unimpeded family life, as binding in the case of Čevrije Asanoska.

Roma who must prove that they have "accommodation according to the standards of the community" are in a double bind, because Roma do not have equal access to the housing market. Vladimir Adamović described the situation as follows:

We were looking about through the illegal market because the housing authorities are useless—we couldn't get anything; they tell us they don't have anything. Then we went to a so-called third party—it always goes over someone: you can't do it alone. When you find an apartment, you have to pay the owner to turn the address over to the housing authorities. You have to give 50–75,000 shillings (5000–7500 US dollars) to the middleman alone. The renter has to pay everybody.

So I went to one of these private middlemen and first I had to pay 10,000 shillings for him to introduce me to a landlord. I went there and he said, "yes, there's a flat... You have to wait a bit. It will cost 50,000 for a couple of years." So I thought, "This isn't bad"...—In comparison to some of the other prices I had heard, 50,000 is quite reasonable. It was 40 square meters with kitchen, 1 room and bath. The room was a normal one: 4 x 5. But when I went there, I discovered that it was pure lies—you could barely get a bed in; it was no 40 square meters and the kitchen was also small.

But still I was interested, and the only thing left to do was to pay and get the rental contract. By some luck, I didn't have the money with me. So I made an appointment to go the next day to the bank, get the money and sign the contract. But I decided to go back to the house and ask for the address of the local authorities. Then I went down to the authorities to find out if there were any flats free. He said no. Then I said, "what is with this flat in the X street?" And he said "no, you can't have that one, it's not free—it's been rented out since last month."

So I naturally called up the firm and told them that one of their people wanted to rent me a flat that was already rented to somebody else, and he made a long protest about how that couldn't possibly be—they are a legitimate organization and so on and so forth. So I made an appointment to go and see him and clear the matter up. But he didn't show up for the appointment. So I called him up the next day, and he didn't know me at all. He said, "who gave you my number?"

So the people who work with him do the following; they receive the second key from an already-rented flat. They take people in—these people see that it is an empty flat, and give them money. But now you have the key to someone else's flat—and they have the rental contract. These people work together with the housing authorities; it's a good scam.²²

Several of the agencies renting to foreigners have a tacit or explicit "no blacks" policy. Nonetheless, Roma are forced to use of middlemen who offer substandard flats, because private flats are prohibitively expensive, and the city-owned, so-called "community flats" (*Gemeinde Wohnungen*) are off-limits to foreigners. In addition, Roma attempting to do any business whatsoever with the housing authorities face a wall of hostility and greed;

In the office, you have no chance to speak to a real boss of the housing authority. The smaller fish are there, and if the flat costs 100,000, you are going to give him 200,000. This is supposed to be a "contract fee", but you never receive proof that you gave it to him; there is no receipt. So, for example, you can't possibly write it off your taxes, etc.

One friend of mine bought a flat from the housing authorities in the Staudgasse in, I think, the 18th district. This housing administration is well-known by the police as a corrupt one. Everything went through a man named "Schwerdfutter". This Schwerdfutter demanded 40,000 for a flat-- 1 room and kitchen. This flat was in a yard—no door, no windows—quite simply a destroyed flat in a backyard. The floor was completely ripped out. He couldn't even get the keys, because there wasn't a lock in the door.

So he told the Schwerdfutter that anyway, he would take the flat since he was about to be homeless. The meeting took place in some bar in the 12th district. Schwerdfutter took his money and went with him to the housing authorities. There was a nice secretary and they signed everything. But they gave him no papers. They had a nice cup of coffee, the three of them—Schwerdfutter, the secretary and him. This turned out to be a 40,000 shilling cup of coffee.

So he thinks he's got a flat—he buys a lock and key, some furniture, and some windows. But when he comes the next week, he can't get in—someone has installed a lock ahead of him. If he forced his way in, he would be breaking in. So I went with him to the police in the Schulgasse and we made a statement—But he and I didn't know what the name of the secretary in the housing authorities was. So the police started laughing and said that we weren't the first who had been swindled by this housing authority. We got a lawyer. In the meantime, his visa expired, and he couldn't prove that he lived anywhere,

so he lost his residence permit. And he was deported. He can't come back for 5 years.

So he spent 40,000 for the non-existent flat, 20,000 in costs for repairing the flat, and 5000 to a lawyer. He lost 65,000 and got deported. The lawyer is still carrying on the case—the housing authorities, however, are assuming responsibility only for the costs--20,000. The rest is gone.²³

Another frequent racket plays on Romani fears of being made homeless, and thereby becoming ineligible for an extension of the residence permit. A landlord applies in court to evict a Romani tenant. The landlord tells the Roma that if s/he appears in court to appeal the eviction, s/he will be evicted immediately, or suffer some unspecified form of harassment. Generally a vague warning of this kind is sufficient to keep Roma from turning up at the hearing since, again, their status is fundamentally insecure. Following this, because the Roma have not turned up to argue their case against eviction, the court issues an eviction notice.

Armed with the eviction notice as a kind of sword of Damocles, the landlord then issues a new rental contract, charging up to 40,000 shillings (4000 US dollars) as a fee for this service. For this new contract, Roma receive no receipt, and the new contract is so worded as to allow the landlord to throw the Roma out without advanced notice. The threat of eviction thereby becomes a tool with to extort ever higher rents.

Housing discrimination, combined with the legal discrimination of the “accommodation according to the standards of the community” clause of the Residence Law, comprises one key element of the exclusion mechanism of Roma in Austria.

4.C. EXCLUSION 3: THE EVAPORATING LEGITIMACY

Maria Pascher was born in Vienna on November 7, 1963. Her mother was a Hungarian Romni who had left Hungary during the wave of emigration which followed the anti-Soviet revolt in 1956. Maria was given up for adoption, and was raised by a state orphanage. She later married an Austrian citizen and had four children with him. She is now divorced, although two of the children remain in her custody.

Because her mother was not an Austrian citizen, Maria Pascher was not issued Austrian citizenship at birth, but was rather given a *Konventionspass*, a document registering her as a legal resident with long-term refugee status. This long-term refugee status expired in 1990. This event was not well publicized.

In 1995, Maria Pascher's social aid was cut. When she went to inquire why the aid was cut, she was informed by City Department 62 that she was not legally in the country and would have to go “back to Hungary” (a country she has never seen with a language she does not understand) to apply for a visa as a first-time visitor to Austria. She is not legally permitted to appeal this decision, since the asylum status given to Hungarian citizens was not technically an asylum status, but rather a group protection offered by Austria which had no individual legal validity; the Austrian state now regards her as having never been in Austria.

Maria Pascher is without income and has become stateless. The process by which she will, eventually, receive justice, passes through formal rejections of her appeal to the Austrian Ministry of the Interior, formal rejection as a first applicant for a residence permit, the two highest courts in Austria, and then to the European Court of Human Rights in Strasbourg. She may receive justice in 4–5 years. Throughout this appeal process, Maria Pascher will be barred from working. The Austrian state continues to give her social aid, although since she is technically ineligible for it, it is unclear how long she will continue to receive this.

From the spectacular wave of Hungarian emigration following the 1956 upheaval, some moved on to settle permanently in the United States, Canada, Sweden, Israel, France and

Australia, while others remained in Austria. Of the group that remained, all but the Roma received Austrian citizenship.

The non-Roma Hungarians who remained in Austria not only received citizenship, but also pursued recognition as a distinctive group. In 1992 they received recognition as an ethnic group called the “Vienna Hungarians”. For most Hungarian Roma, however, such organization was irrelevant, and they pursued no further involvement with bureaucracy; the *Konventionspass* enabled them to travel and served as a viable form of identification. The change in the legal status of Hungarian refugees in Austria had not been a part of the original refugee arrangement and it was not preceded by any major announcements or attempts to inform those holding the refugee status. In fact, since most Hungarians had long since either left or integrated, the change in status was intended only to harass and drive out those who were least likely to find out about the change before it was too late.

In a letter to Austrian state radio on behalf of Ms. Pascher, Renata Erich of Romano Centro commented,

The state will not formally cancel Maria’s asylum status, so no appeal is possible. The case is not the only one of its kind—other Roma who have lived in Austria for forty years are also affected by similar decisions of the Ministry.²⁴

5. INVASION OF PRIVACY: THE INVITATION TO PUBLIC VIOLENCE

By 1995, all elements were in place for an outbreak of public violence against Roma in Austria. In the first place, a clear delineation had been made between those Roma who belonged, and those who were “illegal”. The crime of the illegals was, of course, merely their continued existence in Austria, which was, according to the legislation passed in 1993, a criminal act. Secondly, an increased amount of personal discretion had been devolved to the authorities charged with excluding foreign Roma, although they remained both politically sanctioned to remove foreign Roma, and under pressure to do so.

Third, invasion of privacy had become a part of their procedure; in connection with the new anti-foreigner restrictions, the Foreigner Police (*Fremdenpolizei*) significantly increased the scale and intensity of its investigations into *Pro Forma*²⁵ marriages. Suspicion that a marriage is *Pro Forma* leads to interviews by the police of the couple suspected. The couple is interviewed separately and if their answers are inconsistent, their marriage is invalidated.²⁶

These interviews usually begin innocently; “How many rooms are there in your flat?” and “Where did you take your honeymoon?” are typical of the questions asked. However, they generally proceed to intimate sexual questions more calculated to intimidate and upset than they are likely to produce an accurate real answer; speaking of one’s sexuality is taboo among Roma, so not only do such questions constitute harassment, they may often lead to wrong decisions by the police, since false answers are preferable to the shame of the real.

The investigations themselves serve the purpose of making the invasion of privacy a professional habit. Three authorities are principally concerned in the process of weeding out aliens: City Department 62 of Vienna (*Magistratsabteilung 62*), the Foreigner Police, and the Ministry of the Interior. By early 1995, all three authorities had become inured to the idea that the regular invasion of privacy was a necessary part of their daily activities.

The transition from habitual invasion of privacy to overt police violence was a smooth one; on the evening of April 24, 1996, Nicola Jevremović, a Serbian Rom who has lived in Vienna for 17 years, was sitting in a pub in his neighborhood in the 2nd District of Vienna, when a policeman started writing a ticket on the car of Nicola’s friend, which was parked outside. When Nicola offered to pay the ticket on the spot, the policeman shoved Nicola and his friend against a wall and began to call for back-up. Nicola became afraid and ran from the scene of the traffic violation.

Fifteen minutes after returning home, Nicola’s apartment, where he lives with his wife Violetta and their three children, was stormed by between 25 and 40 policemen, including members of the elite “WEGA”²⁷ riot squad, who kicked the door in, produced no arrest or search warrant, and began immediately beating Nicola Jevremović in front of his wife and children with fists and rubber truncheons. When Violetta moved to shelter the three children, they began beating her as well, finally shoving her face into the armrest of the couch and applying handcuffs tight enough to leave bruises. To Violetta’s protests that she suffered from a slipped disc, she was answered with such pleasantries as “*Tschusch*” (an Austrian insult for a foreigner), “*Zigeunersau*” (“Gypsy Swine”) and “*Dreck*” (“Filth”);

They broke in and just started hitting my husband, as soon as they saw him. They shouted at me, “where is your husband?” and then they were in the flat beating him. And the children were completely shocked and started immediately crying, so I went to cover them and asked, “What has he done?” and then they went for me.

They shoved me back and then got me here on my face, in the couch. It was a man. I really did absolutely nothing. The bed was open, and they got me on the bed and then these two women let loose on me. I was a toy for them. On the hair, on my head—

my head was completely bloody. They hit me so many times I couldn't think any more. And then everything became quiet and still and I could see what was what. And then they shoved my head into a pillow, pulled my arms behind me, and fastened them into handcuffs. I said, "Please, not so tight,"—you can still see the blue marks from where they were. And they held me in place with their feet on my back. So I said, "Please, don't do that, I have slipped disc"-- I had to have an operation earlier this year, and I couldn't walk for 3 months.

So they said, "Keep still, filth" or something like that. "We don't care". Then they pulled us down the stairs to the yard outside. And then they started searching us, asking us if we had hidden something. They shoved me face first against the door, and then they dragged us outside. And all our neighbors were there—it was truly awful. I was so ashamed. They were handling us in such a way that everybody else could only think the worst about us. The reputation of our family is completely ruined here.²⁸

Nicola and Violetta Jevremović were then dragged from their flat and taken to the police station, but not before the police made them wait for half an hour on the sidewalk in front of their apartment building, to humiliate them in front of their neighbors. During the drive to the police station, Nicola had to throw up. One of the policemen riding with them in the car threatened Nicola that "If any single drop of that gets on me, you can't begin to imagine what will happen to you."

When they arrived at the police station, they were insulted again by the police officers present, as well as being spat on. Both Jevremovićs spent the night in jail, while their children remained unattended at home. The police doctor, called on Violetta Jevremović's demand, concluded that he didn't see why he should have to "investigate a few slaps";

Then they took us to the station. There were 3 or 4 policemen there, and they started to call us things like "Zigeuner" (Gypsy), "Sau" (sow) and they spit on us. Really, 100%. Then they put us in the cell and took off the handcuffs and it started again: "When are you going back to Yugo-slavia, you sow?" So I was completely still, because I thought that if I did anything, they would beat us again.

I wanted to go to the bathroom, and they started again—I didn't understand the worlds exactly, I don't know, but it was something like, "If you so much as [.....]²⁹, then you'll really get it."

Then the doctor came and wanted to know if I had drunk anything or if I was ill. So I explained about my back and he said, "Yes, yes, I don't see anything." Because he wasn't insulting me, I asked him why they were treating us like animals and spitting on us and all that, and he didn't answer.

In the cell, there was a concrete block covered in plastic. Steps, kind of. You could sit on it. There was no blanket. There was some kind of covered window. The light was on the whole night. The cell was filthy, the walls were smeared completely with something, I don't know what—written on and smeared.

I was completely messed up. My hair was completely messed up. One of my shoes was lost. Then they searched me specially. I was checked by a woman—she checked my hair, everything. I had to take off my clothes. I don't know why. And she was the one, actually, who told me that I had attacked a policeman. I asked about my kids and she told me I should have thought about my kids before I attacked a policeman. This is completely ridiculous.

Then they pulled me out. I had to sign something. I didn't know what. I didn't know it was because of my necklace and watch—I figured out later it must have been

because of that because I had to sign again in the morning when I got my things back. And I said I'm not going to sign, I have to read it first and he shoved me so hard back into the cell—out of fury, I guess. It was truly awful.³⁰

In the morning, Nicola Jevremović was fined 2200 Austrian shillings (roughly 220 US dollars), although all his attempts to find out what he was being fined for were left unanswered. Neither Nicola nor Violetta Jevremović was informed that their files were being forwarded to the district attorney. Both have since been charged; Nicola with felony resisting state power (*Widerstand gegen die Staatsgewalt*), and Violetta with felony “suspicion of resisting state power” (*Verdacht des Widerstandes gegen die Staatsgewalt*).

Officer D. Krausz, the police spokesperson for the Pappenheimgasse police department of the 20th district of Vienna, the station where Mr. and Mrs. Jevremović spent the night, explained in an interview with the *European Roma Rights Center* that the felony charges were brought against the Jevremovićs for actions which had taken place in their apartment, after the police had stormed the flat without a warrant. For his actions in the Othmargasse, outside the bar, Nicola was fined 2200 shillings for a misdemeanor “Aggressive Behavior toward an Official of the Public Service”. It seems, then, that Vienna police called in a specially-trained commando unit in order to arrest someone who they later recorded as not having committed a crime worth prosecuting. Also according to Officer Krausz, no officer is on duty after 4:30 PM, and there is no responsible supervisor for the entire night-shift.

Neither Nicola nor Violetta has any prior criminal record in Austria, and both have lived in Austria legally for 17 years. Two independent medical protocols made the day after the beating recorded extensive bruising on both Nicola and Violetta, as well as an aggravation of Violetta's slipped disc. The initial response of the *European Roma Rights Center* was to submit a formal protest to the Ministry of the Interior. This was also done by the Green Party, who made a formal public challenge in the Austrian Parliament.

The Interior Ministry has thus far not responded to the questions submitted by the *ERRC*. On July 1st, 1996, Minister of the Interior Caspar Einem did, however, respond in the Austrian Parliament to the series of thirteen questions the Green Party had submitted in mid-May. The response of the Ministry quoted extensively from the arrest reports made on the night of the 24th of April, evidently in the belief that this would dispel accusations of police abuse.

The police account, then, is as follows: outside the pub, Nicola had begun, “wildly gesticulating, to insult us at high volume.”³¹ He then, according to the allegedly victimized officer,

beat me suddenly and without warning, striking me twice in the chest. I managed to deflect other blows. We then managed to get hold of J. (Nicola), in order to avoid being further beaten. J. nevertheless got away and had a chance to run, but he chose instead to attack me further. For the purpose of self-defense I pulled out my gun, since I couldn't be sure that J.'s aggressiveness did not imply a further massive attack, or that he didn't have a weapon (knife, etc...) that he could use.

A glimpse at the pulled weapon caused J. to run from the scene of the crime in the direction of Jäger Street. J. could have been overtaken and subdued, but he ripped free again and fled.³²

Having stormed the house with the help of the WEGA riot police³³, the report of the Ministry continues with an account of the events inside the flat;

From the report of Inspector V. concerning also the accused wife of J., we learn that he was jumped upon from behind and attacked by the accused. After this emergency was brought under control by further officers present, the flat was brought under

further observation³⁴ As one of us entered the bed/living room, J. was perceived as he suddenly appeared out of hiding. There was, evidently, space between the wall and the couch. There were a number of blankets and pillows piled over there.

He leapt at us, the officers present, and attacked us unaccountably, quickly, and with sheer ungraspable aggressivity. Inspectors M. and Ml. managed to defer his blows, while Inspector P. managed to grab the suspect by the shoulder and drag the suspect from the other officers. The attention of the criminal was now fixed upon Inspector P. He went for him with both fists. At first, Inspector P. could defer these blows. However, the accused attacked further, unexpectedly, and hit Inspector repeatedly on the body and on the left hand.

Inspector P. could only end the attack with a precise left upper hook, carried out with full intensity with his left hand. This disarmament measure against the corporal integrity of J. had the desired effect, and J. was subsequently fixed to the ground with massive bodily force and secured...

As a result of the undirected blows of J. against Inspector P., Inspector P. injured his left thumb. According to the accompanying file, this was a jammed left thumb. Inspector P. remained on duty.³⁵

The police account features of a victimized and vulnerable group of police officers and a mad dog psychopath, acting alone or with his wife, who manages to hold at bay a squadron of armed men and women with his bare fists. It is difficult to lend any credibility whatsoever to the story presented by the police. Nevertheless, the following questions should be posed:

- Why, if Nicola approached “gesticulating wildly, insulting us at high volume”, did the officers in question not subdue him immediately?
- Why do they then describe his attack as “without warning”?
- How does the officer in question explain the fact that, given the chance to flee, Nicola chose to attack them further, but when grabbed, he decided to run away?
- Why, if they had been so man-handled by Nicola, do the officers appear to loiter casually in the kitchen, before going into the bed/living room?

The police account is almost totally surreal on the point of the geography of the flat; in reality, the flat is tiny—a kitchenette ante-chamber leading into an all purpose room that serves as bed and living room for all five members of the Jevremović family. In the police account, the flat expands wildly, making it possible for the whole group of policemen to stay in the kitchen and not be forced directly into the room, as well as for Nicola to conceal himself and then “suddenly appear out of hiding”.

Finally and most mysteriously in the police account, is the issue of why, if the events transpired as the police claim, was Nicola let go in the morning? The police are quite clearly describing a dangerous psychopath and his release, if their description in any way resembled the events as they had truly occurred, should have constituted a serious threat to public safety.

The portrayal of Violetta is even more farcical. She evidently comes to the door and opens it, and then “jumps upon Inspector F. from behind and attacks him.” That there is no possible way for this to have happened within the confined space of the flat does not appear to concern the

police officers who assembled the story. Finally, as a result of her participation in Nicola's dangerous spree, Violetta was charged, according to the report by the Interior Ministry, with the hitherto-unheard-of crime of "suspicion of resisting arrest".³⁶

The truth was, in fact, that the police selected a drunk Rom to play with and, having beaten both himself and his wife in front of their three children, needed a story to legitimize their arrest. The Interior Ministry response to the Green Party query in no way refutes this version of events, does not present a reasonable portrayal of those events from the point-of-view of the police, and is therefore inadequate. The query itself ends in the voice of Minister Einem, who explains, "I see no reason for an apology to the family of J., and given the present state of knowledge about the case, I will not make one." The *European Roma Rights Center* seeks not merely an apology, however, but the dropping of charges against Nicola and Violetta Jevremović and significant disciplinary action with respect to the officers involved.

6. THE FULL CONTINUUM: XENOPHOBIC POLITICS, THE UNCHECKED BUREAUCRACY AND THE IRRUPTION OF PUBLIC VIOLENCE

Zoran Vasić was a Serbian Rom who was clinically diagnosed as manic depressive. In 1993, he was told by the City Department 62 that he and his family—his wife Radunka and the three children who still lived at home—would have to find a new apartment within 7 days or they would be declared illegal; their earlier rental contract had been written so as to make it appear as if the flat were larger than it was, and this was discovered. The family has been in Austria for 25 years, and their 4 children were born there. Having failed to find a flat, Zoran Vasić committed suicide in December, 1993.

During the funeral ceremonies held in the Vasić's flat, three policemen came to the apartment to collect several fines for riding on public transportation without a ticket, a misdemeanor (*Bagatell Delikt*) in Austria. According to the family, the police accepted payment for the fines without issuing a receipt. When one of the two sons, Goran, told the leaving police officers "Here's to never seeing you again" (*"Auf Nimmerwiedersehen"*), the policemen decided to call in a back-up of between fifteen and twenty police officers.

After both physical provocation (including the beating of Goran Vasić and heavy handling of his mother, Radunka Vasić) as well as racist statements by the police officers, Zoran Vasić Jr., who suffers from the same psychological condition as his father, grabbed at the gun of one of the police officers. The gun then fell to the floor. This is, at least, the official version; none of the Vasić family or any of the witnesses interviewed by the *European Roma Rights Center* saw Zoran grab at the gun. Zoran, Goran and Radunka were all charged with resisting state power (*Widerstand gegen die Staatsgewalt*) and assault (*Körperverletzung*) and later found guilty. No witnesses were allowed for the defence. According to the lawyer for the Vasić family, only policemen testified, and several of them testified that they had not seen anything.

In statements made to the *European Roma Rights Center*, several witnesses gave accounts which contradicted the police version of events;

I was at the funeral with my wife and brother-in-law, and I saw how three policemen grabbed Mrs. Vasić and threw her onto her knees... One of them grabbed Zoran—they wanted to drag him out—and this pistol fell out of its holster and with all of the kicking around going on, it slid under the bed. So the policemen said that Zoran had grabbed his gun—this is absolutely not true.³⁷

In the opinion of the lawyer, the sentences given out—six weeks for Radunka Vasić, three weeks for Goran Vasić, and six month conditional sentence for Zoran Vasić—reflected an unwillingness by the court to counter police testimony, despite clearly mitigating circumstances and an extremely questionable version of events. As a result of the convictions, all three had their right of residence revoked, although Austrian law states that for a revocation, the individual must be sentenced to at least an unconditional three months in jail or six months probation.³⁸

On January 8, 1996, Zoran and Radunka were arrested (Goran wasn't at home) and thirteen-year-old Darenka was detained and put in an orphanage. Police mishandling is asserted by the family at the time of the arrest as well. On January 23, Zoran was deported to Belgrade before an appeal on account of his psychological condition could be made. Although his medical papers declared him to be incapable of taking care of himself, he was put on an airplane with none of the medication he required and no winter cloths and sent to Belgrade. He was found by relatives three weeks later, wandering around Novi Sad.

Protocol 7 of the European Convention for the protection of Human Rights, which Austria signed and ratified in 1984, stipulates that no person shall be deported without having his case reviewed, or before being presented before the "competent authority or persons designated by

that authority.” By no stretch of the imagination is the police the “competent authority” envisioned by the drafters of Protocol 7. The case is presently being appealed to the Austrian Constitutional Court.

When questioned by the *European Roma Rights Center*, a policeman at the local police department at first confessed that they had marked the Vasić family out for observation a long time previously. He then changed his mind about talking to the *ERRC* and referred questions to a central press department of the police, who never answered the query submitted by the *ERRC*.

The police in Austria do not generally collect traffic tickets at the funerals of whites. Harassment of this kind is only seen where the family are dark, foreign, and marked out in advance for special treatment. The overall pattern of police behavior in Austria points to specific racist targeting of Roma. Additionally, the experience of the Vasić family illustrates the full continuum of exclusionary processes which developed between 1989 and 1996; what began as separation and a deliberate policy of harassment has ended up in open violence against Roma.

7. SUMMARY: THE EXCLUSION MACHINE

A recent study by the *Institut für Höhere Studien* measured comparative legal integration in eight European states (Austria, Belgium, France, Germany, Great Britain, the Netherlands, Sweden, and Switzerland), judged according to performance in five legal domains: residence and permanent residence; access to the labor market; family reunification; legal status of the second generation of immigrants; and naturalization. The study concluded that, “the three German-speaking countries still have, generally speaking, the highest amounts of legal discrimination with Austria as the outstanding negative example: In four out of five spheres analyzed, Austria shows the highest scores in legal discrimination.”³⁹ Germany scored last in one category—naturalization—where Austria was second-to-last.

The politically capricious underpinnings of defining autochthon status reveal the anti-Roma bias at work in the very recognition of Roma as an ethnic group. In contrast to the Vienna Hungarians, who were, as a whole, granted cultural rights in Austria, a narrow group of Roma has been granted cultural rights so that the rest can be treated—like Ms. Asanoska—as second class. In the opinion of the *European Roma Rights Center*, this constitutes a violation of the basic rights of Roma as guaranteed by Articles 2 and 26 of the International Covenant on Civil and Political Rights.

The legal and institutional machinery has been used to set off a carefully planned string of events, which lead inevitably to deportations. Losing one’s job can result in the rapid loss of the work permit. If this coincides with residence permit review, the result is a loss of legal residence. Legal residence can also be revoked for such a reason as missing a deadline—first set at four weeks before the expiration of the residence permit—or for failing to meet the “accommodation according to the standards of the community” clause, a condition vague enough to leave all interpretation to the discretion of the authorities concerned. A huge number of Roma lost their residence permits during the first year the law was enforced, when they turned up at the visa office to renew their visa and were told that due to the new deadline system, their chance to renew had run out four weeks previously.

Additionally, the presence of the community standards clause invites by its very presence in the law an invasion of privacy of the applicant by the authorities, who are charged by law with finding out whether living standards conform to those of the community or not. Incidents of violence by public officials are not merely an extreme expression of officially sanctioned measures, but their logical conclusion.

The three laws—the Residence Law, Asylum Law, and the Law on Aliens have been characterized by lawyer Karin König as being “of extremely poor legal quality”⁴⁰ and the Administrative Court has been described as in a crisis state due to a backlog of cases lodged due to these three laws: 11,132 appeals were recorded at the court in 1995, roughly half of which were lodged as a result of the three laws. Complaints lodged in the last quarter of 1995 may not be resolved until the next century, according to Administrative Court Judge Rudolf Müller.⁴¹ During appeals, however, the decisions of the administrative authorities remain in effect, so an alien making an appeal has neither the right of residence nor a valid work permit. This means that aliens are likely forced into the black market and can then be picked up and charged with violating Austrian labor laws.

8. ROMA AND SINTI AMONG ASYLUM-SEEKERS IN AUSTRIA:

As a result of on-going research being carried out by the *European Roma Rights Center* among Bosnian refugees in Hungary, as well as by information provided by Stephan Müller of the Ludwig Boltzmann Institute for Human Rights⁴², the *ERRC* has good reason to believe that Roma are present in significant numbers among Bosnian, Romanian, rest-Yugoslav, Macedonian and Turkish refugees in Austria. Nevertheless, none of the many organizations working with asylum-seekers and Bosnians given special status in Austria under the Europe-wide provisions established to help Bosnian refugees, could identify a single instance where an asylum-seeker had sought asylum as a person of Romani nationality or as a result of persecutions suffered because of a Romani ethnic identity. The *ERRC* believes this lacuna reflects Romani reluctance to report anti-Romani persecution, rather than an absence of ethnically motivated persecution against Roma.

Indeed, preliminary results of an on-going *ERRC* study of the fate of Roma during the war in the former Yugoslavia suggests a high percentage of Roma among Bosnian refugees. Within this group, there was a distinct reluctance among victims to identify themselves as Roma, regardless of whether persecution they had suffered in Bosnia was as a result of being Roma or not. According to Stephan Müller, “we tried to speak to Roma refugees from Bosnia in Lower Austria about their experiences in the war, but it didn’t work— they preferred not to. The response we got was, ‘We prefer to say nothing.’” This despite the fact that in several regions of Northeastern Bosnia, notably Zvornik, Roma seem to have been persecuted on ethnic grounds.

Although it is unclear exactly who is and is not Roma in this group, for the purposes of a general overview of the fate of asylum-seekers in the wake of the three laws tightening asylum guidelines and levelling new restrictions on foreigners, the BMI/UNHCR figures on asylum in Austria are included below.

Asylum-Seekers and Hearings on Asylum in Austria, 1991–1995
(Top Five Countries-of-Origin Listed) Source: BMI, UNHCR

1991:

| Country of Origin | New Applications | Positive Decisions | Negative Decisions | Returned | Total Decisions | Positive Decisions in % |
|-------------------|------------------|--------------------|--------------------|-----------|-----------------|-------------------------|
| Total | 27,306 | 2,469 | 17,217 | NA | 19,686 | 12.5 |
| 1. Romania | 7,506 | 1,237 | 10,587 | NA | 11,824 | 10.4 |
| 2. Yugoslavia | 6,436 | 38 | 736 | NA | 774 | 4.6 |
| 3. Turkey | 2,252 | 104 | 1,580 | NA | 1,684 | 6.1 |
| 4. Iran | 1,587 | 363 | 939 | NA | 1,302 | 28.7 |
| 5. Pakistan | 1,392 | 17 | 539 | NA | 556 | 3.0 |

1992:

| Country of Origin | New Applications | Positive Decisions | Negative Decisions | Returned | Total Decisions | Positive Decisions in % |
|-------------------|------------------|--------------------|--------------------|------------|-----------------|-------------------------|
| Total | 16,238 | 2,289 | 21,196 | 876 | 24,361 | 9.3 |
| 1. Yugoslav Fed. | 5,915 | 152 | 5,653 | 403 | 6,208 | 2.4 |
| 2. Romania | 2,609 | 486 | 6,043 | 126 | 6,655 | 7.5 |
| 3. Turkey | 1,251 | 97 | 1,649 | 82 | 1,823 | 5.3 |
| 4. Bosnia-Herceg. | 1,179 | 152 | 711 | 113 | 976 | 15.5 |
| 5. Iraq | 1,026 | 735 | 129 | 5 | 869 | 84.5 |

1993:

| Country of Origin | New Applications | Positive Decisions | Negative Decisions | Returned | Total Decisions | Positive Decisions in % |
|-------------------|------------------|--------------------|--------------------|------------|-----------------|-------------------------|
| Total | 4,744 | 1,193 | 14,204 | 488 | 15,885 | 7.5 |
| 1. Bosnia-Herceg. | 1,259 | 543 | 751 | 126 | 1,429 | 38.2 |
| 2. Iraq | 541 | 153 | 673 | 2 | 828 | 18.5 |
| 3. Yugoslav Fed. | 372 | 35 | 3,464 | 75 | 3,574 | 1.0 |
| 4. Turkey | 342 | 26 | 1,174 | 37 | 1,237 | 2.7 |
| 5. Romania | 293 | 155 | 3,131 | 104 | 3,390 | 4.6 |

1994:

| Country of Origin | New Applications | Positive Decisions | Negative Decisions | Returned | Total Decisions | Positive Decisions in % |
|-------------------|------------------|--------------------|--------------------|------------|-----------------|-------------------------|
| Total | 5,082 | 684 | 8,335 | 276 | 9,295 | 7.3 |
| 1. Bosnia-Herceg. | 746 | 162 | 982 | 36 | 1,186 | 13.7 |
| 2. Yugoslav Fed. | 624 | 29 | 1,930 | 57 | 2,016 | 1.4 |
| 3. Turkey | 362 | 69 | 676 | 19 | 764 | 9.0 |
| 4. Macedonia | 314 | 1 | 322 | 25 | 348 | 0.3 |
| 5. India | 247 | 0 | 243 | 2 | 245 | 0,0 |

1/1995–12/1995:

| Country of Origin | New Applications | Positive Decisions | Negative Decisions | Returned | Total Decisions | Positive Decisions in % |
|-------------------|------------------|--------------------|--------------------|-------------------------|-----------------|-------------------------|
| Total | 5,082 | 684 | 8,335 | 328⁴³ | 9,295 | 7.3 |
| 1. Yugoslav Fed. | 1,371 | 117 | 1,331 | 78 | 1,526 | 7.6 |
| 2. Bosnia-Herceg. | 1,050 | 389 | 625 | 45 | 1,059 | 36.7 |
| 3. Iraq | 659 | 140 | 930 | 25 | 1,095 | 12.7 |
| 4. Turkey | 509 | 44 | 794 | 56 | 894 | 4.9 |
| 5. Iran | 485 | 112 | 515 | 11 | 639 | 17.5 |

A clear pattern emerges: there has been a progressive tightening of restrictions since 1993, with a radical drop in the number of new applications submitted, due not to a sudden decrease in the number of peoples fleeing their countries due to persecution, but rather to a set of new clauses in the Asylum Law restricting who is eligible to apply for asylum in the first place, or due to the new practice of spontaneous rejection at the border. The most notorious of these is the so-called “Third-Country-Clause” (*Drittlandklausel*), which views an asylum-seeker as ineligible if, to seek asylum in Austria, s/he has passed through a perceived “safe third country” on the way to Austria. According to Michael Genner of the Austrian NGO *Unterstützungskomitee für politisch verfolgte Ausländer*,⁴⁴ uses of the Third Country Clause have included sending Iraqi Kurds back

to Turkey and Afghans and Iraqis to India, from where they find themselves a short while later back in their home country. Generally, according to Genner, the only way to arrive directly is by air, although if an asylum-seeker arrives by air, s/he is rejected on the grounds that s/he could not have been that persecuted if s/he managed to get on an airplane.

Many of these policies are now enshrined at the level of European policy, which has taken up the most conservative elements of various national policies in creating the “Fortress Europe” ideology for dealing with refugees. Since these policies come from the European Parliament and other pan-European institutions, it is often quite easy for local xenophobic politicians to distance themselves from responsibility during policy implementation, by arguing that excluding foreigners is simply an unfortunate necessity, handed down from above, in the preparations for an “United States of Europe”. The European Council on Refugees and Exiles has warned, however, that many of the provisions stipulated in the so-called “harmonization” of European refugee policy, are in direct conflict with Article 1 of the 1951 Geneva Convention. So, for example, the new European policy would like to view refugees as only those people in flight from persecution *by states*, tacitly excluding anyone fleeing a civil war from consideration as a refugee. In any case, however, European policy retains the right of states to pursue more liberal policy, so none of the “harmonizations” should be seen as precluding the possibility for a more humanitarian approach at a national level.⁴⁵

Between 1991 and 1994 there was a steady drop in the percentage of applicants recognized as legitimate candidates for asylum, with some increase in 1995. Between 1992 and 1995, there was a steady and unrelenting drop in real numbers of individuals given asylum in Austria. This drop is even more precipitous when one removes the Bosnian and Yugoslav refugees from the equation after the beginning of the Bosnian war in 1993. During this period, the Minister of the Interior was Löschnak who, despite being from the center-left *SPÖ*, was referred to by Jörg Haider as “our (the *Freiheitlichen*) best man in government” for his zealous application of the anti-foreigner laws.

Austrian NGOs report that, in essence, no one without political connections or an astounding amount of good luck now receives asylum in Austria. In addition to having to face the Third Country Clause, the Asylum Law of 1992 contains a clause on “plausibility” (*Glaubhaftigkeit*), instructing reviewers to decide if the asylum-seeker “seems believable” or not. From the numbers above, it is apparent that according to the reviewing authorities in Austria, not too many people who request asylum are in any way trustworthy. The ability to make a “plausible” case for oneself is also limited by the fact that many interviews are conducted with the interviewee in handcuffs, and it is often not made clear that the interview is the asylum seeker’s only chance to make his case for asylum. Also reported by the Austrian NGOs are conflicting interests of the translators delegated to the asylum-seeker, for example ethnic Turks acting as translators for Turkish Kurds during the latter’s interview for asylum. Appeals are possible, but only on formal/procedural grounds, not for substantive, content-based reasons.

According to the Law on Aliens, all applicants for asylum who did not enter Austria legally—a number which Katharina Ammann of Amnesty International puts at between 90% and 95%—must be declared illegal (*Ausgewiesen*). This occurs during the asylum process. As soon as the asylum application is rejected, the asylum seeker becomes an instant target of the Foreigner Police, who usually already possess an order to deport. From 200 cases being handled by the Traiskirchen office of the Federal Asylum Office in 1995, only 2 (or 1%) had a currently valid right of legal stay in Austria.⁴⁶

An asylum review case can go very quickly. The review of an asylum seeker entering from the East can begin at 8:00 AM on the day following his entry into Austria. By 1:00 PM he is declared ineligible for asylum, and an attempt is made to deport him to Hungary, as it is assumed that he came over land through Hungary. Since it might not be possible to prove that he has been in Hungary, and since Hungary accepts no asylum seekers from outside Europe, the asylum seeker would then spend six months in jail (*Schubhaft*) waiting to be deported. After six

months in jail, he would have to be released, according to Austrian law, but as he wouldn't be legally in the country, could be re-arrested at any time.

The *European Roma Rights Center* believes the number of Roma among asylum seekers to be at least as high, if not higher, than the proportion of Roma in the home populations of countries such as Romania and Macedonia. Romani asylum seekers from ex-Yugoslavia can expect no aid based on their ethnic background, as cases of specific persecutions against Roma have not yet been acknowledged by the international community. Nonetheless, proportions of Roma fleeing the disintegrated country seem particularly high and there is both historic⁴⁷ and contemporary evidence to show that Roma in Yugoslavia are marked out for special persecution.

9. FALLING OUT: THE SCHUBHAFT SYSTEM

The practical consequence of being declared illegal in Austria is *Schubhaft*. Schubhaft is translated into the English euphemism “preventative detention”, but is in reality arrest in preparation for deportation.

The number of illegal aliens in Austria is a heavily politicized figure which is sensitive to election dates. The right-wing Freiheitlichen claim that there are 100,000 “illegal” foreigners in Vienna, although during the 1994 parliamentary elections (*Nationalrat*), Freiheitlichen candidate Liane Höbinger-Lehrer spoke of “a total of 5 million foreigners in Austria.”⁴⁸ A study by BMI, based on water usage in Austrian households guesses at 150,000 foreigners of unclear status in Austria.

The category “illegal” includes disparate groups of Roma from completely different circumstances who would likely not regard themselves as having anything in common other than being Roma; “illegals” can be real illegals in the sense of people who have committed some crime, or they can be refused asylum seekers, long-time residents who missed deadlines, etc. What they suddenly share is a fear of falling into the Schubhaft system, as well as the new stigma of being “illegal”. As Michael Berger points out, “illegal” is a near synonym of “criminal” and closely associated in the Austrian mind, although the connection between becoming illegal and real criminality is, at best, tenuous.

The road to Schubhaft begins with an order to leave Austria (*Ausweisung*), issued by the Foreigner Police or the Interior. Now the police must, by law, issue a residence ban (*Aufenthaltsverbot*) as well as pursue all possible means to deport. The police may also issue a residence ban instead of an order to leave Austria. The residence ban differs from the order to leave in that a foreigner receiving one is barred from returning for a certain period of time.

Between 1993 and 1995, according to figures published by the Ministry of the Interior, the number of residence bans rose from 9564 to 12,683. In 1993, 3846 foreigners were declared illegal; in 1995, 7292. Until the Administrative Court ruled the practice unconstitutional, an order to leave received in the first 30 days after entry into Austria could be appealed, but the deportation could be immediately carried out. In 1995, according to the Vienna Foreigner Police, 90% of all orders to leave and residence bans were given to citizens of other European countries: Poland, Bulgaria, Romania and the republics of the former Yugoslavia.

The police must apply a residence ban or order to leave to any foreigner without a residence permit or tourist visa. Failure to do so is negligence of duty and is punishable. This situation recently caused a public protest from the head of the Foreigner Police, Stefan Stortecky, that “the company called Ministry of the Interior who produces such decisions” should be forced to carry out the “dirty work of deportation” as well.⁴⁹

In 1995, 6206 people landed in Vienna Schubhaft and 4525 of these were deported. Austria-wide, the number of people sitting in Schubhaft rose from 11,908 in 1992 to 15,070 in 1995. The number of deportations themselves rose from 8857 in 1993 to 10,772 in 1995. The overwhelming majority of these—roughly 85%—were male. Most of the deported were, again, citizens of other European countries, namely Poland, Romania or ex-Yugoslavia.⁵⁰ Additionally since the percentage of Roma among East Europeans in Austria seems to be higher than the percentage of Roma among the domestic populations of Poland, Romania and ex-Yugoslavia, it is a fair guess that the percentage of Roma among deportees is high.

If the police had their way, Schubhaft would be a mere bus stop for exiting deportees, where few would ever even spend the night. However, the dreamt-of instant deportations are in direct contradiction of Protocol 7 of the European Convention on Human Rights, which Austria signed and ratified in 1984. Thus, the common fate of aliens in Austria for the past three years

has been for individuals to sit indefinitely in Schubhaft; the Austrian authorities cannot legally deport, but will not issue a residence permit.

Austrian law prevents individuals from remaining in Schubhaft for more than six months (although an “illegal”, once released, can always be re-arrested), but fear of deportation often leads detainees to seek one of the other two roads out of Schubhaft: *Haftunfähigkeit* or suicide. Suicide is self-explanatory. *Haftunfähigkeit* is the “inability to be detained”; if a detainee’s health is threatened by being in Schubhaft, Austrian law does not allow him to be kept there. This has inspired a series of now-rather-famous hunger strikes and episodes of self-mutilation, all of which had the desired effect, at least temporarily.

Designed originally to hold prisoners only temporarily, the police were ill-equipped to handle the sudden reconception of Schubhaft as a long-term event. In Vienna, facilities have been established at the police prison houses (*Polizeihaftanstalten* - PGH) at Rossauerlände and at the Hernalser Gürtel. Michael Berger describes these as follows;

The PGHs are architecturally out-of-date and do not conform in the least to sanitary and housing standards, since they were originally conceived as intended only for short-term detainment of felons being booked. Janitorial services are almost non-existent. Detainees often do not receive proper clothing or toiletries. Until Autumn, 1995, the guards who were in charge of summoning doctors used their own discretion in deciding the seriousness of the medical condition. In Summer 1995, however, this situation was improved by the availability of application forms, by which a doctor could be ordered. Meanwhile, however, vermin such as scabies and bedbugs remain widespread.

The psychological pressure burdening the detainees is enormous. Asylum-seekers, who are for the most part newly arrived in Austria, are often never informed *why* they’ve been arrested. There is no form of psychological or social counselling in Schubhaft, only occasional legal aid from individuals associated with various charity organizations. Due to depression, self-mutilation and attempted suicide are fairly common.

Due to the reigning legal situation, in most cases no legal way out of Schubhaft exists. Many detainees therefore attempt to be declared unfit for detention or at least to have their situation publicized by going on hunger strike. In order to limit the availability of being declared unfit for detention, the authorities have set the hurdles high; hunger strikes of over 20 days are quite usual...⁵¹

Asylum applicants who receive refusals and await deportation are also often kept in cells in the basement of the Asylum Office in the Schlachthausgasse in the 3rd District of Vienna. These are, according to Michael Genner, “filthy and stinking... there is a chicken-wire cage down there, as well as a so-called ‘hand-cell’ (shackle-cells)”⁵²

The deported are a constantly recurring motif among Roma in Austria; nearly every case investigated by the *European Roma Rights Center* was marred by the absence of one or more friends or family members who had been “sent under”. In many cases this meant the practical absence of key witnesses to other cases of human rights violations being investigated. In other cases, such as that of Zoran Vasić, it was the victim himself who was missing.

10. CONCLUSION: DEPORTING THE POOR

Poverty is its own discrimination. The poor already bear a range of disadvantages which set them behind in the theoretically free run of social competition. A state has a number of options in facing the dilemma of how to reconcile poverty with the ambition of creating a just society; it can choose to undertake various programs to ameliorate the disadvantaged—often at cost to the rich or more comfortable. Or it can choose not to undertake such programs and instead to deploy certain arguments about the merits of austerity and competition in making the poor societally fit—This is the American model of working hard to elbow one’s way into the middle class.

The Austrian model is an ugly hybrid; the state presently has an 80-year-old social safety net which it has agreed to relinquish as part of the preparations for entry into the complex arrangement of a federal Europe. However, the austerity envisioned by these preparations is deeply unpopular. As a result, the ethnic card has entered the political landscape; in order to maintain the Austrian “standard-of-living” (lots of money for everybody), the definition of who is an Austrian has been narrowed to include only the bare minimum.

The rest are targeted by the familiar ideological arguments—dark-skinned foreigners with accents represent an economic “fifth column” which, through processes unseen and possibly unimaginable, will steadily eat away at the Austrian “way of life”. Simultaneously blamed as a burden on the welfare state and an overly-eager work force with secret and alien ways, the foreign poor suddenly find their dark skin has become the obsessional locus for the free-floating anxiety of every panicky pensioner, doom-saying journalist or opportunistic politician in Austria.

Meanwhile, the line separating insiders from those excluded is gray and has an ever-shifting border, so a game of first-in-the-lifeboat-push-out-the-rest has arisen among the foreign poor, which invariably ends with Roma; last to comprehend the change in social atmosphere, Roma remain those with the least chance to adjust to it. The cycle of exclusion born of the historical experience of Roma is confirmed, re-performed, and reinforced.

Now, lots of money is available to everybody, although everybody is only a select (and ethnically correct) segment of the population. Now this is obviously unjust. And since it is an unacceptable arrangement to everyone with an interest in Austrian society—most Austrians—, there is an implied next step, to which most Austrians silently agree, but which is never discussed in public, as that would be distasteful and un-Austrian.

The implied next step is that the excluded poor, those edged out in the process of maintaining the lots-of-money-for-almost-everybody-who-has-the-correct-ethnic-background-system (“Austrian Socialism”) should be made to go away, so they won’t cause such a constant pang on the Austrian conscience (as well as driving away precious tourists). Thus, a normalized system of bureaucratic hassle and harassment, spiced with a few incidents of open violence, has been created to make life unbearable for the excluded poor.

And deportations. Lots of deportations. While Austria liberalized its trade policies, opened its arms to new flows of international finance, goods and tourism from around Europe and the Anglo-American world, it simultaneously jettisoned long-term residents.

Since the early 1990s, Austria became an even more international and multi-cultural society than it had been already, conforming to general trends all over Europe. The only significant change was that a sharp set of restrictions had suddenly been levelled against the legally-settled foreign poor. Anyone prepared to pay was welcome, as was anyone willing to operate in the half-light of the black market and illegality. Without both these groups, the Austrian economy would cease to function, dependent as it is on both the tourist industry and the flea market for an influx of foreign cash and cheap goods. The full weight of the three laws passed between 1992

and 1993 were aimed at driving out those attempting to continue living and working in Austria legally, as they had done for the previous twenty years. It was precisely those groups who suddenly discovered that they bore the full weight of Austrian xenophobic anxiety.

One day soon, Austria may again be an unnoticed (and white) “Alpine Republic” with no noticeable social problems which can’t be worked out among friends, in the Austrian way. But this will only be because Austria will have expelled all of its real social problems to the East, recreating and reinforcing the already drastic geographic division of wealth, and saddling other, poorer states with aggravated social conditions caused by the surprise influx of populations over a short period of time.

11. **A JUST SETTLEMENT: RECOMMENDATIONS OF THE EUROPEAN ROMA RIGHTS CENTER TO THE AUSTRIAN GOVERNMENT**

1. The *European Roma Rights Center* regards the following points as crucial for beginning the process of justice for Roma in Austria. The *ERRC* strongly urges the Austrian government to adopt all of the following policies:
2. Strenuous adherence to all international human rights treaties and conventions to which Austria is a party.
3. In accordance with point 1 above, prevention of the arbitrary expulsion of Roma, as enshrined in Article 13 of the International Covenant on Civil and Political Rights (ICCPR), as well as Protocols 4 and 7 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).
4. In accordance with point 1 above, and in close connection with point 2 above, protection of the rights of Roma to family and privacy, as envisioned by Article 17 of the ICCPR and Article 8 of the ECHR.
5. In accordance with point 1 above, and in close connection with both points 2 and 3 above, security and protection of Roma by the state against rights violations, as envisioned in Article 9 of the Universal Declaration of Human Rights (UDHR), Articles 2 and 9 of the ICCPR, and Article 5 of the ECHR.
6. Fully empowering citizenship. Situations of the kind experienced by Čevrije Asanoska reveal the presence of a second-class of citizenship which does not afford full empowerment to Romani citizens of Austria.
7. Automatic citizenship for all Roma born in Austria. The *European Roma Rights Center* interprets Articles 15 of the UDHR and 24 (section 3) of the ICCPR as requiring governments to recognize this right. The United Nations also seems to favor this interpretation, as it is the position taken in the Convention on the Reduction of Statelessness.
8. Significant widening of the Romani ethnic group status to include a more representative population of Austrian Roma. The Parliamentary Assembly of the Council of Europe endorsed this view in Recommendation 1203 (1993) on Gypsies in Europe, Article 11, section xiii, stating that “the provisions of any additional protocol or convention relating to minorities should apply to non-territorial minorities.”
9. An end to culturally specific or subjective criteria, such as an “accommodation according to the standards of the community”, for work permits, residence permits and citizenship, in accordance with Articles 2 and 26 of the ICCPR, Articles 2 and 7 of the UDHR, as well as the United Nations Convention on the Elimination of All Forms of Racial Discrimination.
10. The creation of legal mechanisms for the redress of discrimination complaints by both citizen and non-citizen Roma, in accordance with Article 13 of the ECHR, Article 8 of the UDHR, Article 26 of the ICCPR, as well as Article 6 of the UN Convention on the Elimination of All Forms of Racial Discrimination.
11. “Amnesty” for all Roma deported or driven into illegality through the new Residence Law, Law on Aliens, and Asylum Law, especially where measures taken caused individual Roma to become stateless. See Article 15 of the UDHR, as well as the Convention Relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

- Full access to a real and legitimate asylum procedure, as envisioned by the Convention Relating to the Status of Refugees, as well as by Article 14 of the UDHR:
 - No visa requirements for asylum seekers.
 - Rejection of the use of “Safe Third Country” policies.
 - Removal of the power of Border Police to act as reviewers of asylum claims.
 - The creation of an independent body for handling asylum applications. This institutional body should be responsible solely for asylum, taking into account only conditions in the country-of-origin, not Austrian foreign or internal policy.
12. Due process during the asylum procedure as provided by Article 6 of the ECHR and Article 14 of the ICCPR:
- Ready availability of legal aid and explicit ability to contact local NGOs concerned with refugees.
 - Ready availability of competent interpreters.
 - Adequate time to prepare a case.
 - Rejections in written form only.
 - The right to appeal negative decisions.
13. An end to the use of subjective and discriminatory criteria, such as “plausibility”, in determining who qualifies for asylum, as provided by Article 3 of the United Nations Convention relating to the Status of Refugees.
14. A return to the idea of asylum, whereby Austria recognizes the legitimate fears of asylum seekers of being persecuted in their country of origin. This is the sense of Article 14 of the UDHR, as well as all subsequent efforts by the international community to make Article 14 more explicit. The view of asylum presently being enforced in Austria seeks, by all means possible, to minimize the chance that a foreigner will remain in Austria. This is in direct contradiction with international instruments regulating asylum, especially Article 1, section 2 of the United Nations Convention relating to the Status of Refugees, which explicitly defines individuals to be considered legitimate candidates for asylum.

With respect to Roma, the Parliamentary Assembly of the Council of Europe took the position, in Recommendation 1203 (1993) on Gypsies in Europe, Article 11, section xv, that “it should be acknowledged that the fact of being the victim of a pogrom, or of having reasonable fear of becoming the victim of a pogrom, against which the authorities refuse or prove unable to offer effective protection can, in individual cases, constitute a well-founded fear of persecution for being a member of a particular social group, as indicated in the 1951 United Nations Convention relating to the Status of Refugees.”

15. Police, Social Office, Citizenship Office, and Asylum Office accountability; the creation of review boards—with Roma as members—independent of other government bodies, whose purpose is to ensure that hearings in public offices are fair and unbiased.
16. Widespread publication of changes in Austrian citizenship, residency, and labor laws and a reasonable period of time prior to their taking effect.

12. BIBLIOGRAPHY

1. Baumgartner, Gerhard, 6X Österreich: Geschichte und aktuelle Situation der Volksgruppen, Vienna: Initiative Minderheiten/DRAVA Verlag, 1995.
2. Österreichische Volksgruppenhandbücher: Roma, Vienna: Österreichisches Volksgruppenzentrum, 1996.
3. Berger, Michael, “Fremd und Unerwünscht; Zur sozialen und rechtlichen Lage von Ausländern und Ausländerinnen ohne Aufenthaltberechtigung in Wien”, unpublished, 1996.
4. Çinar, Dilek; Hofinger, Christof; Waldrauch, Harald; Integrationsindex; Zur rechtlichen Integration von Ausländerinnen in ausgewählten europäischen Ländern; Vienna: Institut für Höhere Studien, 1995.
5. Judt, Tony, “Austria and the Ghost of the New Europe”, in *New York Review of Books*, Vol. XLIII, Number 3, February 15th, 1996.
6. Sully, Melanie A., A Contemporary History of Austria, New York: Routledge Press, 1990.
7. Perchinig, Bernhard, “Die rechtliche, ökonomische und soziale Situation von Migrantinnen in Österreich”, prepared for the Conference on migration in the new member states of the European Union, December 15–16, 1995.
8. Baumgartner, Andreas and Herczeg, Petra, “Bomben gegen Minderheiten—rechter Terror in Österreich; Opfer, Täter und der staatstragende Reflex der Medien”, Vienna: Stratum 4; das Team für interdisziplinäre Sozialforschung, 1995.
9. Karoly, Mirjam, “Roma und Sinti in Österreich” in Handbuch der Minderheiten, publication forthcoming.
10. Heinschink, Mozes F. and Hemetek, Ursula, eds., Roma, Das Unbekannte Volk: Schicksal und Kultur, Vienna: Böhlau Verlag, 1994.
11. UNHCR, “Flüchtlingsalltag in Österreich: Eine quantitativ-qualitative Analyse der Vollzugpraxis des Asylgesetzes 1991”, Vienna, 1994.
12. On Gypsies: Texts Issued by International Institutions, compiled by Danbakli, Marielle, Centre de Recherches Tsiganes, Toulouse: Centre National de Documentation Pédagogique de Midi-Pyrénées, 1994.

13.A. Appendix 1: Exerpt 1 of German Original of Interior Ministry Report Concerning the Beating of Nicola and Violetta Jevremović

...schlug der J. plötzlich und unvermutet mit der Faust auf mich ein, wobei er mich zweimal am Brustkorb traf. Weiteren Schlägen konnte ich ausweichen. In weitere Folge gelang es uns den J. festzuhalten, um damit weiteren Schlägen vorzubeugen. J. konnte sich jedoch losreißen und ging abermals auf mich los. Zum Zweck der Eigensicherung, da nicht ausgeschlossen werden konnte, dass J. auf Grund seiner Aggressivität weiter massive Angriffe gegen uns setzt, bzw. eine Waffe (Messer, usw.) bei sich hat und diese verwendet, wurde von mir die Dienstwaffe gezogen...Beim Anblick der gezogenen Dienstwaffe, lief J. vom Tatort in Richtung Jägerstrasse davon. J. konnte von mir eingeholt und festgehalten werden, riss sich jedoch wieder los und flüchtete weiter...

13.B. Appendix 2: Exerpt 2 of German Original of Interior Ministry Report Concerning the Beating of Nicola and Violetta Jevremović

Wie aus der Meldung des RevInsp F. betreffend die ebenfalls zur Anzeige gebrachte Ehegattin J., zu entnehmen ist, wurde er von der Angezeigten von hinten angesprungen und angegriffen. Nachdem diese Notlage durch die weiters anwesenden Beamten in den Griff gebracht werden konnte, wurde die Wohnung, in Hinblick auf die gegen seitige Eigensicherung, von uns weiter unter Beobachtung gehalten. Im gegenständlichen von uns betretenen Wohnschlafraum konnte J. von uns wahrgenommen werden, wie dieser plötzlich aus einem Versteck heraus aufstand. Dabei handelte es um einen Hohlraum zwischen der Sitzcouch und der Wand. Dort waren Mehrere Decken und Polster übereinandergestapelt.

Er sprang mit einem Satz gegen uns anwesenden SWB und attackierte uns ansatzlos, schnell und mit schier unbegreiflicher Aggressivität. RevInsp M. und Ml. konnten noch ausweichen, Insp. P. konnte den Angezeigten an der Schulter erfassen und von den anderen Beamten wegdrängen. Die Aufmerksamkeit des Täters war nun auf Insp. P. gerichtet. Er ging mit beiden Fäusten auf diesen los, wobei es ihm zuerst gelang, den Körpertreffern auszuweichen. Der Angezeigte setzte jedoch ungeachtet dessen Angriffe weiter fort und traf Insp. P. mehrmals am Körper und an den linken Hand.

Insp. P. konnte den Angriff durch einen gezielten, mit voller Intensität geführten, linken Aufwärtshaken, der mit der geballten Faust vorgenommen wurde, beenden. Diese gegen die körperliche Integrität geführte Abwehrmassnahme zeigte die gewünschte Wirkung und konnte J. in weiterer Folge mit masshaltender Körperkraft am Boden fixiert und gesichert werden...

Durch die durch J. ungezielten gegen Insp. P. geführten Faust schläge wurde dieser an der li. Hand im Bereich des linken Daumens verletzt. Lt. beiliegendem a.ä. Gutachten handelt es sich um eine Verstauchung des linken Daumens. Insp. P. verbleibt weiterhin im Dienst.

ENDNOTES

- 1 The Freiheitlichen are occasionally described as a neo-liberal party, or a party embracing many different political tendencies. They were previously the *Freiheitliche Partei Österreichs (FPÖ)*—Freedom Party of Austria. Following a new, xenophobic and racist course in the early 1990s under the influence of party leader Jörg Haider, however, the FPÖ was kicked out of the pan-European club of liberal parties. Much of the neo-liberal, business- and Europe-oriented wing of the group then split from the party to form the *Liberales Forum*. Since that time, the Freiheitlichen, who have regularly commanded between 20% and 25% of the national vote, can accurately be described as primarily a party of xenophobia. Previous to the local elections in December 1995, the party changed its name from FPÖ to *Freiheitliche Bewegung*—Freedom Movement—in an attempt to draw on the appeal of an American-style “movement”, as well as to point, in coded form, to its Nazi ancestry. On Haider and the post-1989 political reorientation of Austria, see Judt, Tony, “Austria and the Ghost of the New Europe,” in *New York Review of Books*, Vol. XLIII, Number 3, February 15th, 1996; on the Waldheim Case, the role of Bruno Kreisky and the absence of an Austrian reckoning with Clerico-Fascism and the *Anschluss* (a post-war *Vergangenheitsbewältigung* of the German kind), see Sully, Melanie A., *A Contemporary History of Austria*, New York: Routledge Press, 1990.
- 2 *Neue Kronen Zeitung* or “Krone”, commands roughly 40% of the Austrian readership in terms of daily sales, as well as being the most common newspaper to be found in bars and cafes. “Staberl” is a columnist whose regularly anti-foreigner, pro-Haider pieces have won him his own chapter in the *Handbook of Austrian Right-Wing Extremism*. Krone’s folksy-tabloid style, which combines racially stereotyped caricature, soft-pornography, and Staberl, is blamed as a key source of the growing tolerance of right-wing extremism and anti-foreigner sentiment.
- 3 “Staberl”, *Neue Kronen Zeitung*, February 9th, 1995.
- 4 “Einstellung der Österreicher zu Juden und dem Holocaust”, American Jewish Committee, Österreichisches Gallup-Institut, Vienna, 1995, p.3.
- 5 *Romano Centro*, March, 1995, p.12.
- 6 Baumgartner, Andreas and Herczeg, Petra, “Bomben gegen Minderheiten—rechter Terror in Österreich; Opfer, Täter und der staatstragende Reflex der Medien” Vienna: Stratum 4; das Team für interdisziplinäre Sozialforschung, 1995, p.7.
- 7 Baumgartner and Herczeg, op. cit., p.4.
- 8 The word “minority” (*Minderheit*) is scrupulously avoided in Austrian political speech, since Austria has been conceived historically not as a nation-state, but rather as a home for “nationalities”. This dates from Austro-Marxist responses to the rise of ethnic nationalism in the Austro-Hungarian Monarchy, such as Otto Bauer’s *Die Nationalitätenfrage und die Sozialdemokratie* (1907).
- 9 Baumgartner, Gerhard and Perchinig, Bernhard, “Minderheitenpolitik in Österreich—die Politik der österreichischen Minderheiten”, in *6 X Österreich; Geschichte und Aktuelle Situation der Volksgruppen*, Baumgartner, Gerhard ed., Vienna: Initiative Minderheiten/DRAVA Verlag, 1995, pp. 15–23. Baumgartner and Perchinig describe a steady liberalization of minority politics in Austria up until 1994, when the process was halted by the renewed wave of bomb attacks against left-leaning and minority targets. High points of political successes by the other ethnic groups included a 1987 decision by the Austrian Constitutional Court allowing Croatian to be used as an administrative

language in six of seven districts (*Bezirke*) in Burgenland, and the 1991 decision by a court in Klagenfurt that the use of one's native language in school settings was not regionally contingent. The latter annulled the 1959 "Minority Schooling Law" (*Minderheitenschulgesetz*).

- 10 See Luther, Kurt Richard and Müller, Wolfgang, eds. Politics in Austria: Still a Case of Consociationalism?, London: Frank Cass and Co., Ltd., 1992. Here Consociationalism is described as "... in certain subculturally segmented (or 'encapsulated') societies, where one might expect to find political immobilism, or instability, these characteristics are avoided as a result of a typical type of political response. At its core lies a willingness and capacity of political elites to engage in overarching behavior to stabilize the system." (p.10). This is another way of saying that due to the widespread fear of civil war or dictatorship, consensus politics has become the norm.
- 11 See Karoly, Mirjam, "Roma und Sinti in Österreich", p.5, in Handbuch der Minderheiten, publication forthcoming.
- 12 Interview with the *European Roma Rights Center*, May, 1996.
- 13 This was earlier listed in the Residence Law as the necessity of having 10 square meters per person in one's apartment. In this earlier form, this condition made giving birth a possible ground for loss of the residence permit. Protest on the part of NGO's caused a change in the wording of the law to "accommodation according to the standards of the community." The new version of the law is, however, accompanied by an introductory chapter sent to all authorities, instructing them on how to apply the law. As this introductory chapter lies outside the wording of the law, it is not a public document and cannot be the target of legal challenge.
- 14 Perchinig, Bernhard, "Die rechtliche, ökonomische und soziale Situation von Migrantinnen in Österreich" prepared for the Conference on migration in the new member states of the European Union, December 15–16, 1995, pp.8–9. The passage sighted was prepared with the help of Dr. Karen König, *Wiener Integrationsfond*, an organization which works closely with foreigners. In an interview with the *European Roma Rights Center*, König claimed that "a high percentage of the people who come to us from the former Yugoslavia are Roma".
- 15 *European Roma Rights Center* interview with Karin König, March, 1996.
- 16 There is no equivalent in English for the three terms for work permit in this paragraph more nuanced than "work permit". It has therefore been necessary to leave the German untranslated.
- 17 On March 25th, 1996, Social Affairs Minister Hums announced that those non-EU citizens holding only a *Beschäftigungsbewilligung* may only change jobs within their own field of employment—i.e., auto workers may not become line cooks, who may not become janitors, etc. This would seem to add a *de facto* fourth step to the three-step process.
- 18 Erich, Renata, unpublished lecture in Jarovnice, Slovakia, May, 1996.
- 19 Interview with the *European Roma Rights Center*, March, 1996.
- 20 Fassmann, H., Hofer, K.M., Fischer, G., John, M., "Beiträge zur Historischen Sozialkunde: Multikultureller Alltag in Wien", quoted in Berger, Michael, "Fremd und Unerwünscht", Zur sozialen und rechtlichen Lage von Ausländern und Ausländerinnen ohne Aufenthaltsberechtigung in Wien" unpublished senior thesis, March, 1996, p.36.
- 21 *European Roma Rights Center* interview with R.G., March, 1996. Where requested, or where the *European Roma Rights Center* believes there is a reasonable chance of danger to the

victim or witness, initials have been used in the place of names. In all cases, all further details about witnesses or victims will not be disclosed.

- 22 *European Roma Rights Center* Interview with Vladimir Adamović, May, 1996.
- 23 Ibid.
- 24 Erich, Renata, letter to Austrian state radio on behalf of Maria Pascher, May 23rd, 1996.
- 25 Pro Forma marriages are legal marriages which the authorities believe were not consummated.
- 26 *European Roma Rights Center* has information about 40 cases of official investigation of Pro Forma Marriages, but withholds the names of the spouses.
- 27 *Wiener Einsatzgruppe Alarmabteilung*—“Vienna Commando Group, Alarm Department”
- 28 *European Roma Rights Center* interview with Violetta Jevremović, May, 1996.
- 29 Word not understood by victim.
- 30 Ibid.
- 31 “... uns grundlos, lautstark und heftig gestikulierend zu beschimpfen.”
- 32 “Report of the Interior Minister of the Austrian Republic to the President of the National Council (*Nationalrat*)”, July 1, 1996, pp.2–3. See Appendix 1 for the original German text.
- 33 In the Ministry report, these are “Stkw Sek.1, Sek.5, TH/1, TH/2, B/4, B/3, Tasso 5 und der Rayonsposten TH/16 (Insp K.)”.
- 34 “... von uns weiter unter Beobachtung gehalten”—This presumably means that they searched the flat.
- 35 “Report of the Interior Minister”, *ibid.*, pp.5–8. See Appendix 2 for the original German text.
- 36 This counter-intuitive crime is ascribed in the Interior Ministry report to Article 175 Paragraph 1, subsection 1 StPO. Article 175, paragraph 1, subsection 1 provides instances in which the procurement of arrest or search warrant can be waived. There is no mention of “suspicion of resisting arrest” in the statute.
- 37 *European Roma Rights Center* interview with Slobodan Metrović, March, 1996.
- 38 Law on Aliens, Paragraph 18, Section 2.
- 39 Çinar, Dilek; Hofinger, Christof; Waldrauch, Harald; Integrationsindex; Zur rechtlichen Integration von Ausländerinnen in ausgewählten europäischen Ländern; Vienna: Institut für Höhere Studien, 1995, p.2.
- 40 Interview with the *European Roma Rights Center*, March, 1996.
- 41 *Der Standard*, April 1, 1996.
- 42 Interview with the *European Roma Rights Center*, March, 1996.

- 43 This is by no means the total number of people deported, as will be clear from the next section.
- 44 Interview with the *European Roma Rights Center*, March, 1996.
- 45 "Note from the European Council on Refugees and Exiles on the Harmonisation of the Interpretation of Article 1 of the 1951 Geneva Convention", ECRE, June, 1995.
- 46 UNHCR, "Flüchtlingsalltag in Österreich: ein quantitativ-qualitative Analyse der Vollzugspraxis des Asylgesetzes 1991, Vienna, 1994, p.24.
- 47 Rieger, Barbara, "Verfolgung von Roma in Jugoslawien, 1941–1945" in Roma, das unbekannte Volk; Schicksal und Kultur, Heinschink, Mozes F. and Hemetek, Ursula, eds., Vienna: Böhlau Verlag, 1994, pp. 97–108.
- 48 Berger, op. cit., p.32.
- 49 *Der Standard*, June 12, 1996.
- 50 Quoted in Berger, op. cit., p.33.
- 51 Berger, op. cit., P.40.
- 52 Interview with the *European Roma Rights Center*, March, 1996.