

PASSIVISATION OF ADDRESSES OF ALBANIANS

in the Preševo Valley
as Discriminatory
Practice



Impressum

Publisher

Inicijativa mladih za ljudska prava (YIHR Serbia)
Dobračina 4, Beograd

For publisher

Bojan Stanković

Authors

Marko Milosavljević
Dr Miloš Rašić

Translation

Ivana Radović

Design and pre-press

Boris Firicki

Report 'Passivisation of Addresses of Albanians in the Preševo Valley as Discriminatory Practice' was produced within the project 'Exposing Discrimination Practices in Presevo Valley', implemented jointly by the Youth Initiative for Human Rights and Human Rights Committee from Bujanovac with support of the Rockefeller Foundation from the United States of America.



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INTRODUCTION

The Youth Initiative for Human Rights conducted, in the period of July-September 2023, research in the municipalities of Bujanovac, Preševo and Medveđa with a view to examining discriminatory practices in relation to the abuse of the 2011 Law on Temporary and Permanent Residence. The research focuses on the passivisation of home addresses of citizens belonging to Albanian minority. The legal mechanism employed to that end is noting in the records of a competent authority that a certain citizen does not live at the address of their registered temporary or permanent residence.

The Law on the Prohibition of Discrimination was passed in 2009 as an expression of attempt to regulate the area whose regulation by law is one of the basic prerequisites for exercising human rights and freedoms. Before this law, which has introduced general prohibition of discrimination and defined basic concepts in this area, the Law on Prevention of Discrimination against Persons with Disabilities was passed in 2006 as the first law in Serbia's anti-discrimination legislation.

The Law on the Prohibition of Discrimination defines discrimination and discriminatory treatment as any unwarranted discrimination or unequal treatment, that is to say, omissions (exclusion, limitation or preferential treatment) in relation to individuals or groups, as well as members of their families or persons close to them, be it overt or covert, on the grounds of race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, sex, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations, and other actual or presumed personal characteristics.

The research team of the Youth Initiative for Human Rights made four field visits to the Preševo Valley and conducted 23 in-depth interviews with citizens, 24 in-depth interviews with political actors, including representatives of the municipalities of Bujanovac and Preševo, as well as representatives of the Government of Serbia Coordination Body for three municipalities in Southern Serbia. This Report has been written to serve as a guide to the institutions of Serbia which will examine

in full the allegations of restrictive implementation of passivisation of addresses towards the citizens of Serbia of Albanian nationality.

The issue of position of national minorities is of great importance for successful conclusion of negotiations on Chapter 23 (judiciary and fundamental rights). In that respect, in addition to other significant issues, the full integration of citizens belonging to Albanian minority is going to determine when and in what manner will Serbia build democratic institutions and access the European Union.

METHODOLOGY

The methodology applied in this paper is based on qualitative research, in particular, in-depth interviews, focus group discussions, and roadmaps. In-depth interviews represent a qualitative research method that enables the collection of comprehensive information about a certain phenomenon. This type of interviews generates more detailed and comprehensive data in comparison with the direct and short answers obtained through surveys or similar methods.¹ Focus group discussions are also a qualitative research method used for data collection through group interaction on a specific topic or issue. This method requires gathering a group of participants who share similar characteristics or experiences, and allows discussion on pre-determined topics.² The key characteristic of focus group discussions is the use of group interaction as a tool for producing data and insights that would be less available without them.³

During the research, our goal was to use semi-structured in-depth interviews to hear individuals who were directly subjected to the processes of passivisation of addresses, those who learnt about it indirectly from their cousins, friends or broader community, as well as local politicians and activists who were dealing

1 Vučinić Nešković, Vesna. 2013. *Metodologija terenskog istraživanja u antropologiji: od normativnog do iskustvenog*. Beograd: Srpski genealoški centar i Odeljenje za etnologiju i antropologiju Filozofskog fakulteta.

2 Agar, Michael and James MacDonald. 1995. "Focus Groups and Ethnography". *Human Organizations* 54(19): 78-86.

3 Morgan, David. 1988. *Focus Groups as Qualitative Research*. Newbury Park: Sage.

with these issues. In this way, we sought to gain better understanding of: (i) their experiences with regard to the passivisation of addresses; (ii) limitations they encountered while their addresses were passivised; (iii) interaction they had with public authorities in this process, with special emphasis on the police treatment of passivised citizens; (iv) access to information the respondents had about passivisation; and (v) broader discrimination process in the context of this issue.

In-depth interviews were conducted with two participants at the same time by one or two researchers. The interviews took place in various settings: at respondents' homes, local nongovernmental organisations, state institutions (e.g. cultural centres and public libraries), and in local restaurants. The respondents were selected based on non-probability sampling with purposive, i.e. expert sampling, which includes individuals whose personal experience may offer relevant views on the topic of the research.⁴ The sampling of respondents was done with the assistance of local nongovernmental organisations or individuals who directed us, during the research, towards other citizens with the experience of passivisation of addresses (the so-called snowball technique).

In-depth interviews were supplemented with focus group discussions organised in situations when it was possible to gather a larger group of respondents who share the same or similar experiences in terms of passivisation of addresses. Focus group discussions included 4 to 7 respondents on average and were conducted by two researchers.

During the in-depth interviews and focus group discussions, we used a set of questions to follow the overall process of passivisation of addresses. In addition to basic analysis of the material, this approach sought to build a roadmap which the respondents had to pass in such cases. In that respect, the goal was to:

- map formal and informal paths of procedural steps towards the passivisation of addresses;
- assess the understanding and priorities of each step;

⁴ Vučinić Nešković, Vesna. 2013. *Metodologija terenskog istraživanja u antropologiji. Od normativnog do iskustvenog*. Beograd: Srpski genealoški centar, p. 34.

- identify limitations and advantages in order to develop recommendations for improving the overall process of passivisation of addresses.

The following table shows the basic structure of respondents included in the in-depth interviews and focus group discussions in all three locations.

	Citizens		Political actors and organisations	
	Male	Female	Male	Female
Medveđa	13	6	3	1
Bujanovac	2	/	7	1
Preševo	2	/	10	2
TOTAL: 47				

Research Instrument

Having in mind that an interview guide is of key importance for focusing the research, we designed a semi-structured questionnaire. The questionnaire contained main topics and questions the research sought to cover, whereby it was possible to skip, change or add questions during the interview, following the respondents' course of narration. This is the advantage of a semi-structured in-depth interview and allows flexibility during the research.⁵

The guide for the in-depth interviewing consists of several sets of questions: (i) respondent's demographic characteristics; (ii) experiences and behaviours during passivisation; (iii) opinions on and assessments of the passivisation; (iv) factual knowledge about the passivisation; (v) sensory experiences (what the respondents heard or saw) of the passivisation.

Research Ethics

The research about the passivisation processes and other forms of discrimination against the Albanians in the south of Serbia implied upholding high ethical standards with a view of protecting both respondents and researchers. The

research was conducted in such a manner that the rights of all involved individuals were fully protected according to the 'do no harm' principle. Such an approach is based on creating supportive environment which ensures that there are no risks for respondents or that the risks involved do not exceed those the respondents face in their everyday lives or routine surveys. Prior to each interview or focus group discussion, the participants were introduced with the research itself, the purpose of data collection and ethical norms, and they signed written consents to participating in the research. Further, respondents' personal information obtained during the research have not been shared with administrative, political, law enforcement, military or judicial authorities. Members of the research team took all measures to maintain the confidentiality of obtained information. Collected data were anonymised in order to prevent the possibility of revealing personal data of research participants.

In view of the very sensitive situation of the Albanian community in the south of Serbia, the research team organised interviews at locations the respondents chose as safe and adequate. All obtained data were used exclusively for this project and for drafting this report, without respondents' personal data. The collected data will be stored in safe databases of the organiser of the research and will not be disclosed to anyone.

RESPONDENTS' DEMOGRAPHIC STRUCTURE

RESPONDENTS

Sex:	Male 37	Female 10			
Citizens: 23	Political activists: 24				
Age groups*:	18-30 1	30-50 7	50-65 6	> 65 9	
Education:	No formal education 5	Primary school 6	Secondary school 4	University education 8	
Language fluency:	Only Albanian 7	Only Serbian /	Basic level Serbian 7	Fluent in both languages 9	
Employment status:	Employed 5	Unemployed 5	Retired 9	Welfare 1	Temporary jobs 3

TOTAL: 47

* 'Age group' category applies to citizens only.

The overview of the demographic structure shows that our respondents, citizens faced with the problem of passivisation, are mostly above 50 years of age, with no or lower level of formal education and poor fluency in the Serbian language. They are mostly retired or unemployed; the employed or those with temporary jobs appear less frequently, while one respondent is a recipient of social welfare. Respondents with higher education and those fluent in both Albanian and Serbian are represented much less.

ROADMAPS

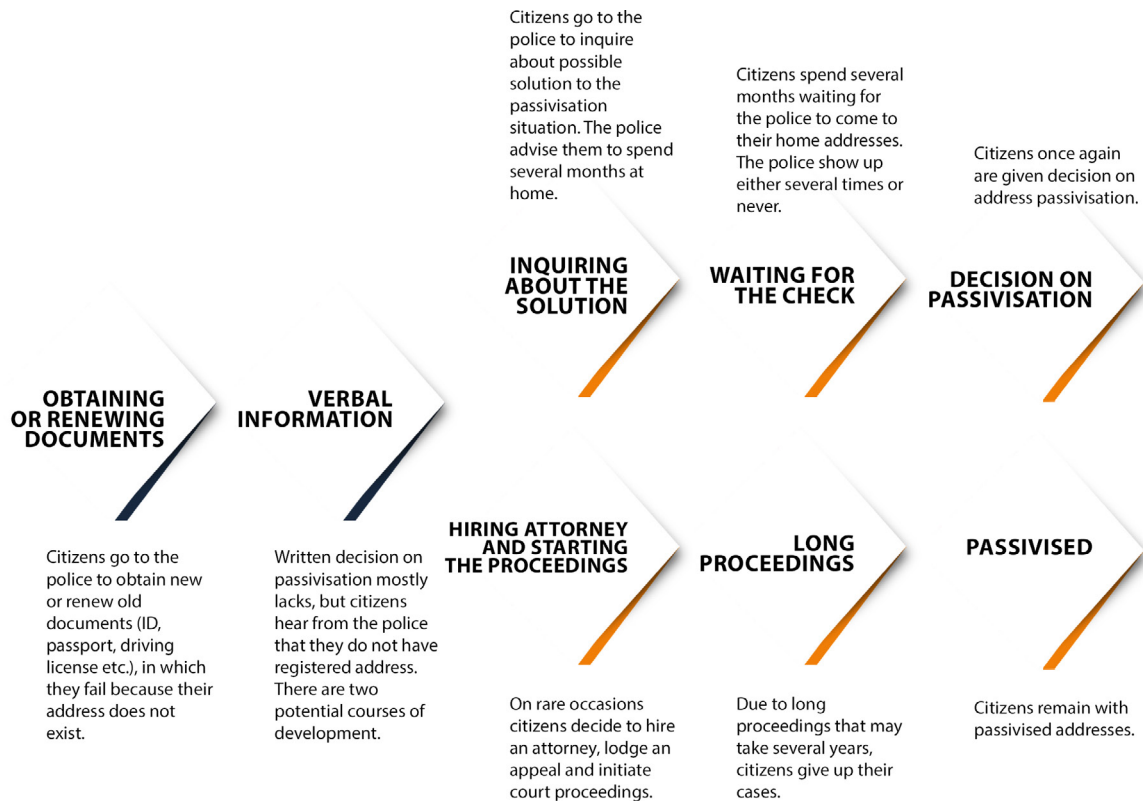
Roadmap is a visualisation of phases which an individual goes through in the event of address passivisation. It supplements subsequent textual analysis. Having in mind the existing differences in the processes, we present two roadmaps here – one made according to legislative framework, which shows how the process of passivisation should look like and the other, made according to the experiences of respondents from Bujanovac, Medveđa and Preševo, as the ideal-typical model of respondents' experiences in this process.

Roadmap according to the Law on Temporary and Permanent Residence of Citizens



The process of passivisation, including the rights and possibilities of persons whose addresses are passivised, is clearly specified in Article 18 of the Law. Primarily, the police may conduct a check to determine whether the citizen lives at the registered address only at the request of a court, other authorities, legal and natural persons. If it is established that the citizen is not at the registered address, competent authority shall render a decision of passivisation, and the citizen has the possibility to register their permanent or temporary residence within the period of eight days. If no registration is done within the prescribed period, the police shall allocate a new address to the citizen, specifically the address of their spouse or common-law partner, parents, institution in which they are accommodated or social welfare centre. The citizen may lodge a complaint against the decision on the assigned address within the period of eight days. In the event of complaint, the police shall again establish the fact of permanent or temporary residence at the registered address and render a new decision.

Roadmap according to respondents' ideal-typical experience



The roadmap which citizens with passivised addresses go through is significantly different from the one envisaged by the Law. It usually starts with an individual's going to the police in order to obtain or renew personal documents (e.g. identity card, driving license, passport). At that point, they are verbally informed by the police officer that they do not have a registered address of their permanent or temporary residence. Since a written notification is missing, citizens do not have the possibility to complain against the passivisation of address within the period of eight days as prescribed by the law. The roadmap further divides into two potential directions. Within the first potential direction, the citizens inquire with the police officers about the possible solutions to the passivisation and get advised to expect

a field check by the police officers at their home address in the following months. Citizens wait at their home addresses up to six months while the police either come several times or do not appear at all. At the end of this road, citizens mostly receive a decision on a repeated address passivisation. Within the second potential direction, citizens decide to hire an attorney and initiate court proceedings. The procedure of administrative dispute begins and due its duration – it may last up to two years in some cases – citizens give up and remain with their addresses passivised.

Comparative overview of roadmaps

Law	Check request	Checking the fact of	Registration of address within 8 days	Decision on passivisation	Complaint	Repeated check of the	New decision
Respondents	/	/	/	Verbal notification on passivisation	Inquiring about rights or filing a	Waiting for the police	Passivisation
☺							
☹						●	●
☹	●	●	●	●	●		

The comparative overview of the roadmaps, the one envisaged by the Law and the other experienced by the respondents, is illustrative of the basic shortcomings that occur in the event of passivisation of citizens' addresses, and indicate the fact that almost none of the segments of this road envisaged by the Law is complied with. In the case of our respondents, the first three stages of the road are mainly lacking; as for the third – that their addresses are passivised - they are verbally informed about it by the police officers, contrary to the Law. The fourth stage of the road, the complaint, mostly does not occur because previous procedures were not followed, thus the citizens fail to make use of the eight-day complaint period envisaged by the Law. The last two stages are closest to what is prescribed in the

Law. The repeated check of the address following a complaint is provided for by the Law, as well, although it is not clearly defined as for how long it should take. At the end of the road there is the issuance of new decision, which is in accordance with the Law, but our respondents' experiences indicate that even after repeated checks they remain passivised. The fact that we registered a large number of respondents whose addresses are permanently passivised, meaning that they do not have registered permanent or temporary residence, indicates that the Law on Permanent and Temporary Residence of Citizens is violated, as it specifies that competent authority shall '... ex officio, passivise the address of permanent or temporary residence in the event of termination of citizenship of the Republic of Serbia or citizens' death' (Article 18, para. 6). In other words, addresses may be passivised only if a person is no longer a citizen of the Republic of Serbia or if they pass away; otherwise, every citizen of the Republic of Serbia must have an address of permanent or temporary residence, at least an address formally allocated to them.

HISTORICAL AND POLITICAL OVERVIEW OF THE PREŠEVO VALLEY

Preševo (Preshevë), Bujanovac (Bujanoc) and Medveđa (Medvegjë) are underdeveloped municipalities in southern Serbia with a mixed Albanian, Serbian, and Roma population.⁶ It borders Kosovo to the southwest and North Macedonia to the south. Demographics, geographical position and underdevelopment made this region unstable and prone to be affected, in a specific manner, by political, security and other developments in Serbia, Kosovo and broader region.⁷

⁶ According to the 2022 Census, demographic structure of these municipalities is as follows: 1) Medveđa has 6,360 inhabitants, of whom 4,927 Serbs, 905 Albanians and 149 Roma; 2) Bujanovac has 41,068 inhabitants, of whom 10,467 Serbs, 25,465 Albanians and 3,532 Roma; 3) Preševo has 33,449 inhabitants, of whom 1,607 Serbs, 31,340 Albanians and 219 Roma. Source: <https://publikacije.stat.gov.rs/G2023/Pdf/G20234001.pdf>

⁷ Humanitarian Law Centre, *Albanci u Srbiji: Preševo, Bujanovac i Medveđa*, Belgrade, 2003, p. 3: <https://www.hlc-rdc.org/images/stories/publikacije/Albanci-u-Srbiji.pdf>

Fundamental human and minority rights of Albanians were continuously violated during the regime of Slobodan Milošević. Discrimination in education, employment, media and other areas intensified in the late 1980s. Adoption of the Constitution of the Republic of Serbia in 1990 and subsequent series of laws aimed at strengthening the centralisation of power primarily affected the local self-governments. In the municipality of Preševo, for example, all local elections were won by Albanian parties, but they did not have the opportunity to contribute to the improvement of collective rights of the Albanian community. Until the 1999 NATO intervention, in addition to systemic discrimination, authorities were employing other forms of pressure as well (dismissals from work, political trials, prohibition of publishing printed media).⁸

During the NATO bombing, grave violations of human rights occurred, as well as open repression by paramilitary units, army and police. During the state of war in 1999, on the territory of the Preševo municipality alone, 11 Albanians were killed under unknown circumstances. Cases of grave human rights violations in all three municipalities were similar to those occurring in Kosovo in the same period.⁹ The irresponsible position of the state of Serbia on the violation of human rights of the Albanians in the Preševo Valley can be illustrated by the statement of Prime Minister Ana Brnabić from 29 August 2023, in which she stressed that 'Albanians in the south of central Serbia have the rule of law and human rights, it is impossible for someone to shoot at an Albanian in Preševo or Bujanovac and not be held accountable for it'.¹⁰

According to the report of the Bujanovac Human Rights Committee, because of the armed conflicts and fear for safety, the Albanian population from the municipalities of Preševo, Bujanovac and Medveđa were leaving their homes in three instances. The first wave occurred during the 1999 NATO bombing, when nearly one-third of

8 *Ibid.*

9 *Ibid.*

10 *Info Vranjske*, "Postoje li ljudska prava na jugu Srbije: Brnabić o Albancima u Preševu i Bujanovcu", 29.8.2023. <https://infovranjske.rs/postoje-li-ljudska-prava-na-jugu-srbije-brnabic-o-albancima-u-presevu-i-bujanovcu/>

Albanians left the area. The second emigration wave took place in 2000-2001;¹¹ the third emigration wave from Preševo and Bujanovac to Kosovo resulted in nearly 14,000 persons displaced from this area.¹²

The return of the displaced Albanians started after the termination of armed conflicts. It was preceded by the organised visits of displaced persons to their homes in June 2001. The assistance of international organisations in the renovation of damaged houses and in other areas of life was of great significance. International organisations estimated that around 5,300 Albanians in total returned to the municipalities of Preševo, Bujanovac and Medveđa after the end of the conflict.¹³

It is said in the 2016 report by the Bujanovac Human Rights Committee that the Albanians who remained in Kosovo, and whose number is not officially known, are not registered as internally displaced persons or refugees. As such, they have no documents. In Serbia, they are observed as 'legally invisible persons' and they are subjected to the process of passivisation of their permanent residence.¹⁴ This population, although carrying the highest risk of statelessness, is only one of the subgroups of passivised citizens who have or used to have address in the municipalities of Bujanovac, Preševo and Medveđa.

Therefore, although being citizens of Serbia, where they are also registered as tax payers, Albanians are gradually left without valid personal documents, and therefore unable to access their social or voting rights. In demanding their civil rights, Albanians in the south of Serbia rely on the Plan for peaceful resolution of crisis in the south of central Serbia or the 'Končulj Agreement' (2001) as Albanians call it, under which the government of the Federal Republic of Yugoslavia undertook to realize the rights of Albanians, the 2007 Plan on the reconstruction

11 Insurgency in the south of Serbia (2000-2001) was an internal armed conflict between the Yugoslav Army/Serbian Police forces and the Liberation Army of Preševo, Bujanovac and Medveđa in the period between January 26 2000 and May 31 2001.

12 Bujanovac Human Rights Committee, *(Non)implementation of the Agreement of the Governments Relating to the South of Serbia*, Bujanovac, 2016, p. 51-52: <https://chris-network.org/wp-content/uploads/2016/07/Nonimplementation-of-the-agreement-of-the-governments-relating-to-the-south-of-Serbia.pdf>

13 *Ibid.*

14 *Ibid.*, p. 52.

of the Coordination Body for Preševo, Bujanovac and Medveđa and integration of Albanians into state and public institutions, and the 'Seven Points Plan' of 2013.¹⁵

POPULATION OF BUJANOVAC, PREŠEVO AND MEDVEĐA

Since 1981, the Albanian community in Serbia has not participated in the censuses. Hence, the census data from that period could not correspond to actual situation. The census conducted by the Federal Statistical Office on the whole territory of former Yugoslavia in 1981 was the last one to provide precise information on the population of Serbia. According to the 1981 census, the municipality of Bujanovac had a population of 46,689, of whom Albanians accounted for slightly more than 55% (25,848), Serbs accounted for around 34% (15,914), and Roma nearly 9% (4,130). The municipality of Preševo had 33,948 inhabitants, the majority of whom – more than 85% (28,961) were Albanians, Serbs constituted 12% (4,204) and Roma slightly over 1% (433). Of 17,219 inhabitants of the Medveđa municipality, Serbs and Montenegrins constituted around 65% (11,345), Albanians around 32% (5,509) and Roma around 0.5% (83).¹⁶

The Albanians in Kosovo, as well as in Preševo, Bujanovac and Medveđa, boycotted the general census conducted in 1991. The Albanian population was estimated based on the 1981 census. According to that estimate, the municipality of Bujanovac had 49,238 inhabitants, of whom Serbs constituted around 30% (14,660), Albanians 60% (29,588) and Roma slightly under 9% (4,408). The population of the Preševo municipality was estimated at 38,943, of whom Albanians accounted for around 90% (34,992), Serbs 8% (3,206) and Roma 1.29% (505). The Federal Statistical Office did not publish data for the Medveđa municipality, but only the census data, according to which this municipality had 13,368 inhabitants, 9,205 of whom Serbs

15 Bujanovac Human Rights Committee, *(Non)implementation of the Agreement of the Governments Relating to the South of Serbia*, Bujanovac, 2016, p. 8: <https://chris-network.org/wp-content/uploads/2016/07/Nonimplementation-of-the-agreement-of-the-governments-relating-to-the-south-of-Serbia.pdf>

16 *Ibid.*

and Montenegrins and 3,832 Albanians.¹⁷

The first census to which the Albanian community in the south of Serbia responded was the 2002 census, envisaged by the 'Čović's Plan'.¹⁸ This census was very important, inter alia, for the Albanian community, because it enabled the Albanians to be adequately proportionately integrated into the local governance structure in the municipality of Bujanovac at the 2002 local elections that came after the census.¹⁹

The Albanian community boycotted the census conducted in 2011, because, according to the allegations of the political representatives of the Albanians from the south of Serbia, the Statistical Office of Serbia did not provide guarantees that the census would include the inhabitants of Bujanovac, Preševo and Medveđa who had left these municipalities in 1999, i.e. when the FRY security forces, withdrawing from Kosovo, were posted on their territory. According to the 2011 census, there were officially 5,805 Albanians. It is interesting that after the 2011 census the number of Albanians in Serbia, excluding the south of Serbia, increased: the number of Albanians in Vojvodina increased by 556, i.e. from 1,695 to 2,251; in Belgrade it dropped by 240, i.e. from 1,492 to 1,252, and in the rest of Central Serbia it increased from 865 to 1,119.²⁰

The Ministry of Public Administration and Local Self-Government, in co-operation with MPs from Preševo, Bujanovac and Medveđa and representatives from these municipalities, agreed in June 2015 on a methodology for estimating the population in the south of Serbia. At the meeting presided by the OSCE, the Embassies of USA, UK and the EU Delegation to Serbia engaged a team of international experts. According to data obtained by the expert team, the population of Preševo was

17 *Ibid*, p. 9.

18 The Čović's Plan is the agreement between the FRY Federal Government and Government of Serbia, and political representatives of the Albanians from Bujanovac, Preševo and Medveđa titled 'Program for the Solution of the Crisis in the Pčinja District' of 1 February 2001: <https://www.peaceagreements.org/generateAgreementPDF/1431>

19 Bujanovac Human Rights Committee, *(Non)implementation of the Agreement of the Governments Relating to the South of Serbia*, Bujanovac, 2016, p. 8: <https://chris-network.org/wp-content/uploads/2016/07/Nonimplementation-of-the-agreement-of-the-governments-relating-to-the-south-of-Serbia.pdf>

20 *Ibid*, p. 9.

estimated at 29,600, Bujanovac at 38,300 and Medveđa at 7,400 inhabitants.²¹

According to the 2022 census, Bujanovac has the population of 41,068, 10,467 of whom Serbs and 25,465 Albanians. The total population of Preševo is 33,449, 31,340 of whom Albanians and 1,607 Serbs. Medveđa has 6,360 inhabitants, 4,927 of whom Serbs and 905 Albanians.²² Arben Ferati, activist from Medveđa, and Lirona Zuka, representative of the Albanian National Council in Medveđa, say that there were 3000 Albanians in the villages with Albanian population, as well as in several ethnically mixed settlements, who responded to the census, but for procedural errors, their number was reduced to around 900. Ms Zuka says that a female municipal official from the municipality of Medveđa interfered with the census process in the way that she sent Albanian enumerators (a total of three persons for the whole municipality) to the villages with Serbian majority, while Serbian enumerators, who do not speak Albanian, were sent to the villages with Albanian majority. Further, they say that the census in this municipality was late and that, in spite of the promises that citizens with passivised addresses would be allowed to take part in the census, it did not happen.²³

Manipulation with the official number of Albanians in Medveđa, as well as the passivisation of addresses, have direct impact on the potential derogation of the right to bilingualism in local self-governments. Since the official number of Albanians in Medveđa fell under 15% of the population – specifically it is 14.22% – according to the 2022 census, official use of the Albanian language as the language of an ethnic minority has been practically cancelled in this municipality.²⁴

21 *Ibid*, p. 12.

22 Statistical Office of the Republic of Serbia, The 2022 Census – Population by ethnicity, updated on 27 April 2023: <https://data.stat.gov.rs/Home/Result/3104020102?languageCode=en-US>

23 Interview conducted by Youth Initiative for Human Rights in Medveđa, 16 July 2023.

24 Law on Official Use of Language and Script (Official Gazette of RS, no. 45/91, 45/91, 53/93, 67/93, 48/94, 101/2005 – other law, 30/2010, 47/2018 and 48/2018 – correction), article 11.

MAIN FINDINGS OF THE REPORT

Based on 47 in-depth interviews with citizens and representatives of institutions, political parties and local civil society organisations, as well as on the insight into more than 60 decisions on address passivisation, the research team of the Youth Initiative for Human Rights has come to the following main findings about the discriminatory practice of the Ministry of the Interior of Serbia:²⁵

The Ministry of the Interior violates the Act on Temporary and Permanent Residence, primarily in the municipality of Medveđa and to a lesser extent in the municipalities of Bujanovac and Preševo in the following manner:

- There is no written decision on passivisation and citizens have not been notified, for several years, of the fact that their address was passivised, but have learnt about it verbally and without a clear explanation regarding the process of appeal or other rights guaranteed by law.
- The period of time that passed from passivisation to verbal notification in the majority of cases ranges from three to five years, while 72% of respondents did not receive a decision on address passivisation. This is in violation of Article 18, Paragraph 2 of the Law on Temporary and Permanent Residence.
- In cases where the police render a decision on passivisation, such decisions are often posted on institutions' notice boards. They are not delivered to citizens or are delivered with delay. This is in violation of Article 18, Paragraph 3 of the Law on Temporary and Permanent Residence.
- In cases where the police render a decision on passivisation, the rationale does not contain clarification as to whether the citizen meets one of the four requirements for registration of the address (based on permanent dwelling, if other requirements envisaged by the law are fulfilled; permanent residence of citizen's spouse or common-law partner; permanent residence of citizen's parents; institution in which the citizen is permanently accommodated or social welfare centre the territory of which the citizen is located, with the citizen

notifying the institution, i.e. social welfare centre that their address will be at the address of the institution, i.e. social welfare centre). This is in violation of Article 11 of the Law on Temporary and Permanent Residence and Article 2 of the Identity Card Law.

- In case that the police cannot determine residence of the citizens of Albanian nationality, the procedure of determining temporary residence, under which citizens may realise their right to identity cards based on temporary residence for a period of two years, is skipped. This is in violation of Article 17 of the Law on Temporary and Permanent Residence, which, in the event of failure to determine permanent residence, leaves the possibility for the police to render a decision allocating citizens' temporary residence, thus enabling them the right to an identity card for the period of two years.

According to ten respondents, the police instructed them to register their addresses in another municipality in Serbia or with temporary institutions of the Republic of Serbia in Kosovo, at the same time asking for bribe in the amount of several thousand euros. This is in violation of Article 39 of the Constitution, which guarantees the freedom of movement and residence to all citizens of the Republic of Serbia.

In 80% of cases, passivised citizens are removed from the electoral roll for local and/or parliamentary elections. For this reason, they are prevented from exercising their active and passive voting right, which is in violation of Article 52 of the Constitution of Serbia.

The population of citizens from the Albanian national minority whose addresses have been arbitrarily passivised can be classified into four groups:

1. individuals who occasionally work abroad or have retired in a foreign country (mostly those who go to work in the Western European countries for the period of three months);
2. those who work in Kosovo;
3. students who study in Kosovo;
4. politically active citizens or activists from the Preševo Valley.

Two main indicators of the abuse of the Law on Temporary and Permanent Residence include inconsistent data released by Serbia's officials in the last couple of years regarding the passivisation of citizens in the Preševo Valley, and the decrease in the number of voters registered in the electoral roll in Medveđa.

President of the Preševo Municipality, Shqiprim Arifi, sent a request to the Leskovac Police Department on 24 February 2020, demanding data on the number of passivised citizens in the municipality of Medveđa from the beginning of enforcement of the Law on Permanent and Temporary Residence of Citizens. Police Colonel and Head of Leskovac PD, Tomislav Ilić, replied on 13 April, stating that Medveđa Police Station passivised the addresses of 4,174 citizens in the period of 29 November 2011 to 12 March 2020.²⁶

As one of the main reasons for address passivisation in Medveđa, Police Colonel Ilić states: 'After having updated the records of streets and home numbers, as well as of the real estate cadastre in local self-governments, it has been found that a large number of buildings located at the addresses where the citizens have registered permanent residence no longer exist'.²⁷

He also said that '...in the majority of cases, the initiative to passivise addresses came from the municipality of Medveđa...' and that '...only a small number of citizens appealed the decisions on passivisation...' which, as it is further stated in this document, only confirms that those citizens no longer live at the addresses subjected to passivisation.

In late November 2020, at the session of the National Assembly of Serbia, MP Shaip Kamberi from the Party for Democratic Action, submitted a request to the Interior Minister Aleksandar Vulin for information on the number of passivised citizens in the municipality of Medveđa (Medveđa as administrative centre, Sjarinska Banja, Tupale, Svirce, Grbavce, Ravna Banja, Stara Banja, Sijarina, Đulekare, Lapaštica and Kapit) in 2017, 2018, 2019 and 2020.²⁸

26 A copy of official document stored in the archive of the Youth Initiative for Human Rights.

27 *Ibid.*

28 Document obtained from MP Shaip Kamberi, Archive of the Youth Initiative for Human Rights.

In his response to MP Kamberi of 9 December 2020, Minister Vulin stated that 1,751 persons were passivised in these settlements of the Medveđa municipality in the period of 1 January 2017 to 26 November 2020. The then Interior Minister explained in his reply that citizens whose addresses of permanent residence were passivised were not denied access to basic civil rights, that is, right to personal documents, health care and social insurance and education, because they remained the citizens of the Republic of Serbia and had all the rights deriving from such status.²⁹

According to the research by Flora Ferati-Sachsenmaier several months later, MP Kamberi asked Minister Vulin the same question, but for the period 2011-2017. According to Minister Vulin's second reply, there are no records on the number of passivised citizens. In this research it is also said that in March 2021, Serbia's officials released new data on passivisation. At the request of Viola von Cramon-Taubadel, member of the European Parliament and rapporteur for Kosovo, only a couple of weeks before the adoption of the European Commission's Progress Report on Serbia, Serbian Ambassador provided the European Parliament MPs with a document titled 'Passivised Addresses in Serbia' with the following data: a) 1782 cases in the Medveđa municipality; b) 570 in Bujanovac, and c) 92 for Preševo.³⁰

On the basis of requests for access to information of public importance, the Youth Initiative for Human Rights requested from all police departments data on the number of passivised citizens in all municipalities in Serbia in the period of 1 January 2012 to 1 June 2023 according to the year of rendering of the decision on passivisation. The Ministry of the Interior failed to provide numbers for the Medveđa municipality for years 2020, 2021, 2022 and period leading to 1 June 2023. Therefore, even this data does not provide a comprehensive picture of the number of passivised addresses of the citizens in the Preševo Valley. The fact

29 *Ibid.*

30 Flora Ferati-Sachsenmaier. 2023. "Serbia's Passivization Policy Towards the Albanian Minority: How Southern Serbia is Being Turned Ethnically Serbian". Max-Planck-Institut zur Erforschung multireligiöser und multiethnischer Gesellschaften, Max Planck Institute for the Study of Religious and Ethnic Diversity, p. 18: <https://www.mmg.mpg.de/1156996/wp-23-01>

that the Interior Ministry failed to provide the data on the number of passivised citizens in the last three years or the copies of the decisions rendered by the Vranje and Leskovac Police Departments in the previous decade, indicates the lack of transparency and raises concerns regarding potential abuse of law.

However, comparative overview of the population and passivisation cases in Medveđa and other municipalities in the south of Serbia which are not part of the Preševo Valley gives an impression that this municipality is among those most affected with regard to the passivisation of addresses. In the municipalities in the south of Serbia where Serbian population prevails, the share of passivised addresses does not exceed 1% of total population, while in Medveđa, in the period 2015-2019, it accounted for 21.2%.

Table 1: Statistical overview of passivised citizens in municipalities of the Preševo Valley according to the replies from the police to the Youth Initiative for Human Rights in august 2023

Year/ Municipality	Medveđa	Bujanovac	Preševo
2012	9	2	0
2013	13	60	19
2014	4	127	26
2015	74	150	10
2016	820	102	11
2017	120	56	5
2018	59	98	5
2019	496	97	31
2020	/	61	71
2021	/	73	50
2022	/	45	135
2023 (first six months)	/	9	67
Total	1595	880	430

Table 2. Comparative overview of municipalities: percentage of passivised relative to total population

Municipality	Population according to the 2011 census / 2015 census estimate	Passivisation cases 2015-2019 according to Interior Ministry	Percentage of the passivised relative to total population
Bojnik	11,104	29	0.26 %
Vladičin Han	20,871	27	0.12 %
Lebane	22,000	11	0.05 %
Medveđa	7,400	1569	21.20 %

Another indicator of potential abuse of the Law on Permanent and Temporary Residence is the change of the electoral roll in the Medveđa municipality. According to the conversations the research team had with representatives from Bujanovac and Preševo, such drastic changes have not been observed yet in these municipalities, but there are concerns because of the Medveđa example.³¹ According to an unofficial document the research team obtained from an anonymous source³² during its visit to Medveđa, a total number of voters in the electoral roll of the Medveđa municipality during local elections held in September 2015 included 10,456 voters. At local elections held in April 2022, this figure decreased to 6,147.³³

According to the outline of the number of voters presented by the Ministry of Public Administration and Local Self-Government, there were 6,114 voters registered with the electoral roll in the Medveđa municipality as of 23 July 2023.³⁴ The difference between electoral rolls in 2015 and 2022 equals 4,309 persons, that is, 41.2% fewer voters in 2022. The overwhelming majority of the removed voters (3,370 or 78.2%) come from settlements populated by the Albanian majority in the municipality of Medveđa.

31 Interview conducted by the Youth Initiative for Human Rights.

32 The source remained anonymous for safety reasons.

33 Copy of the document stored in the archive of the Youth Initiative for Human Rights.

34 Ministry of Public Administration and Local Self-Government, Overview of the number of voters, as of 23 July 2023: <https://upit.birackispisak.gov.rs/PregledBrojaBiraca>

CASES BEFORE THE CONSTITUTIONAL COURT

A small number of citizens with passivised addresses are in a position to resume their right to residence by filing a complaint to the Interior Ministry and, if not successful, by starting a dispute before the administrative court and then before the Constitutional Court of Serbia. The research team of the Youth Initiative for Human Rights learnt about the case before the Constitutional Court started by Safet Demirović because of the abuse of the process of address passivisation. Further, during a field visit to Bujanovac, the research team helped Teauta Fazliu from Bujanovac, after her complaint to the Administrative Court was dismissed, to obtain remedy from the Constitutional Court of Serbia with the assistance of attorney in August 2023.

Safet Demirović

On 14 August 2019, visiting the Medveđa Police Station in order to obtain firearms certificate, Safet Demirović found out by chance that his address at which he had been living since birth was passivised. The decision on passivisation has not been delivered to him and thus he was not in a position to lodge a complaint. Namely, Mr Demirović lives at a large family estate composed of several buildings and some of the family members are there at all times. Further, the household has video surveillance. No camera has ever registered the arrival of police officers, either to allegedly attempt to deliver the decision on passivisation or to allegedly check his residence. In addition to the ownership of the family house, composed of several facilities, Mr Demirović also owns a business in Sijarinska Banja with head office at the address of his family house. This is an active business, with Mr Demirović as a fully employed director, regularly paying taxes and social contributions. After the decision of the Niš Unit of the Administrative Court,³⁵ rendered in mid-2021, in the same year Mr Demirović authorised an attorney to file a constitutional complaint and the decision is due at the end of 2023.

Teuta Fazliu

Teuta Fazliu was born in Vranje and lives with her parents in Bujanovac. She works in Priština. In the past, she was politically active in Kosovo. In March 2020, only two days before the ban on movement and state of emergency due to Covid-19 pandemic, Ms Fazliu came to Bujanovac and stayed there throughout the state of emergency. Still, it is stated in the Administrative Court's ruling that the police were at Ms Fazliu's address on 9 April 2020. However, Ms Fazliu has proof that for health reasons she was at the doctor's in Vranje on 14 April 2020. In May 2020, around 1 P.M, Ms Fazliu was served a summons, to appear at Bujanovac Police Station on the same day, only at 10 A.M., which she did.³⁶ Ms Fazliu still lives in Bujanovac for the most part of the year.

A CATALOGUE OF POTENTIALLY VIOLATED RIGHTS

- Right to protection of national minorities referred to in Article 14 of the Constitution: 'The Republic of Serbia shall protect the rights of national minorities. The State shall guarantee special protection to national minorities for the purpose of exercising full equality and preserving their identity'.
- Right to prohibition of discrimination against national minorities referred to in Article 76 of the Constitution: 'Persons belonging to national minorities shall be guaranteed equality before the law and equal legal protection'.
- Specifically, the passivisation of addresses of permanent residence aimed only towards the citizens belonging to the Albanian minority leads to their voting right being cancelled, which is in violation of right to the prohibition of discrimination referred to in Article 21 of the Constitution: 'All are equal before the Constitution and law. Everyone shall have the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, political

or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited’.

- Specifically, only persons belonging to the Albanian minority are subjected to mass cancellation of permanent residence, thus exposing Albanians in Serbia to double discrimination, both compared to other national minorities and relative to Serbs who make the majority.
- Another violated right is the right to a fair trial provided by Article 32 of the Constitution: ‘Everyone shall have the right to a public hearing before an independent and impartial tribunal established by the law within reasonable time which shall pronounce judgment on their rights and obligations, grounds for suspicion resulting in initiated procedure and accusations against them’.
- ‘Everyone shall be guaranteed the right to free assistance of an interpreter if the person does not speak or understand the language officially used in the court and the right to free assistance of an interpreter if the person is blind, deaf or dumb’.
- The right to equal protection of rights and legal remedy referred to in Article 36 of the Constitution has been violated: ‘Equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province or local self-government shall be guaranteed. Everyone shall have the right to an appeal or other legal remedy against any decision on his rights, obligations and lawful interests’.
- Citizens’ right to the freedom of movement referred to in Article 39 of the Constitution has been violated, as well: ‘Everyone shall have the right to free movement and residence in the Republic of Serbia, as well as the right to leave and return. Specifically, this right also implies the right to presence, that is, permanent residence, which was unlawfully cancelled to the applicant’.
- Electoral right referred to in Article 52 of the Constitution has also been violated: ‘Every citizen of age and legal capacity of the Republic of Serbia shall have the right to vote and be elected. Suffrage shall be universal and equal for all, the elections shall be free and direct, and voting is carried out by secret ballot in person’.

RIGHT TO PERMANENT RESIDENCE

The right to permanent residence in the Republic of Serbia belongs to all citizens of Serbia who live permanently on its territory. This right is guaranteed by the Law on Permanent and Temporary Residence of Citizens.³⁷ Still, a large number of citizens are faced with significant problems that hinder permanent residence registration. These problems do not result from inadequate regulations, but are mostly due to incorrect proceeding by the authorities in charge of the procedure of permanent residence registration. This means that there is an easy solution to these problems, since the unhindered exercise of the right to permanent residence registration would only require the lawful action of the authorities, without the need to conduct the lengthy procedures of amending the existing regulations or adopting new ones. However, instead of solving the problems quickly and efficiently, most of them recur with unabated frequency year after year.³⁸

According to Praxis's report, because of the passivised addresses, many citizens either remain without a registered permanent residence or have a registered permanent residence in places where they have not lived for a long time, sometimes for decades. Individuals who do not have a registered permanent residence in any place cannot obtain an identity card and therefore cannot access any of the rights for which the possession of an identification document is necessary. On the other hand, citizens who have permanent residences registered in places where they do not live cannot access numerous rights in their places of actual residence.³⁹

Problems with permanent residence registration in Serbia are most often encountered by the residents of informal settlements and owners of non-legalised houses, members of the Roma minority, internally displaced persons from Kosovo, homeless people and returnees under readmission agreements. These are usually individuals who belong to more than one of the aforementioned population

37 Law on Permanent and Temporary Residence of Citizens, Official Gazette of RS, no. 87/2011.

38 Praxis, Report 'Permanent Residence Registration for Marginalised Citizens – Law and Practice, 2023, Belgrade, p. 2: https://www.praxis.org.rs/images/praxis_downloads/Permanent_Residence_Registration_For_Marginalised_Citizens_Law_and_Practice.pdf

39 *Ibid.*

categories. These persons are among the most vulnerable and marginalised citizens, and their position is further aggravated by the difficulties related to permanent residence registration.⁴⁰

Article 18 of the Law⁴¹ stipulates that, at the request of a court, public authority, another body or organisation, and a legal or natural person who has a justified legal interest, the Interior Ministry shall check whether a citizen lives at the address where he or she has registered permanent or temporary residence. If they determine that this is not the case, the Interior Ministry shall issue a decision on inactivating the address of permanent or temporary residence. A person whose address has been passivised has the obligation to register their permanent residence and the address where they live within eight days, otherwise the Interior Ministry shall determine their place of permanent residence in accordance with Article 11, paragraph 2 of the Law, that is, either at the permanent address of living or at the address of the spouse, parents or social welfare centre. Therefore, the Law stipulates that under no circumstances may a citizen of the Republic of Serbia be left without a registered permanent residence, even if it has to be allocated to them ex officio.⁴²

Most often, without a registered permanent residence, it is not possible to obtain an identity card as the main identification document and a basis for exercising a range of rights.⁴³ Thus, persons who do not have an identity card cannot access the right to health and social protection, to be employed, get married, exercise their voting right, acquire property or move freely.⁴⁴

40 *Ibid*, p. 2.

41 Law on Permanent and Temporary Residence of Citizens, Official Gazette of RS, no. 87/2011.

42 Praxis, Report 'Permanent Residence Registration for Marginalised Citizens – Law and Practice, 2023, Belgrade, p. 5: https://www.praxis.org.rs/images/praxis_downloads/Permanent_Residence_Registration_For_Marginalised_Citizens_Law_and_Practice.pdf

43 Law on Identity Card, Official Gazette of RS, no. 62/2006, 36/2011 and 53/2021.

44 Constitution of the Republic of Serbia, Official Gazette of RS, no. 98/2006 and 115/2021: http://www.parlament.gov.rs/upload/documents/Constitution_%20of_Serbia_pdf.pdf

ANALYSIS OF MATERIAL COLLECTED IN THE FIELD

Citizens

The majority of our respondents never received an official decision on the address passivisation, but were notified of this fact verbally and subsequently. Examples are numerous: the citizens found out that their address had been passivised when they went to obtain new identity cards, renew their passports, register their vehicles, vote and the like. On such occasions, they were verbally informed by police officers that 'they are not in the system'. During the renewal of documents, some parents learnt that the address was not passivised only for them, but for their children as well. What is also typical is that they become aware of the passivisation of their address a lot after it had occurred, whereby this gap varies from several months to several years.

Although the decision on passivisation is mandatory according to the Law, where, in Article 18, paragraph 4, it is possible to file a complaint within eight days from the receipt of the decision, our respondents in the majority of cases never received a written decision on the address passivisation. As mentioned, they learn about the passivisation of their address only accidentally and verbally from police officers. A much smaller number of respondents said that they were served decisions on passivisation or that they were summoned by the police to make a statement about their permanent or temporary residence. Another issue with regard to serving this document is that the decisions are written only in Serbian Cyrillic. The majority of our respondents do not understand Serbian or understand it quite poorly, this being the reason for not being able to comprehend the decision. Further, these are standard decisions without a clear rationale as to why the address is passivised.

After passivisation, some respondents were going to the police to learn about their rights. Information they obtained varied – some were left without information, while others were told to register in another municipality or to stay at home and wait for a visit by the police. Several respondents were advised by the police to register their temporary residence in another municipality or to register their address in

Gračanica at Serbia's parallel authorities. On the other hand, those who were told to wait for the repeated field visits by the police were faced with the problem of lengthy procedures – field visits lasted for as long as a couple of months. Because of this, the respondents had to miss work if they were employed, while the older ones understood these recommendations as the only solution and did not leave their place of permanent residence for several months.

Besides asking the police officers for advice, a large number of respondents did not make any further inquiries about their rights or learnt about the process of restoring their addresses in their close environment or from local politicians. Only a smaller number of them decided to initiate court proceedings and hire an attorney. Still, all respondents experienced the fact that court proceedings are sluggish and almost unattainable.

The majority of respondents were not aware of the possibility of complaint in the process of address passivisation. A complaint within the period of eight days from the receipt of the decision is guaranteed by the Law, but our respondents are not aware of this procedure, mostly because of the absence of the decision on passivisation. Other than for these reasons, a significant number of respondents did not want to start complaint process believing that this would bring no change.

The smallest number of registered cases had positive outcomes following the complaint or initiated procedures for allocating permanent or temporary residence. Only a few respondents were successful in registering their own addresses, but mostly after lengthy procedures. In these cases, the police performed field checks between two and five times, while the entire process of restoring the address lasted for up to several months.

During the research, we have registered different cases and reasons for passivising the respondents' addresses. The first group includes those who did not comply with the procedure for registering temporary residence in a foreign country when they stayed there for more than 90 days. Further, there is a large number of respondents whose address was passivised without clear justification and who have not left their registered places of permanent or temporary residence. The majority agrees that this has to do with political manipulation. In their opinion, the passivisation of citizens' addresses was most frequent right before elections. At the same time,

they stress that strict principles of address passivisation apply to Albanians only, believing that the ultimate goal is change of the demographic picture and ethnical structure of the population in this part of Serbia.

According to Article 18 of the Law on Permanent and Temporary Residence, the police have the right to check and determine whether citizens live or temporarily reside at the address of their permanent or temporary residence. According to the experience of our respondents, the police do check the fact of registered temporary or permanent residence, but these checks are often repeated several times and may last for months. The respondents stress that on average the police visited them at their addresses from two to five times during the period of several months. Some directly witnessed the police checks, while other learnt about them from their neighbours. Then, there is a group of respondents who claim that the police did not make field visits to their addresses. These are mostly: a) individuals who were summoned to the nearest police station; b) individuals who had the police inquire about their place of permanent residence from third parties – neighbours or relatives. The respondents who are not sure as to whether the police performed the checks at their addresses are the fewest. These are mostly persons whose addresses were passivised without clear reasons and who do not take further steps.

In addition to general uncertainty and unsafety, the passivisation of addresses also brings vital problems to citizens, preventing them from living their everyday lives unhindered and causing serious problems. The majority of respondents, due to passivised addresses, do not have access to their voting rights and cannot renew their personal documents. This further leads to the problem of collecting their pensions or state or social welfare allowances, which require the possession of an identity card. This is particularly a problem in view of the fact that it affects the most vulnerable groups of citizens. Many other problems are present, too, such as the impossibility to initiate probate proceedings, register vehicles, sell property, enter into marriage and the like.

An important indicator that the citizens do live at the address registered as the place of permanent or temporary residence is the fact that their obligations towards the state are settled. This primarily refers to paid bills, taxes and settlement of other

civil duties. Since all our respondents regularly pay taxes and other duties, while very often they are registered as owners of farms or real estate, it remains unclear as to how their addresses could possibly be passivised.

All respondents were aware of other cases of address passivisation from their near environment or broader family. They mostly talked about the problems of passivisation encountered by their family members and relatives or their neighbours. What prevails in the respondents' narratives is the position that the addresses are mostly passivised for those who stay, work or live abroad, as well as to students who study in Kosovo. Citizens' stay abroad for more than 90 days requires the registration of temporary residence in a foreign country at the police station before they leave or via diplomatic and consular mission after they leave (Article 19). Still, shortcomings in the compliance with the Law can be observed on the part of state authorities too, since there is a considerable number of respondents who have not been abroad, but their addresses were passivised, while, at the same time, many encounter problems when they attempt to register their spouses at their own address.

Insufficiently clear and universally applied procedures of address passivisation, as well as ignorance of legal frameworks, result in our respondents generally feeling uncertainty and unsafety. While some feel unsafe in their everyday lives, many of them fear to leave home if they are in the process of checking, expecting the police may appear at every moment to perform a field check of registered address of temporary or permanent residence.

Political actors and activists

It is not known precisely when the problems with passivisation have started, although respondents stress that they have been occurring in the last seven to eight years. One politically active respondent said that the first cases of passivisation in Medveđa were registered in 2015, just before the local elections in this municipality. Other respondents stress that they heard about passivisation for the first time based on the examples from Medveđa and that this municipality always 'serves as a guinea pig' when it comes to the government's activities directed at the Albanian community.

Political actors and activists in the south of Serbia have attempted several times to obtain the precise data on the number of citizens with passivised addresses. They were sending official inquiries, primarily to the police, and then to other institutions. Still, the precise data on the passivised citizens and their demographic structure is not available. All these actors mostly have informal or approximate numbers, with the number of passivised citizens in the municipalities of Medveđa, Bujanovac and Preševo ranging between 6000 and 8000. For example, in the local community of Tupale (Medveđa municipality), there were 878 voters in 2015 and fewer than 240 today, which mainly results from the address passivisation. During the research we came into possession of data on the number of passivised citizens which one organisation from Bujanovac had obtained from the police in 2021, as follows: 1) 1,782 in Medveđa, 2) 570 in Bujanovac and 3) 92 in Preševo. This statistic corresponds to the data provided by Serbia's Ambassador in Brussels to European MPs. However, they stress that, according to their activities and interactions with citizens, the total number of passivised citizens seems to be much higher.

Similarly to the number of passivised citizens, their structure has not been officially established. Yet, political actors and activists are united in their informal estimates, claiming that the abuse of passivisation is mostly encountered by:

- individuals temporarily working abroad (mostly those going to work for three months in Western European countries);
- individuals who work in Kosovo;
- individuals who study in Kosovo;
- politically active citizens or activists from the Preševo Valley.

The most vulnerable group of passivised citizens from the Preševo Valley are those who live between Priština/Gnjilane/Kosovo Polje, and Preševo Valley, as they cannot find jobs, mostly because of the problem with (non)recognition of diplomas. This segment of the population is particularly vulnerable because, due to restrictive laws in Kosovo, they do not possess Kosovan documents, while their addresses in Serbia are passivised. According to unofficial data of political activists from the Preševo Valley, there are up to 10,000 such citizens. As Ardina Sinani, politician from Preševo and adviser to Kosovo Prime Minister Albin Kurti for the Preševo

Valley, says, these individuals are faced with serious problems due to the fact that they do not possess personal documents – they cannot exercise their civil rights, they have to work as undeclared workers, and the like. Still, according to Ms Sinani, this problem is recognised in Kosovo and will be solved through the amendments of the Law on Issuance of Documents and Citizenship Law. The adoption of this document by the Government will make the staying of Albanians from the Preševo Valley in Kosovo easier.

The work of political actors and activists is very important because it is where the citizens go when the state system does not function fully. The political actors and activists referred citizens who contacted them because of the problem of address passivisation to pursue further procedures – mostly to contact the police again for address activation or to hire an attorney. The Albanian National Council financially supported the creation of an app through which the passivised citizens may learn and get acquainted with this process. During the research, a local attorney from Preševo, who had around twenty cases of passivised citizens in his career, stressed that these individuals have a possibility to complain to the police and request re-assessment. If the police repeat their decision on passivisation, the only other option is to start administrative dispute. However, many citizens give up these procedures because administrative disputes may last several years. Many political actors and activists agree that the process of residence registration should be made easier and the solution to passivisation simpler.

All our respondents say that the passivisation causes a range of other problems that affect daily lives of the Albanian community in the south of Serbia. Besides basic civil rights that they cannot access because of the passivised addresses, citizens are very often scared and insecure about the procedures for new registration of addresses. One political actor interviewed in Medveđa shared an example that in some villages of this municipalities the elections had to be repeated for as many as five times because the voters with passivised addresses appeared in electoral rolls.

Based on personal experiences and contacts with passivised individuals, political actors and activists from the south of Serbia say that the passivised citizens are scared. These citizens refuse to speak publicly about their problem, believing

that this will make them encounter some other problems if they do so. They are most afraid that they may lose their real estates and farms if they address their problems publicly. Still, politically active individuals and activists stress that the citizens' fear of their property being taken away is a fear born out of ignorance, since nobody has the right to do that, even with regard to the passivised citizens. What they eventually conclude is that the passivisation is selective and directed only at Albanians in the south of Serbia. They make such a conclusion inter alia because other minorities or Serbs from their environment do not have problems with passivisation, although they are of similar demographic characteristics.

Although state authorities say that the passivisation of addresses is in all cases conducted in accordance with the law, political actors and activists claim that passivisation results from general political reasons, as well as from poor administration in competent institutions. The problem with poor administration reflects in the fact that police officers do not provide good guidelines and clarifications to citizens who are faced with the problem of passivisation. On the other hand, a much bigger problem refers to political objectives stressed by our respondents, in particular the change in the demographic structure of certain municipalities, targeting of the Albanian community in the south of Serbia, and erasing Albanians from these territories 'in a silent sense'.

STATEMENTS BY SERBIA'S OFFICIALS ABOUT AND IN THE CONTEXT OF PASSIVISATION OF ADDRESSES IN THE PREŠEVO VALLEY

For many years now, there has been a trend of denying inappropriate implementation of the Law on Permanent and Temporary Residence of Citizens in the Preševo Valley. This is confirmed by the statements of the highest officials of the Republic of Serbia since 2011 until today. 'This is not about the repression against citizens, but there must be a clear insight into where a person permanently or temporarily resides. These are the national interests of the state in accordance with the rules

that exist in the world’, said the then Interior Minister Ivica Dačić on 3 November 2011. Elaborating on the Permanent and Temporary Residence Bill at the National Assembly, Dačić practically announced discrimination against Albanians, saying that ‘the problem emerged when the Albanians from Kosovo started registering permanent residences in central Serbia in order to obtain a biometric passport’.⁴⁵ Thus, Dačić blamed the members of the Albanian community as the only ones fictitiously registering addresses in Serbia.

After the local elections in Medveđa in 2015, when the citizens realised the size of the address passivisation process, the Ministry of the Interior issued a statement in April 2015 saying that ‘the law is enforced equally towards all citizens regardless of their nationality’, and that ‘Vranje Police Department rendered a total of 264 decisions on the address passivisation in 2014’.⁴⁶ After the local elections in Medveđa of 2019, when the Serbian Progressive Party won again with its coalition partners, following the release of election results, Nebojša Stefanović, the then Interior Minister said: ‘Medveđa turned out to be a Serbian municipality, located in Serbia, and Serbian national interests are protected’.⁴⁷ President of the Serbian Progressive Party and President of Serbia Aleksandar Vučić participated in the electoral campaign; during his visit to Medveđa in early September 2019, he said: ‘Medveđa has been and will remain Serbia’.⁴⁸

‘There is no organised removal of addresses (passivisation of permanent residence) of Albanians in Serbia, and there is nothing going on other than the implementation of the Law on Permanent and Temporary Residence, about which we have an understanding with the representatives of the Albanian National Council, as well’, said the Minister for Human and Minority Rights and Social Dialogue, Gordana Čomić for ‘Bujanovačke’ on 17 November 2021.

45 Portal 021, MUP može da odjavi prebivalište, 3.11.2011: <https://www.021.rs/story/Info/Srbija/33668/MUP-moze-da-odbije-prijavu-prebivalista.html>

46 Coordination Body for Bujanovac, Preševo and Medveđa: <http://www.kt.gov.rs/en/news/news-archive/ministry-of-interior-passivation-of-residence-address-applies-to-all-citizens/>

47 Helsinki Committee for Human Rights, Report ‘Albanian Minority on Hold: Bujanovac, Preševo and Medvedja as hostages of the Serbia and Kosovo relations’, 2021, p. 68.

48 Blic, Vučić u Medveđi: Cilj nam je da ljudi ostanu ovde, ovo je bila i ostaće Srbija, 3.9.2019: <https://www.blic.rs/vesti/politika/vucic-u-medvedi-cilj-nam-je-da-ljudi-ostanu-ovde-ovo-je-bila-i-bice-srbija/mb19362>

Nenad Mitrović, an MP from Bujanovac, shifts the responsibility for the passivisation of permanent residence in Bujanovac, Preševo and Medveđa to Albanians, because they refused to participate in the regular census in 2011. MP Mitrović also said that international experts estimated that Bujanovac had 38,000 inhabitants, Preševo 28,000 and Medveđa 7,800. 'At the same time, the electoral roll of the Bujanovac municipality has 43,000 registered voters, and 41,000 in Preševo'.

On 23 September 2023, President of the Coordination Body of the Government of Serbia for the municipalities of Preševo, Bujanovac and Medveđa, Aleksandar Martinović, rejected as untrue the allegations of the adviser to Kosovo Prime Minister for this municipality, Ardita Sinani, that Albanians in Serbia are exposed to 'administrative ethnic cleansing'. 'Infamous passivisation of permanent residence of Albanian citizens in the south of Serbia is not being conducted. In that respect, the citizens of Serbia of Albanian nationality have voting rights in full capacity, equal to any other citizen of Serbia', said Martinović in the statement.⁴⁹

FINDINGS OF DOMESTIC AND INTERNATIONAL ORGANISATIONS AND INSTITUTIONS WITH REGARD TO THE ABUSE OF ADDRESS PASSIVISATION

In May 2016, Humanitarian Law Centre drew attention to the data that the Ministry of the Interior of Serbia rendered, during that year, a large number of decisions to the citizens of Albanian nationality in the south of Serbia, in particular from the Medveđa municipality, passivising their previous permanent residence. In this way, they lose the possibility to obtain or renew personal documents, as well as to

49 N1, Martinović, Netačne tvrdnje Sinani o „etničkom čišćenju“ Albanaca na jugu Srbije, 23.09.2023: <https://n1info.rs/vesti/martinovic-netacne-tvrdnje-sinani-o-etnickom-ciscenju-albanaca-na-jugu/>

access health care and social services and education, while their voting right can be hindered, too. 'The official number of decisions rendered in Medveđa is 539, a much larger percentage in this small municipality relative to other places. It is therefore more than indicative that this provision is considerably more actively applied towards the Albanian community', say HLC, which, after receiving replies from the police departments (see the table) compared them with the size of the population of each municipality or town. According to this comparison, the decisions rendered for the Medveđa municipality alone refer to more than seven percent of the population of this municipality, which indicates that this police activity here is on a larger scale than in other places, indicating a systematic practice', said HLC for 'Danas' daily.⁵⁰

The CRTA Organisation, in their recommendations for the elections, called on the Ministry for Public Administration and Local Self-Government in October 2020 to stop the practice of removing citizens with passivised addresses from electoral rolls. According to CRTA's recommendations, Serbian legislation does not provide grounds for passivisation of the address of permanent residence to result in cancellation of permanent residence, but is only evidentiary data of a competent authority that citizens do not live at the address of registered permanent residence. Based on this, a citizen is obliged to register a permanent residence, otherwise, in the event of failure to do so, a competent authority (Ministry of the Interior) shall be obliged to allocate the address of the permanent residence to them. In view of the above, there are no legal grounds for removing the voters whose addresses of permanent residence have been passivised from the electoral roll. Given that in the previous period the Interior Ministry was providing the Ministry of Public Administration and Local Self-Government with reports based on which the voters whose addresses of permanent residence were passivised from the single electoral roll, it is necessary for such practice to stop as it does not have legal grounds. In the context of voting rights, citizens whose addresses are passivised should remain registered at the electoral roll with their last known address of permanent residence until the moment of change of permanent residence or allocation of

permanent residence by a competent authority. In case when the Interior Ministry allocates permanent residence of a citizen whose permanent residence was passivised, such change should result in the change of permanent residence in the electoral roll, meaning that the citizen could exercise their voting right at another voting station (according to the new address of permanent residence).⁵¹

The Helsinki Committee for Human Rights examined in its 2021 report 'Albanian Minority on Hold' the abuse of address passivisation in more detail, naming this method 'ethnic cleansing through administrative means'. This organisation called on Serbia's authorities to stop this process immediately and give back the Albanians their civil rights. It is indicative that this measure is applied only to Albanians, but not to Serbs who temporarily work abroad.⁵²

The European Parliament, in its report, that is, the resolution for 2021 on Serbia, warned in Amendment 79 of the abuse of the Law on Permanent and Temporary residence and condemned the discrimination in the cases of passivisation in the Preševo Valley. The European Parliament called on Serbia to conduct an independent and thorough investigation into these allegations.⁵³

Further, the European Commission in its reports on Serbia's progress in EU integration for 2021 and 2022 said that 'concerns were raised by the members of the Albanian national minority on the way police controls of residence status are being carried out in Southern Serbia, resulting in the 'passivisation' of certain addresses'.⁵⁴ The European Commission said that there was a need for the authorities to better explain to the public how these checks are being conducted.⁵⁵

51 CRTA, OBUSTAVITI BRISANJE BIRAČA IZ BIRAČKOG SPISKA KOJIMA JE PASIVIZIRANA ADRESA PREBIVALIŠTA, 3.10.2020: <https://crt.rs/76-obustaviti-brisanje-biraca-iz-birackog-spiska-kojima-je-pasivizirana-adresa-prebivalista/>

52 Helsinki Committee for Human Rights, Report 'Albanian Minority on Hold: Bujanovac, Preševo and Medvedja as hostages of the Serbia and Kosovo relations', 2021, p. 68.

53 European Parliament Resolution on Serbia, July 6, 2021: https://www.europarl.europa.eu/doceo/document/TA-9-2022-0284_EN.html

54 European Commission, Serbia 2021 Report, p. 39: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Serbia-Report-2021.pdf>

55 European Commission, Serbia 2022 Report, p. 47: <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf>

In the US State Department's 2022 Country Report on Human Rights Practices in Serbia, it is said that: '...ethnic Albanians were subject to discrimination and disproportionate unemployment'. According to this report, ethnic Albanian leaders in Serbia alleged the government disproportionately subjected ethnic Albanians to 'passivization' to reduce the official number of ethnic Albanians living in Serbia. The police routinely make this determination through spontaneous home visits. Though often conducted during business hours, one visit where the individual is not present is sufficient to determine nonresidency at the address.⁵⁶

According to ENEMO's (European Network of Election Monitoring Organisations) report on elections held in April 2022, particular concerns should be raised regarding the allegations of removing the ethnic Albanian minority voters living in the Preševo Valley from the electoral roll. They referred to the 2021 report of the European Commission, which highlighted that the revision of residence status of ethnic Albanians led to the 'passivisation' of certain addresses, and called upon authorities to better explain to the public how the scrutiny is conducted. ENEMO Report drew particular attention to the fact that several days before the election day in April, around 6,000 ethnic Albanians were reported to have found themselves removed from the electoral roll.⁵⁷

56 US Department of State, 2022 Country Reports on Human Rights Practices: Serbia: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/serbia>

57 ENEMO, ENEMO International Election Observation Mission Presidential and Early Parliamentary Elections, 03 April - Serbia 2022 Statement Of Preliminary Findings And Conclusions 04 April 2022: <https://enemo.eu/uploads/file-manager/ENEMOStatementofPreliminaryFindingsandConclusionsSerbia2022.pdf>

OTHER PROBLEMS OF DISCRIMINATION AGAINST ALBANIANS IN SERBIA

During field visits to Preševo, Bujanovac and Medveđa, the research team has mapped a few other potentially discriminatory practices:

1. Detaining citizens of Albanian nationality at the border checkpoints with Kosovo

During the research, several cases of detaining members of the Albanian minority from the Preševo Valley at the administrative checkpoint with Kosovo were recorded. The situations of being held at the border checkpoints are rather frequent – as many as several times within a few months. They may last for a couple of hours and citizens are held without a clear explanation of the reasons for this. This will be illustrated with two specific examples which we have permission to disclose. The first example is Nedžad Agushti, an English language teacher at the Technical Secondary School in Preševo and court interpreter for English, Albanian and Serbian. In the period between June and September 2023, Mr Agushti was detained at the administrative checkpoint with Kosovo three times for no particular reason and explanation. Ardita Sinani, politician from the Party for Democratic Action, had a similar experience. During the interview, Ms Sinani said that she had been held at the border checkpoint with Kosovo 20 times in the period between 7 August and 5 September 2023, also without explanation and for no clear reason. Such actions undertaken by the police prevents free movement of these individuals and make them feel fear and anxiety every time they travel.

2. Prohibition of showing films in the Albanian language

The Preševo-based production company Colosseum Production encountered an enormous problem after two of its short films ended before the Higher Court in Vranje. The films in question are 'The Unfaithful' and 'Silence Kills' (Heshtja vret) by the Albanian author Gani Veseli. Namely, by the decision of the Higher Court in Vranje of 14 August 2023, the screening of the film 'Unfaithful' in Serbia

is prohibited. The panel decided that the proposition by the Public Prosecutor's Office was justified and that this piece 'advocates and incites hatred'. By the same decision, the screening of the film 'Silence Kills' is allowed provided, inter alia, that the national insignia of the Republic of Kosovo be removed from the introduction and credits and that it is designated that the film was not recommended for persons younger than 16.⁵⁸

3. Non-recognition of higher education degrees acquired in Kosovo

During the research, the problem of non-recognition of higher education degrees acquired in Kosovo was registered. Namely, a large number of young people who continue their education in Kosovo, particularly because of the existing language barrier in Serbia, cannot find employment in Serbia later because it is not possible to recognise degrees from Kosovo in the Republic of Serbia. For this reason, many of them find employment in Kosovo or got to work in Western Europe, thus contributing to Serbia's brain drain of people with higher education.

4. Under-representation of citizens of Albanian nationality in public institutions

Another problem faced by the Albanians in the south of Serbia is insufficient integration in public institutions. During the interview with the researchers, Ardit Sinani said that in the entire Pčinja District only 15% of Albanians work in public institutions. Enkel Rexhepi from the Albanian National Council in Preševo also points to this problem, stressing that the Albanians in public institutions are mostly older individuals who will retire soon, while their places are filled with non-Albanian citizens. In this way, the participation of Albanians and their integration in the public sector gradually decreases. According to Mr Rexhepi, jobs at public institutions in Preševo are given to the citizens of Serbian nationality from nearby towns, primarily Niš and Vranje, who register their address in some of the villages around Preševo.

RECOMMENDATIONS FOR THE INSTITUTIONS OF THE REPUBLIC OF SERBIA

- **Internal Control Unit of the Ministry of the Interior and State Prosecutor's Office** should investigate the actions of the police stations in Bujanovac, Preševo and Medveđa with regard to restrictive and arbitrary enforcement of the Law on Permanent and Temporary Residence;
- **The Ombudsman** should control the legality of work of the Ministry of the Interior with regard to the passivisation of addresses in the municipalities of Medveđa, Bujanovac and Preševo;
- **The Commissioner for the Protection of Equality** should examine the actions of the Ministry of the Interior with regard to the passivisation of addresses of the citizens of Albanian nationality and issue an opinion and recommendations for non-discriminatory enforcement of the Law on Permanent and Temporary Residence;
- **It is necessary that the Ministry of the Interior publicise as soon as possible a comprehensive statistics of citizens passivised from 2011 to 2023 in Medveđa, Bujanovac and Preševo, disaggregated by nationality/ethnicity;**
- **It is necessary that the Ministry for Public Administration and Local Self-Government halt the process of removing the citizens with passivised addresses from the single electoral roll;**
- **It is necessary to deliver written decisions on the address passivisation.** Only in this way the citizens will have the opportunity to timely influence this process and register their actual address of permanent or temporary residence.
- **Decisions on passivisation should be bilingual – in Serbian and Albanian.** The research shows that many respondents either do not speak Serbian or speak it poorly. In that respect, even if the decisions were delivered to them, due to the language barrier, they would not fulfil their primary purpose – to inform citizens;
- **Decisions should be more specific, not generic and general.** Each decision should contain clear information as to who requested the address to be checked,

reason for starting the procedure and available remedy;

- **It is important to unify and organise the procedure for address passivisation at the level of the Republic of Serbia.** If the passivisation of addresses is strictly implemented only in several municipalities, it may raise concerns of this process being directly aimed at only one community;
- **The procedure for checking and allocating registered addresses of permanent or temporary residence should be time-bound.** According to available information, this procedure may take several months, while the police go to field visits up to five times. In that respect, it is important to set out clear criteria specifying the duration and form of the procedure for determining the citizens' permanent or temporary residence and entitlements of police officers in this procedure.
- **Implementation of passivisation based on the principle of expediency resulting from the Law on Permanent and Temporary Residence. No citizen of the Republic of Serbia should be without a permanent or temporary residence. It is reasonable that the Interior Ministry first action should be to allocate an address to every citizen rather than to passivise the address instead.** Although the Law itself guarantees to the citizens that they will have the address of their permanent or temporary residence, even if it is allocated ex officio, this is not the case in reality. The absence of the address leaves citizens without access to their basic human rights, for which reason it is necessary to comply with legal frameworks.
- **Statistical indicators of the number and demographics of passivised citizens should be made public.** This data should be publicly available and not hidden. If passivisation is one of the major problems the Republic of Serbia struggles with, all available capacities should be used – from local politicians, activists, nongovernmental organisations etc. – to find a solution for it.
- **Bilingual leaflets should be produced which would be available at the police.** Thus, all citizens who encounter the problem of address passivisation would have the possibility to become familiar, in a simple manner, with further steps for solving this problem.

