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**UNIVERSAL PERIODIC REVIEW**

**Report of the Working Group on the Universal Periodic Review \***

**Serbia**

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## Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its third session from 1 to 15 December 2008. The review of Serbia was held at the 10th meeting, on 5 December 2008. The delegation of Serbia was headed by H.E. Mr. Svetozar Čiplić, Minister for Human and Minority Rights. At its meeting on 10 December 2008, the Working Group adopted the present report.
2. On 8 September 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Serbia: Ukraine, Pakistan and Ghana.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Serbia:
  - (a) A national report submitted / written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/3/SRB/1);
  - (b) A compilation prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/3/SRB/2);
  - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/3/SRB/3).
4. A list of questions prepared in advance by the Czech Republic, the United Kingdom of Great Britain and Northern Ireland, Denmark, Germany, the Netherlands and Sweden was transmitted to Serbia through the troika. These questions are available on the extranet of the universal periodic review.

## I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

### A. Presentation by the State under review

5. H.E. Mr. Svetozar Čiplić, Minister for Human and Minority Rights, introduced the national report. He noted that, as a successor of the Socialist Federal Republic of Yugoslavia, the Federal Republic of Yugoslavia and Serbia and Montenegro, Serbia had continued membership of all international human rights instruments that the predecessor States had ratified. He gave an update on ongoing efforts to report to treaty bodies and reported that Serbia recognized the competence of relevant treaty bodies to examine individual complaints. He emphasized that Serbia fully supported the work and was open to cooperation with the special procedures of the Council, as borne out by its standing invitation to all thematic procedures of 11 October 2005. The new Constitution of Serbia was promulgated in November 2006, the entire second part of which is devoted to human and minority rights. Serbia banned all discrimination, whether direct or indirect, on all grounds. In addition, the Constitution regulated in more detail the equality of men and women. Institutional mechanisms for gender equality were established at different levels of Government. Various laws contained provisions stipulating the arrangements and mechanisms for action in the child's best interest. He stressed that, under the Constitution, physical and mental integrity was inviolable and nobody would be subjected to torture. The Constitution had established the Protector of Citizens (Ombudsman) at the State level as an independent public authority to protect the rights of citizens and exercise oversight over the activities of administrative bodies. The Ombudsman was appointed in June 2007, while his four deputies, specialized in the protection of the rights of persons deprived of liberty, gender equality

and the rights of persons with disabilities, child rights and the rights of national minorities, was appointed in October 2008.

6. Concerning the situation of human rights in the Autonomous Province of Kosovo and Metohija, the Government was not in a position to implement international human rights treaties given that the administration of the Province had been fully entrusted to the United Nations Interim Administration Mission in Kosovo (UNMIK) in June 1999 under Security Council resolution 1244 (1999). To gain an insight into the implementation of international human rights treaties throughout its territory, in presenting its initial reports, Serbia had requested the competent treaty bodies to examine the implementation of the relevant international human rights instruments in Kosovo and Metohija. In that context, Serbia had requested relevant information from UNMIK in the process of elaborating its report for the universal periodic review but had, regrettably, not received any. Nevertheless, the delegation stood ready to enclose information on the status of human rights in Kosovo and Metohija based on the data available. The human rights situation in Kosovo and Metohija was particularly worrying owing to a lack of respect for fundamental human rights in general, particularly of non-Albanian communities. There had been over 200,000 internally displaced persons from Kosovo and Metohija residing in other parts of State territory for whom not even basic conditions had been created to enable their sustainable return. Therefore, the claims by UNMIK that returns had been sustainable, allegedly 85 per cent thereof, should be viewed in the context of a real number of returnees which was worryingly low, almost non-existent. The representative stressed that, in addition to the large number of internally displaced persons, there were almost 100,000 refugees in Serbia who had held that status for over 10 years, and 200,000 refugees who had acquired Serbian citizenship, which was the first step to local integration. Refugees and former refugees had been having difficulties in exercising their acquired rights in their countries of origin. Serbia was fully committed to tackling the issue of refugees regionally, through the implementation of the Sarajevo Declaration. In July 2008, the Ministry for Human and Minority Rights was established, thus paving the way to bolstering the institutional protection of individual and collective rights. In this manner, the proposals of civil society had been accommodated. As a multinational State, Serbia had been paying great attention to the protection of minority rights. Noting that Serbia took over the presidency of the Decade of Roma Inclusion in 2008, the representative added that, in 2008, numerous activities had already been undertaken in the field, in collaboration with international and non-governmental organizations and with the States participating in the Decade. He emphasized that the Government, aware of all its inherited problems and existing challenges, remained committed to making further headway in the democratization process, implementing its international obligations and achieving the highest standards in the field of human rights.

7. Answering some of the advance questions received, Serbia confirmed that its report had been communicated to non-governmental organizations for comments and suggestions, which were taken into consideration when drafting the final version. Serbia indicated that it had established an Ombudsman at three levels of Government and the Commissioner for Information of Public Interest, which were financed from the national budget. The creation of a national prevention mechanism, in line with Optional Protocol to the Convention against Torture, was under way. With regard to rule of law and the judiciary, the Constitution stipulated that the system of governance was based on the separation of powers into legislative, executive and judicial branches, the relationship of which was based on mutual checks and balances. Ratified international treaties and the generally accepted rules of international law were an integral part of the State's legal system, and had precedence over national laws.

8. Serbia stressed that it had ratified all international anti-corruption conventions and, accordingly, had harmonized its legislation, particularly the Criminal Code. Serbia was a member of the United Nations anti-corruption pilot project. Moreover, the District Court in Belgrade had been prosecuting several judges and prosecutors on charges of corruption and organized crime. Serbia indicated that non-governmental organizations had been active in the field of transitional justice and war crime accountability. One major step was the State's policy relating to the engagement of representatives of the civil sector in preparing draft laws in areas of their special concern and the reform of the judiciary. Cooperation between human rights defenders and governmental bodies would be institutionalized by signing a memorandum on cooperation by the end of 2008. The prohibition of discrimination against people with different sexual orientations would be regulated by the anti-discrimination law currently being prepared.

9. Regarding the protection of children of detainees/prisoners, social welfare services took appropriate protection measures in the child's best interest. On domestic violence, the Family Law stipulated the measures aimed at separating a violent spouse from the family and/or prohibiting access to the family. The victims of violence had access to shelters and 24-hour availability of social welfare services. A general protocol for the protection of children against ill treatment and neglect, which regulated inter-sector cooperation in the processes of assistance and support, had been adopted. Serbia reported that broader inclusion of Roma children into the education system was achieved by affirmative action measures reflected in coordinated action by the National Council of Roma and Roma assistant teachers on the inclusion of children into the educational system and the prevention of dropouts; adoption of new instruments for testing the aptitude of children for primary school enrolment; and functional primary education for Roma adults. Affirmative action in enrolling Roma in secondary schools led to an increase in the number of students enrolled (2.5 times higher in 2008 than in 2005). Children with special needs (disabilities) were included in the educational system by attending classes at special schools with adjusted curricula.

10. Serbia stood ready to continue to work intensively on securing durable solutions for refugees and enhancing the livelihood of internally displaced persons. It had been estimated that, to solve the problems of refugees, over 180 million Euros would be required, for which Serbia still needed the assistance of the international community. Serbia was aware that the difficulty of obtaining certain documents was a major obstacle to the rights of internally displaced persons. In that context, amendments to the laws on registry books and permanent and temporary residence had been prepared, as well as a draft law on legal personality. To facilitate the process of obtaining documents, Serbia adopted a regulation exempting internally displaced persons of payment of 70 per cent of administrative fees for the issuance of documents. Serbia was committed to fulfilling its obligations under the readmission agreements and had prepared a strategy for reintegration of returnees, to be adopted in 2009. However, in the current difficult economic situation, Serbia does not have sufficient capacities and means to respond to the needs of sustainable reintegration.

11. In 2004, the Government established the Anti-Human-Trafficking Council. In cooperation with the Organization for Security and Cooperation in Europe, a human trafficking victim protection coordination service was established in 2004. In 2006, an anti-human-trafficking strategy was adopted. The Criminal Code is currently being amended to introduce harsher punitive policies, including for the crime of human trafficking.

## **B. Interactive dialogue and responses by the State under review**

12. During the interactive dialogue, statements were made by 41 delegations, a number of which praised Serbia for the high quality of its presentation and for its national report, prepared in broad consultation with civil society. The establishment of a Ministry for Human and Minority Rights was among the institutional developments highlighted.

13. Chile noted that Serbia was party to the main human rights treaties. It recommended that Serbia consider ratifying the Convention on the Rights of Persons with Disabilities as soon as possible. Notwithstanding positive measures to confront discrimination and racism, certain information emphasized that minorities continued to suffer, particularly the Roma. Chile recommended that Serbia adopt measures to ensure that minorities can effectively enjoy all their rights. It also recommended that, within the framework of the law, the State decisively combat neo-Nazi groups and others promoting racial hatred and violence. It enquired about the strategy to combat domestic violence in 2008-2012, and asked about steps taken to implement the recommendation of the Committee on the Elimination of Discrimination against Women that it adopt comprehensive measures to confront violence against women. Chile asked about measures to protect journalists who had been victims of assault, intimidation and harassment, and to identify and prosecute those responsible.

14. France commended Serbia for the progress made in human rights, particularly for the adoption of the 2006 Constitution, which enshrined fundamental rights and significant stages in strengthening democracy. The Constitution forbade all forms of discrimination; nonetheless, discrimination against women and people on the basis of sexual orientation continued. France asked about measures Serbia intended to take to fight these types of discrimination. Regarding the reported deterioration of the situation of human rights defenders working on sensitive issues, France recommended that Serbia take all measures necessary to ensure the safety of human rights defenders and to ensure they had a favourable working environment. While the fight against impunity has made progress, additional efforts were needed. France recommended that Serbia take measures to ensure allegations of human rights violations brought to the knowledge of the authorities were systematically subject to inquiry and punished where appropriate. The arrest of Radovan Karadzic in 2008 and his prosecution by the International Criminal Tribunal for the Former Yugoslavia for war crimes and crimes against humanity illustrated the commitment of the Government to this issue, and France recommended continuing on this path and making every effort to ensure full cooperation with the Tribunal.

15. Croatia underlined the fact that a number of institutions for human rights protection have been established but mentioned a gap between theory and practice, between adopted international instruments and their implementation in everyday life. It therefore called on relevant authorities to make all necessary arrangements for the adoption of the gender equality law and to implement decisions and recommendations of various treaty bodies. Croatia also recommended that Serbia combat the climate of impunity with regard to racially motivated attacks on minorities and carry out efficient investigation, prosecution and punishment of perpetrators. Croatia stated that Serbia was in continuing breach of its obligations under the statute of the International Criminal Tribunal for the Former Yugoslavia, since it has failed to apprehend and arrest the main person indicted for war crimes, Ratko Mladic.

16. Turkey noted that the voluntary pledge made in April 2008 in support of its candidacy to the membership of the Council reflected the State's commitment to the full realization of all human rights, and encouraged Serbia to implement fully the objectives mentioned therein. With

regard to gender equality, Turkey asked Serbia to give more information on the implementation of the national Millennium Development Goals. Turkey wished to be informed on the mandate and functioning of the Council for National Minorities and the implementation of by-laws on affirmative action.

17. Algeria recalled the commitment of Serbia and Algeria to the ideals of liberty, peace and justice and to the principles of international law as the only way to preserve international stability. It paid tribute, in particular, to the State's determination to prevent Islamophobia, having seen its negative consequences, and also for having brought Radovan Karadzic to justice. Algeria asked for more information on the implementation of recommendations made by the Committee on Economic, Social and Cultural Rights on ensuring universal access to primary health care, particularly by extending the system of mandatory insurance to all, including refugees, displaced persons and Roma, and on the recommendation of the Human Rights Committee regarding full and effective access to social services. Algeria noted that the adoption of a specific law dealing with discrimination is listed among the State's priorities. It recommended that Serbia take appropriate measures to implement commitments referred to in paragraphs 119 and 120 of the national report, in particular ratifying various international instruments, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

18. Italy was concerned that a number of non-governmental organizations have reported high levels of domestic violence against women and children and recommended that Serbia take all appropriate measures, in legislation, implementation and awareness-raising, to tackle such issues. Italy noted that the implementation of the law in 2006 on churches and religious organizations was giving rise to a significant number of complaints by "non-traditional" religious communities, which have been denied official recognition and were thus deprived of any legal status. Italy recommended that Serbia take adequate measures to guarantee the protection and promotion of religious freedom, including by adopting legislation related to the recognition of all churches and religious communities. While welcoming the adoption of a strategy to improve the situation of disabled persons, Italy noted that the legislative framework was incomplete and that not enough resources were allocated to this sector. It recommended that new anti-discrimination legislation be adopted to protect the rights of disabled persons, including the living conditions in residential and mental health institutions, and that their social integration be promoted.

19. Finland acknowledged the State's commitment to improving the situation of the Roma, who however still lived in poor conditions and faced discrimination in several areas, including education, social protection, health care and employment. Finland asked for further information on concrete measures for the improvement of the situation of the Roma and recommended that the Government adopt and implement comprehensive anti-discrimination legislation, and commit to effectively integrating the Roma into society. Expressing its concerns about the realization of the rights of persons with disabilities, Finland recommended that the Government take concrete measures to address the high rate of unemployment among persons with disabilities and the special needs of children with disabilities at schools.

20. The United Kingdom commended Serbia for its efforts and encouraged it to continue bringing its legislation into line with European human rights standards. While recognizing the State's commitment to human rights, the United Kingdom noted that changes to its domestic legislation were needed. It recommended that the Government ensure that legislation on the proper implementation of its commitments to human rights was adopted and enforced as soon as

possible. While noting the significant improvement in the State's cooperation with the International Criminal Tribunal for the Former Yugoslavia, the representative made reference to concerns raised in this regard and recommended that the Government make every effort to fulfil its obligations to the Tribunal and other related bodies. The United Kingdom also recommended that the Commissioner for Information of Public Importance be given greater access to information so that he may fully determine to whether such information should be withheld from access to the public. Finally, it stated that Kosovo was independent and therefore should not be included in the present review.

21. Greece was interested in receiving more detailed information on measures to ensure registration of and documentation for the Roma. It recommended that the Government take measures to enhance the function of the Ombudsman and to include, inter alia, effective monitoring and promotion of child rights in its mandates. Greece commended Serbia for its efforts to deal with the issue of refugees and internally displaced persons, and welcomed the adoption of the asylum law in 2006. Greece recommended that Serbia take all necessary measures to ensure the improvement of the socio-economic conditions of refugees and displaced persons.

22. The Netherlands commended Serbia for its vibrant democracy and the protection of minorities provided for in its 2006 Constitution. Referring to paragraph 27 of the summary of other stakeholders' contributions, it wished to know how Serbia guarantees the safety of human rights defenders and an independent press, and recommended that the Government adopt a national plan for the protection of human rights defenders and independent journalists. It asked for special attention for human rights defenders in the area of lesbian, gay, bisexual and transgender rights and recommended that the protection of such activists be included in the national plan and that Serbia apply the Yogyakarta Principles as a guide for new policies on lesbian, gay, bisexual and transgender rights.

23. Cuba congratulated Serbia on the efforts made and results achieved in human rights. It emphasized that the national report clearly identified the main challenges and priorities in the field of human rights. Cuba commended the State for the special measures adopted in 2002 and the legislation approved in 2007 aimed at improving women's access to political posts, the national measures taken to meet the Millennium Development Goals, including the Poverty Reduction Strategy, and the national employment strategy. The national action plan for children, adopted in 2004, was based on the principles of the Convention on the Rights of the Child, and which defined Serbia general policy with respect to children and young people for the period until 2015. Cuba appreciated the State's endeavours to combat discrimination against national minorities and to promote tolerance and intercultural dialogue between different ethnic, linguistic and religious groups. Cuba asked whether there was a specific programme to train police officers on the human rights of vulnerable groups, including minorities, and whether national minorities were allowed to join the police force. Cuba recommended that Serbia continue to promote equality and non-discrimination among the national minorities living in the country, its positive efforts to promote and protect children rights and to attain the full empowerment of women.

24. Poland appreciated the adoption of the national action plan for children, but stated that, as indicated by the Committee on the Rights of the Child in 2008, a comprehensive national strategy to prevent trafficking and sexual exploitation of children and reintegration and rehabilitation programmes and services exclusively for child victims are lacking. Therefore, Poland recommended that Serbia implement a comprehensive national strategy to prevent



trafficking and sexual exploitation of children, and ensure full compliance of domestic legislation and relevant procedures with juvenile justice standards of the Convention on the Rights of the Child. Serbia was also asked to elaborate on the steps taken to limit the scope of corruption. Poland recommended that Serbia strengthen its anti-corruption policy.

25. Germany commended Serbia for the progress achieved in recent years in the promotion and protection of human rights and encouraged it to continue its efforts. Germany asked for further information on the improvement of the schooling situation of Roma children and on additional efforts that the Government envisaged to take in this regard. Germany asked what measures Serbia had taken to guarantee that minority groups were not discriminated in the recognition of university degrees or secondary school diplomas. It recommended that the Government follow up the recommendation of the Special Representative of the Secretary-General on the situation of human rights defenders and denounce more forcefully the verbal and physical attacks against human rights defenders.

26. Romania commended the State's efforts to improve the human rights situation and that of vulnerable groups. Romania recommended that Serbia ensure the effective operation of the ombudsman institution, especially with regard to the protection of the rights of persons belonging to national minorities, and guarantee the protection of all citizens in a balanced, efficient manner. Romania enquired about the effective functioning of the ombudsman institution, especially at the local level, and about cases of restrictions to the performance of religious services in minority languages in some parts of the country. It recommended that Serbia take into account the opinions and recommendations of the European Commission for Democracy through Law when implementing the law on religious organizations.

27. Mexico acknowledged the cooperation between Serbia and OHCHR to develop a national capacity to protect human rights further. It recommended that Serbia strengthen measures for the development of practical mechanisms to combat impunity, including by strengthening the judiciary. Mexico appreciated the State's efforts to create a legal and institutional framework and programmes aimed at integrating and addressing the needs of national minorities, in particular the Roma. It recommended the adoption of a specific anti-discrimination law. Mexico also appreciated the State's manifest will to promote human rights through the ratification of various instruments. In that respect, it urged Serbia to consider ratifying the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto.

28. Sweden expressed concerns about the rule of law in Serbia, recalling that the new Constitution stated that national law overrides international law. It recommended that Serbia intensify its efforts to combat corruption to ensure the independence, effectiveness and quality of the judicial system. Sweden noted with interest that a memorandum of cooperation between human rights defenders and State organizations would be concluded by late 2008. Sweden asked for more information about the content of the memorandum and recommended that Serbia adopt measures to secure the full enjoyment of the freedom of expression and to promote the work of human rights defenders.

29. Spain wondered whether the Government intended to improve its legislation on gender equality. With regard to persons with disabilities, Spain noted certain problems concerning the integration of such individuals and asked whether the Government envisaged improving its legislation in that regard and signing the Convention on the Rights of Persons with Disabilities.

Spain also requested Serbia to expand its plans concerning the promotion and protection of Roma communities.

30. The Russian Federation noted the openness shown by Serbia in preparing for the review. It asked Serbia to indicate which measures were taken to conduct legal proceedings against war crimes, whether legislation provided for the possibility of substituting alternative civil service for military service and what Serbia was doing to integrate refugees.

31. Argentina recalled article 14 of the Constitution, on the rights of national minorities. Argentina stressed it would appreciate obtaining statistics on the literacy levels of children from ethnic minorities in Serbia.

32. Switzerland noted the progress achieved by the Government and the problems it faced. It recommended that Serbia continue to develop a legal system in line with international standards, which implied strengthening the rule of law. Regarding the fight against impunity, Switzerland recommended that Serbia take the steps necessary to ensure that alleged war criminals are prosecuted and to achieve full cooperation with the International Criminal Tribunal for the Former Yugoslavia. On minority issues, the representative recommended that the Government intensify efforts to ensure better integration of all ethnic minorities. Switzerland recommended that Serbia take all necessary steps to ensure freedom of expression and safety for the men and women who have continued to display great courage in defending and promoting the values spelled out by the Council. In this regard, Switzerland was ready to continue its cooperation with Serbia.

33. In reply to the comments and questions of the delegations, Serbia stated that it was justified from the international law viewpoint that the situation of human rights in Kosovo and Metohija was a part of the State's report. On the basis of the Security Council resolution 1244 (1999), Kosovo and Metohija were under the interim administration of the United Nations. Serbia stressed that resolution 1244 (1999) guaranteed the sovereignty of Serbia over its entire territory. It was important to recall the results achieved in its cooperation with the International Criminal Tribunal for the Former Yugoslavia. Serbia did not have any outstanding issues with the Tribunal, in particular regarding the submission of documents. Tribunal prosecutors had 26 insights into documents of the military, the intelligence and law enforcement. Not a single request for an insight into the archives was rejected. All witnesses, for which the Tribunal asked for release of confidentiality, had been released of that obligation, without exception. Of 46 indicted people, 44 were transferred to the Hague, including numerous high-ranking officials. Serbia also referred to the arrest and extradition of former president of the Republic of Srpska Radovan Karadzic, which dispelled the suspicion that Serbia was institutionally protecting Karadzic and Mladic. On the protection of journalists and human rights defenders, law enforcement authorities were making efforts to discover who had made threats and who committed attacks; people who had attacked journalists had already been prosecuted. The draft law on national councils would regulate the functioning of these mechanisms existing since 2002. In that way, minority self-governance would be assured. Serbia was to adopt a set of anti-discrimination laws, including the framework anti-discrimination law. Within that draft law, special attention was given to gender equality and protection of lesbian, gay, bisexual and transgender rights. In the first half of 2009, laws on gender equality, prohibition of mobbing and strikes were expected to be adopted. Meanwhile, Serbia had already set out institutional mechanisms for gender equality on various levels. There were 54 women members of Parliament, including the Speaker, and five women ministers, including for justice and finance. The election laws prescribed the threshold of 30 per cent of women on electoral lists. There were

more than 50 local committees on gender equality. Serbia had adopted a law on the prevention of discrimination against persons with disabilities and a strategy for the improvement of the situation of persons with disabilities for 2007-2015. Serbia signed the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, and a procedure for ratification was under way; the law on the employment and professional rehabilitation of persons with disabilities and the strategy for child protection against violence were about to be adopted. In 2005, the Law on Health Care established the right to health care for vulnerable groups, including the Roma. Numerous strategies and plans of action had been adopted in that regard, such as the poverty reduction strategy, the national action plan for children, the action plan for improving the health of the Roma, the national plan against tuberculosis and the strategy for the improvement of juvenile health. Since 2006, the Ministry of Health, in cooperation with Roma non-governmental organizations, had been implementing a plan on Roma health protection. According to the Constitution, conscientious objectors could serve their military duty without the obligation to carry weapons. There were 1,730 institutions and organizations for civil service. The civil service lasted nine months and 49 per cent of conscripts had opted for it.

34. Austria stressed that both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights had expressed concerns about widespread discrimination against Roma in all areas of life. The Representative of the Secretary-General on the human rights of internally displaced persons had noted that problems in obtaining documents were particularly acute for the Roma. Austria recommended that measures to ensure registration of all Roma in Serbia be strengthened. It also recommended that, in line with the recent recommendation of the Committee on the Rights of the Child, all corporal punishment be expressly prohibited, including in the family. Serbia was asked to elaborate further on measures taken to put an end to practices that could amount to torture or ill treatment against children with disabilities in institutions, as recommended by the Committee in 2008.

35. Brazil commended Serbia for the approval of its Constitution guaranteeing fundamental human rights, the ratification of many human rights instruments and the issuance of a standing invitation to special procedures. Brazil noted that, as a multiethnic country, it was important that Serbia pay special attention to minority issues. Brazil acknowledged the achievements made by Serbia in the field of human rights, especially given the challenges faced by a country in a post-conflict situation. It recommended that Serbia consider poverty reduction strategies, from which minority groups could greatly benefit, reach the human rights goals set by the Council in its resolution 9/12, and consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.

36. Norway appreciated the State's cooperation with the Special Representative of the Secretary-General on the situation of human rights defenders during her visit in 2007. In her report, the Representative recognized a number of positive developments but also expressed concern about verbal and physical attacks against human rights defenders. In line with the recommendations in the report, Norway recommended that the Government forcefully denounce such attacks and that State authorities in such cases give human rights defenders legitimacy through supportive statements. It also recommended that the Government investigate and take appropriate action on reports of violations against human rights defenders. Following the Representative's recommendations, Norway recommended the adoption of a national plan or strategy on human rights with specific measures for the protection of human rights defenders and their activities, including the protection of defenders in vulnerable positions, such as women defenders and those defending lesbian, gay, bisexual and transgender rights.

37. Denmark welcomed the positive developments in the field of human rights, including the new Constitution, the improved conditions of minorities and progress in the protection of civil and political human rights. However, it noted that instances of torture continued, particularly involving the Roma and disabled persons. Denmark recommended that Serbia take all measures to prevent torture and, as an element of these efforts, recommended that Serbia speed up the process of implementing the Optional Protocol to the Convention against Torture and designate an independent national preventive mechanism in consultation with civil society.

38. Canada noted the concerns of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights regarding discrimination against minorities, particularly the Roma, and recommended that Serbia adopt a specific anti-discrimination framework legislation to ensure that minorities such as the Roma are treated without discrimination in all aspects of their lives, including access to health care and education. Canada also recommended that racially motivated attacks committed against minorities be systematically investigated, prosecuted and punished according to law. Taking note of the concerns expressed by the Special Rapporteur on the freedom of expression and opinion in 2007, Canada also recommended that Serbia take steps to ensure full respect for freedom of expression and the media and create a climate in which journalists are able to report on sensitive issues without fear of harassment or reprisal. Canada also recommended developing and implementing a comprehensive strategy to protect human rights defenders, including those working on behalf of the rights of lesbian, gay, bisexual and transgender persons, and ensure effective investigation of alleged attacks against them. While welcoming the arrest of Radovan Karadzic in 2008, Canada recommended that Serbia continued its efforts to track down and arrest the key remaining fugitives accused of war crimes by the International Criminal Tribunal for the Former Yugoslavia, namely, the former Bosnian Serb General Ratko Mladic and former Croatian Serb political leader Goran Hadzic.

39. India noted the large number of laws and other regulations relevant to human rights and the commitment of Serbia to international treaties, and asked Serbia about its initial experience in the establishment of the Ministry for Human and Minority Rights. India also commended Serbia for setting up human rights mechanisms, including the Ombudsman, and asked the delegation how this institution was different from a national human rights institution. India noted with appreciation the priorities indicated at the end of the national report.

40. The Republic of Korea appreciated the fact that Serbia had a good track record of cooperation with the treaty bodies and had issued a standing invitation to special procedures. It noted that progress had been achieved in various domains, such as protecting internally displaced persons, addressing gender gaps and combating trafficking in persons. Particularly appreciated was the plan of action to extend the availability of education to Roma children. Meanwhile, it noted that some concerns remained and recommended that Serbia work with the international community to continue to improve the socio-economic situation of the Roma minority. It also recalled the recommendation of the Committee on the Rights of the Child in 2008, that Serbia strengthen its efforts to establish a system ensuring the registration of all children born within its territory, irrespective of the nationality and status of the parents.

41. Slovakia appreciated that Serbia was party to the core human rights instruments and had accepted the authority of the Human Rights Committee, the Committee against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women to consider complaints of individuals. Slovakia recommended that Serbia strengthen the national mechanism for implementing the decisions of these bodies in individual cases. Emphasizing that the number of domestic laws relevant to human rights

protection enacted in Serbia since 2002 was impressive, Slovakia recommended that Serbia educate its public through awareness-raising campaigns of existing legislative and institutional mechanisms for the protection of human rights. Slovakia also recommended that Serbia continue its efforts to pass the anti-discrimination law as soon as possible and implement it.

42. Hungary noted with satisfaction the numerous steps taken to improve the situation of the Roma and expressed interest in learning more about the achievements of the plans of action adopted in 2005 to improve the status of the Roma in education, employment, housing and health. Serbia was also asked to elaborate on the utility of the Decade of Roma Inclusion, a regional programme aimed at improving the situation of the Roma in Central and South-Eastern Europe. Hungary also requested more information about the major strategic aims and results of the Ministry for Human and Minority Rights and its added value and the achievement of the programme promoting multiculturalism and tolerance in Vojvodina. It recommended that Serbia adopt a specific anti-discrimination law.

43. Ukraine, as a member of the troika, welcomed the State's openness regarding the human rights situation in the country and readiness to discuss within the Council all relevant problems. Ukraine expressed its appreciation for the measures taken in the field of the rights of the child, such as adoption of the national action plan for children. However, it wished to know if any steps had been taken to fulfil the recommendations made by the Committee on the Rights of the Child in 2008 relating to the prohibition of corporal punishment in the family and practices that could amount to torture or ill treatment against children with disabilities in institutions. Ukraine was also interested in learning more about activities aimed at raising awareness of human rights and measures taken to guarantee the right to the highest possible level of health.

44. Azerbaijan appreciated the State's steps to improve the human rights situation on the ground and the ratification of almost all core human rights treaties. Considering the multiethnic nature of the Serbian State, Azerbaijan particularly welcomed the focus put on minority rights and asked for more information about the effective functioning of national councils. Serbia was also requested to elaborate further on challenges faced and achievements attained in the protection of rights of refugees and internally displaced persons. Azerbaijan also wanted to know whether Serbia envisaged adopting the Gender Equality Law and the national plan of action to improve the situation of women in the near future. Finally, Azerbaijan recommended that Serbia extend the Ombudsman's monitoring authorities to Government and the Public Prosecutor's Office to ensure the possibility of redressing human rights violations at all levels of public administration.

45. Japan appreciated the framework to protect minorities but enquired about the remaining problems regarding internally displaced persons, including the Roma, and recommended that Serbia submit its report to the Committee on the Elimination of Racial Discrimination as soon as possible. Japan asked Serbia to elaborate further on its perspectives concerning the reported use of excessive force by the police in pre-trial proceedings. Finally, while appreciating the State's cooperation with the International Criminal Tribunal, especially on the extradition of Radovan Karadzic, Japan encouraged Serbia to continue its cooperation, including in arresting other indicted persons.

46. Ireland welcomed the fact that the Constitution guarantees freedom of thought and expression and freedom of the media, but was concerned about recent reports of harassment and intimidation of the media and human rights defenders. Ireland welcomed responses from Serbia to written advance and oral questions as to what specific actions have been taken to ensure an

end to such threats. Ireland recommended that the Government take adequate measures to ensure respect for freedom of expression and ensure that cases of alleged violence against journalists and human rights defenders are fully investigated. Ireland also recommended that every effort be made to strengthen the rule of law, as enshrined in its Constitution, and to ensure the independence of the judiciary.

47. Following one question put in advance relating to the functioning of the judiciary, the Czech Republic recommended the adoption of further measures to ensure its independence and efficiency and to secure access to concrete remedies for victims of human rights violations. Regarding the protection of independent journalists and human rights defenders, it recommended the adoption of specific measures to ensure protection of human rights defenders, including those dealing with sensitive issues such as corruption, organized crime or the human rights of sexual minorities. Lastly, it wished to know whether any registration procedure existed to identify children of detainees/prisoners and what could be done to protect the rights of these children.

48. The Philippines noted that the Constitution protected the rights of national minorities. In this regard, it was interested to know about the role of national minorities in local government, which seemed to be promoted in a positive manner. It also asked if there were plans to enhance affirmative action programmes for minorities or to widen the scope of their coverage to allow more individuals from minority groups to have access to quality education. It appreciated the measures taken to strengthen efforts to combat human trafficking and asked for information on the ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

49. While appreciating the measures taken by Serbia to improve human rights in the country, Bangladesh noted that the success of all the measures would largely depend on their effective implementation. Bangladesh hoped that the anti-discrimination law would strengthen ongoing efforts to improve the situation of minorities. Regarding trafficking in persons, mainly women and children for sexual exploitation, Bangladesh acknowledged the action being taken in various countries and noticed that Serbia was a country of transit, origin and destination. It recommended that effective measures be taken to combat trafficking in women and children in cooperation with countries in the trafficking network.

50. Bosnia and Herzegovina asked Serbia to elaborate more on measures taken to improve the implementation of domestic legislation and treaties on human rights and to provide information, if any, on specific challenges or obstacles in the process of implementing domestic legislation and treaties. More information was requested on the function, activities and purpose of the Gender Equality Committee of the National Assembly and the Government Council for Gender Equality. It also wished to know about measures taken to implement the new Law on Family Relations, and about those taken to implement other laws and strategies to protect children and adolescents. It called on Serbia to elaborate on the steps taken to improve its cooperation with International Criminal Tribunal to ensure that all persons suspected of grave human rights violations were brought to trial. It welcomed the State's commitment to the implementation of the Sarajevo Declaration to solve the problems of refugees in the region.

51. Slovenia commended Serbia for its standing invitation to special procedures and supported the State's endeavour to become a member of the European Union, and would assist in that regard. Slovenia recommended that Serbia restore civilian control to decision-making in relation to applications for conscientious objection to military service, to extend the time limit for applications to be made, remove the exclusion of all those who have ever held a firearms

licence from being recognized as conscientious objectors, and equalize the length of alternative and military service. Slovenia mentioned the draft law on national councils of national minorities that might substitute the existing legislation, including the Law on the Protection of Rights and Freedoms of National Minorities regarding freedom of association. It recommended that Serbia protect rights already granted by the existing law and reflect them in the new legislation, and not to diminish the current minority stipulation for the procedure of elections. Slovenia also enquired about the validity of the signatures collected to form a minority association and recommended that Serbia, in the light of the above, not allow the nullification of the signatures already collected, and not raise the threshold of signature needed on the application form. It suggested that a transitional period could be provided, taking into account the application forms already signed.

52. Ghana, as member of the troika, took note with great interest in the positive measures taken by Serbia in recent years to enhance respect for human rights inside the country. However, challenges still had to be tackled, especially in the social and economic integration of refugees and the reintegration of internally displaced persons into society. Ghana recommended that the Government, with appropriate assistance from the international community, strengthen the role of its national mechanisms for the promotion and protection of the rights of minorities, refugees and internally displaced persons, and increase its efforts to enhance the role of women in high-level decision-making processes, in accordance with the constitutional guarantee of gender equality.

53. China referred to the priority targets for further promoting and protecting human rights in the future enumerated in the national report. China appreciated the efforts and progress made in human rights protection. It acknowledged that Serbia joined the Decade of Roma Inclusion 2005-2015, which Serbia will chair in 2008-2009. China enquired about specific work plan and ideas developed during this presidency and their implications for the protection of ethnic minorities in Serbia. Lastly, China mentioned the comprehensive legal protection framework on social and cultural heritage and asked how Serbia implemented relevant laws, and what were the difficulties and challenges currently faced.

54. Albania highlighted the progress made by Serbia in human rights and establishing democracy. It stressed that it did not intend to speak about Kosovo as it was not under consideration. Albania asked Serbia what measures had taken to help neighbouring countries to identify the thousands of people who had disappeared in conflicts; to compensate members of minorities and ethnic groups whose property was completely destroyed in 2008 and to ensure this does not happen again; and what measures had been taken to end verbal and physical attacks against journalists, human rights defenders, civil society representatives and politicians.

55. Replying to questions, Serbia indicated that, in Kosovo and Metohija, Serbian cultural and religious sites were being destroyed. Between June and October 1999 alone, 76 monasteries and churches had been damaged or destroyed. Furthermore, on 17 and 18 March 2004, another 36 cultural and religious sites had been destroyed. Although UNMIK reported on investments in attempts to renew 156 destroyed orthodox churches, no positive steps had been observed in that respect. Destroyed churches were often being turned into waste dumps. The local Albanian population destroyed 5,250 tombstones in 254 graveyards. Serbian cultural and religious sites of great importance, such as Visoki Decani, Gracanica and Pec Patriarchy, which are under the protection of UNESCO, were being presented by the provisional institutions without their Serbian origin being mentioned. On the question of the Law on Churches and Religious Communities, Serbia stressed that it should be observed as a transitional law which is subject to

changes. Regarding its implementation, churches and religious communities could submit complaints to the Supreme Court. Health care, education, employment and social care were provided for refugees. As citizens of Serbia, internally displaced persons had all the rights ensured by the Constitution and law. Serbia had taken a series of measures to amend legislation and adopt new laws in that field. Also, Serbia had adopted a national strategy to resolve the problems of refugees and internally displaced persons. The law on citizenship allowed more than 200,000 refugees to acquire citizenship. Proper housing had been provided for 8,000 families. The police accepted the concept of community policing; therefore the participation of national minorities in the police force had therefore been fostered. In 2003, the police adopted a code of ethics related to, inter alia, education in international human rights standards.

56. In conclusion, Serbia expressed its gratitude and thanks to all delegations for the fruitful debate during the review. It stressed that although much had been done, a lot still needed to be done to achieve the highest standards in human rights. Serbia would carefully examine all recommendations and questions made during the review.

## II. CONCLUSIONS AND/OR RECOMMENDATIONS

57. In the course of the discussion, the following recommendations were made to Serbia:

1. To take appropriate measures to implement its commitments referred to in paragraphs 119 and 120 of the national report, in particular ratifying various international instruments (Algeria); to consider ratifying the Convention on the Rights of Persons with Disabilities (Brazil) as soon as possible (Chile) and the Optional Protocol thereto (Mexico), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Mexico, Algeria); and the International Convention for the Protection of All Persons from Enforced Disappearance (Brazil);
2. To adopt specific and comprehensive anti-discrimination laws (Mexico, Hungary) to protect, inter alia, the rights of disabled persons, including living conditions in residential and mental health institutions, and promote their social integration (Italy), and begin their implementation (Slovakia);
3. To ensure that legislation related to the State's commitment to human rights is adopted and enforced as soon as possible (United Kingdom); to educate its public through awareness-raising campaigns enabling them to use existing legislative and institutional mechanisms for the protection of human rights (Slovakia);
4. To ensure that the Commissioner for Information of Public Importance be given greater access to information so that he may fully determine whether such information should be withheld from access to the public (United Kingdom); to take all necessary measures to enhance the effectiveness of the Office of the Ombudsman (Greece, Romania) and extend its monitoring authorities to Government and the Public Prosecutor's Office to ensure the possibility of redressing human rights violations (Azerbaijan); and include, inter alia, effective monitoring and promotion of child rights (Greece) and the rights of persons belonging to national minorities (Romania);
5. To strengthen the national mechanism for the implementation of the decisions of the Human Rights Committee, the Committee against Torture, the Committee on



- the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women in individual complaints (Slovakia); to speed up the process of implementing the Optional Protocol to the Convention against Torture and designate an independent national preventive mechanism in consultation with civil society, take all required measures to effectively prevent torture (Denmark), and to submit its report to the Committee on the Elimination of Racial Discrimination as soon as possible (Japan);
6. To increase its efforts at enhancing the role of women in high-level decision-making (Ghana);
  7. To combat, within the framework of the law of the State, neo-Nazi groups and others promoting racial hatred and violence (Chile); to combat the climate of impunity (Croatia) and ensure that racially motivated attacks committed against minorities are systematically investigated, prosecuted and punished according to law (Canada, Croatia);
  8. To continue its positive efforts to promote and protect children rights and to attain full empowerment of women (Cuba); and take all appropriate measures, in the fields of legislation, implementation and awareness-raising, to tackle domestic violence against women and children (Italy);
  9. To ensure full compliance of domestic legislation and relevant procedures with juvenile justice standards of the Convention on the Rights of the Child (Poland);
  10. To take concrete measures to address the high rate of unemployment among persons with disabilities and the special needs of children with disabilities at schools (Finland);
  11. To prohibit corporal punishment, including in the family, in line with the recent recommendation of the Committee on the Rights of the Child (Austria);
  12. To implement a comprehensive national strategy to prevent trafficking and sexual exploitation of children (Poland); to take effective measures to combat trafficking in women and children in cooperation with countries in the trafficking network (Bangladesh);
  13. To continue to develop a legal system in line with international standards, in order to strengthen the rule of law (Switzerland);
  14. To continue to make every effort to ensure full cooperation with the International Criminal Tribunal for the Former Yugoslavia (France, Switzerland); fulfil its obligations to the Tribunal and other related bodies (United Kingdom); and track down and arrest the key remaining fugitives accused of war crimes by the Tribunal (Canada, Switzerland), namely, former Bosnian Serb General Ratko Mladic and former Croatian Serb political leader Goran Hadzic (Canada);
  15. To take all necessary measures to ensure that allegations of human rights violations brought to the knowledge of the authorities are systematically subjected to inquiries and punished where appropriate (France, Norway); to strengthen

- measures for the development of effective mechanisms to help combat impunity, including strengthening of the judiciary (Mexico);
16. To reinstate civilian control of decision-making in relation to applications for conscientious objection to military service, to extend the time during which applications can be made, to remove the exclusion of all those who have ever held a firearms license from being recognized as conscientious objectors, and to equalize the length of alternative and military service (Slovenia);
  17. To strengthen its anti-corruption policy (Poland); to intensify its efforts to combat corruption in order to ensure the independence, effectiveness and quality of the judicial system (Sweden); to strengthen the rule of law as enshrined in the Constitution, and ensure the independence of the judiciary (Ireland, Czech Republic); to enhance the efficiency of the judiciary and secure access to concrete remedies for victims of human rights violations (Czech Republic);
  18. To take all adequate measures to guarantee the protection and promotion of religious freedom, including by adopting legislation recognizing all churches and religious communities (Italy); to take into account the opinions and recommendations of the European Commission for Democracy through Law when implementing the law on religious organizations (Romania);
  19. To adopt necessary measures to secure full respect for freedom of expression (Sweden, Ireland) and of the media (Canada); to ensure investigation of all cases of alleged violence against journalists (Ireland); and to create a climate in which journalists are able to report on sensitive issues without fear or harassment and reprisal (Canada);
  20. To promote the work of human rights defenders (Sweden, Canada, Switzerland) and take all necessary measures to ensure their safety (France, Czech Republic) and freedom of expression (Switzerland), and ensure they have a favourable working environment (France); to follow up the recommendation of the Special Representative of the Secretary-General on the situation of human rights defenders and denounce more forcefully verbal and physical attacks against human rights defenders (Germany, Norway); to adopt a national plan of action to enhance the protection of human rights defenders and independent journalists (Netherlands), to develop and implement a comprehensive strategy to protect human rights defenders, including those working on behalf of the rights of lesbian, gay, bisexual and transgender persons (Canada); to apply the Yogyakarta Principles as a guide for new policies in the area of lesbian, gay, bisexual and transgender rights (Netherlands); and ensure the effective investigation of alleged attacks against human rights defenders (Canada, Ireland);
  21. To continue current positive steps to promote equality and non-discrimination in the national minorities in the country (Cuba); to adopt all necessary measures so that minorities can effectively enjoy all their rights (Chile); to intensify efforts to ensure their better integration (Switzerland); to protect national minorities rights already granted by the existing law and to have them reflected in the new legislation, and not diminish the current minority stipulation for the procedures of elections (Slovenia); not allow the nullification of the signatures already collected

to form a minority association, and not raise the threshold of signatures needed on application forms (Slovenia); to consider poverty reduction strategies that benefit minority groups (Brazil);

22. To adopt specific and comprehensive anti-discrimination laws to protect the rights of persons belonging to minorities, including the Roma, including access to health care and education (Finland, Canada); to effectively integrate the Roma into society (Finland); to continue to improve the socio-economic situation of the Roma minority (Republic of Korea); and to strengthen measures to ensure registration of all Roma in Serbia (Austria);
23. To take all necessary measures to ensure the improvement of socio-economic conditions of refugees and internally displaced persons (Greece); and to strengthen the role of its national mechanisms for the promotion and protection of the rights of minorities, refugees and internally displaced persons, with appropriate assistance from the international community (Ghana);
24. To reach the human rights goals set by the Council in its resolution 9/12 (Brazil).

58. These recommendations will be examined by Serbia, which will provide responses in due time. The response of Serbia will be included in the outcome report, to be adopted by the Council at its tenth session.

59. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.

## **Annex**

### **COMPOSITION OF THE DELEGATION**

The delegation of Serbia was headed by H.E. Mr. Svetozar ČIPLIĆ and composed of 22 members:

Mr. Svetozar ČIPLIĆ, Minister for Human and Minority Rights of the Republic of Serbia, Head of delegation;

Mr. Slobodan VUKČEVIĆ, Ambassador, Permanent Representative of the Republic of Serbia to the UN Office and other International Organizations at Geneva, member of the delegation;

Mr. Marko KARADŽIĆ, State Secretary, Ministry for Human and Minority Rights of the Republic of Serbia, deputy head of delegation;

Ms. Snežana LAKIĆEVIĆ – STOJAČIĆ, State Secretary, Ministry of Labour and Social Policy of the Republic of Serbia, member of the delegation;

Ms. Sanja JAŠAREVIĆ-KUŽIĆ, Assistant Minister, Ministry for Human and Minority Rights of the Republic of Serbia, member of the delegation;

Mr. Miroslav BRKIĆ, Assistant Minister, Ministry of Labour and Social Policy of the Republic of Serbia, member of the delegation;

Mr. Dragan NOVAKOVIĆ, Assistant Minister, Ministry of Religion of the Republic of Serbia, member of the delegation;

Ms. Svetlana VELIMIROVIĆ, Assistant Commissioner for Refugees, of the Republic of Serbia, member of the delegation;

Ms. Zorana ČAMBER, Chief of the Cabinet, Ministry for Human and Minority Rights of the Republic of Serbia, member of the delegation;

Ms. Suzana PAUNOVIĆ, Head of Department for Family Care and Social Security, Ministry of Labour and Social Policy, member of the delegation;

Ms. Gordana MOHOROVIĆ, Senior Adviser, Ministry for Human and Minority Rights of the Government of the Republic of Serbia, member of the delegation;

Ms. Sladjana MARKOVIĆ, Senior Adviser, Ministry for Kosovo and Metohija of the Republic of Serbia, member of the delegation;

Ms. Majda KRŠIKAPA, Advisor for European integration and harmonization of legislation, Supreme Court of the Republic of Serbia, member of the delegation;

Mr. Željko NIKAČ, Chief Police Advisor, Ministry of Interior of the Republic of Serbia, member of the delegation;

Ms. Marina IVANOVIĆ, Counsellor, Directorate for Human Rights and Environmental Issues, Ministry of Foreign Affairs of the Republic of Serbia member of the delegation;

Mr. Vladimir ČEKLIĆ, Advisor for the harmonization with the EU legislation, Ministry of Justice of the Republic of Serbia, member of the delegation;

Mr. Nebojša JOKIĆ, Advisor, Ministry of Health of the Republic of Serbia, member of the delegation;

Ms. Biljana STOJANOVIĆ, Advisor, Ministry of Education of the Republic of Serbia, member of the delegation;

Ms. Mira LONDROVIĆ, Advisor, Ministry of Defence of the Republic of Serbia, member of the delegation;

Ms. Marija STAJIĆ, Third Secretary, Permanent Mission of the Republic of Serbia to UN Office and other international organizations at Geneva, member of the delegation;

Ms. Sanja ŽIKIĆ, interpreter;

Mr. Mirjana SRDANOV, interpreter.

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