



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the third periodic report of Serbia*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. With reference to the Committee's previous recommendation (see CCPR/C/SRB/CO/2, para. 5), please report on specific training on the Covenant for prosecutors, judges and lawyers and on the practical application of the Covenant in the domestic legal system. Please indicate what procedures are in place, in law and in practice, for the implementation of the Committee's Views under the Optional Protocol and, in this respect, outline any measures proposed by the council for monitoring the implementation of recommendations of United Nations mechanisms for human rights (see CCPR/C/SRB/3, para. 4) to give effect to the Views of the Committee in communication No. 1556/2007, *Novaković and Novaković v. Serbia*, and to implement the Committee's previous recommendations (see CCPR/C/SRB/CO/2).

Non-discrimination and prohibition of advocacy of national, racial or religious hatred (arts. 2, 3, 20 and 26)

2. Please provide information on planned amendments to the anti-discrimination law and the progress achieved, and clarify whether amendments aim at, inter alia, reviewing the current definition of indirect discrimination. Please report on: (a) the implementation in practice of the strategy for the prevention of and protection from discrimination for 2014-2018 and the interim results achieved, including any relevant statistics; and (b) efforts to ensure the effective implementation of the anti-discrimination framework, including by strengthening the capacity of the courts to deal with discrimination cases and by providing the Office of the Commissioner for the Protection of Equality with the necessary financial and logistical resources to discharge its mandate effectively.

3. Please provide information on measures taken, and their impact, to address effectively: (a) discrimination against women, persons with disabilities, older persons, and migrants and asylum seekers; and (b) discrimination, hate speech and violence against lesbian, gay, bisexual, transgender and intersex persons, and discrimination against persons with HIV and social stigma associated therewith. Please indicate whether there has been any follow-up to the recommendations made by the Commissioner for the Protection of

* Adopted by the Committee at its 117th session (20 June-15 July 2016).



Equality in June 2013 with respect to legislation pertaining to the rights of transgender persons. Please also report on measures taken to ensure effective investigation of and prosecution for offences motivated by hatred, and provide information on the number of cases reported, investigations and prosecutions initiated, and their outcome.

4. Please report on measures taken to address hate crimes and discrimination against and social exclusion of Roma, including displaced Roma from Kosovo¹ and Roma returnees from Western Europe, and to ensure their access to education, employment and housing on an equal basis with others. Please provide information, including statistical data, on, inter alia: (a) the impact of the National Employment Strategy, 2011-2020 and of the National Social Housing Strategy adopted in 2012; (b) the status of the housing law and its compliance with the Covenant; (c) the implementation in practice of the Strategy for the Social Inclusion of Roma, 2016-2025 and the interim results achieved; (d) measures to address the continuing practice of forced evictions from informal settlements, including of displaced Roma, to ensure adequate safeguards against forced evictions, and to provide permanent housing solutions for relocated Roma families; (e) progress made in improving substandard Roma settlements (see CCPR/C/SRB/3, para. 119); and (f) the impact of the 2012 Instrument for Pre-accession Assistance project, including the implementation of the third phase of the project, which was aimed at improving the accessibility of preschool education and at the inclusion of children from vulnerable groups, particularly Roma children.

Equality between men and women (art. 3)

5. Please report on measures taken to: (a) eradicate deep-rooted patriarchal stereotypes regarding the roles of women and men in society; (b) increase the representation of women in the national and local assembly committees and in public administration bodies, especially in decision-making positions; and (c) address early, arranged marriage in some Roma communities. Please clarify whether a new law on gender equality and the national strategy on gender equality for the period 2016-2020 have been adopted (see CCPR/C/SRB/3, para. 25).

Violence against women and children, including domestic violence (arts. 2, 3, 6, 7, 24 and 26)

6. With reference to the Committee's previous recommendations (see CCPR/C/SRB/CO/2, para. 9), please provide information on measures taken to address effectively the incidence of violence against women, including femicide and domestic violence, particularly on efforts to: (a) raise awareness of women's rights and of existing mechanisms of protection and redress; (b) ensure strict adherence to protocols by all authorities competent to deal with cases of violence and efficient use and effective implementation of restraining and protection orders; (c) provide for sufficient and affordable State-run shelters and other victim assistance services; (d) address the lenient penalties imposed for domestic violence and the reported significant disparity between the number of cases reported, the number of criminal charges brought against perpetrators and the number of actual convictions; and (e) impose harsher, dissuasive penalties against perpetrators both in law and in practice. Please clarify the status of the initiative to introduce into the Police Act emergency protection measures for women victims, and report on progress made on amendments to the Criminal Code aimed at introducing harsher penalties for domestic violence.

¹ All references to Kosovo in the present document should be understood to be in compliance with Security Council resolution 1244 (1999).

7. Please report on measures taken to: (a) address violence against and abuse of children, including domestic violence; and (b) explicitly prohibit all corporal punishment of children, including in the home and in all alternative care and day-care settings.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and the right to an effective remedy (arts. 2, 6 and 7)

8. Please report on measures taken to search for persons who went missing during the armed conflicts and the results achieved, in particular on expeditious identification of mass graves, burial places and remains. Please provide information on measures taken to: (a) remove obstacles that could hamper victims' access to reparation, including adequate compensation, such as the high standard of proof of harm in civil proceedings, the statutes of limitation, and the narrow definition of a damaged party under the Criminal Procedure Code; and (b) ensure, both in law and in practice, that victims of enforced disappearance and their relatives have an effective right to full reparation, including adequate compensation, without having to declare the disappeared person dead.

9. Please report on progress made in ensuring expeditious and effective investigation, prosecution and conviction of alleged perpetrators of crimes, including war crimes and enforced disappearances, committed during the armed conflicts, and on measures taken to address: (a) the very low number of prosecutions for such crimes, including the significant low prosecution rate of middle- and high-ranking officials and the decrease in the number of new war crime indictments; (b) the lack of human resources for the Office of the War Crimes Prosecutor; (c) the reported pressure on and verbal attacks against the Office of the War Crimes Prosecutor from various stakeholders, including certain Members of Parliament, in connection with its mandate; (d) the reported lack of resources and institutional independence of the War Crimes Investigation Service; and (e) allegations of threats and intimidation of witnesses in the context of war crimes proceedings. Please provide updated information on progress in investigations into the killing of more than 800 persons whose bodies were found in mass graves in and near Batajnica, the sanctions applied to the perpetrators and the reparation, including compensation, provided to the victims' relatives, as well as on measures taken to ensure proper accountability for the transfer and concealment of the remains.

10. Please report on measures taken to address deaths in custody, to investigate such cases effectively and, where appropriate, to bring to justice those responsible and provide remedies to victims' families. Please provide information on the progress made in setting up a mechanism to provide individual redress to parents in connection with the alleged deaths or disappearances of newborns in maternity wards that occurred mostly from the 1970s to the 1990s.

11. With reference to the previous recommendations (see CCPR/C/SRB/CO/2, para. 11), please clarify whether the maximum prison term for torture and related crimes has been raised, and the statutory limitation period extended, so as to ensure that they are commensurate with the gravity of such crimes. Please indicate whether: (a) the definition of torture in the Criminal Code has been amended with a view to bringing it into full conformity with article 7 of the Covenant and other internationally established norms; (b) public prosecutors have a legal obligation to carry out prompt, effective, independent and impartial investigations into all allegations of torture and ill-treatment wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed; and (c) any rehabilitation programme for victims of torture and ill-treatment has been instituted.

12. Please respond to concerns that the prosecution rate for torture and ill-treatment remains low, that convicted perpetrators receive lenient penalties, and that victims' access to reparation is often hindered by the high standard of proof of damage or harm set by courts and the application of statutes of limitation to their claims for reparation. Please

provide updated information on the number of reported cases of torture and ill-treatment, the investigations and prosecutions initiated, actual criminal convictions, sentences imposed, including disciplinary sanctions, and reparation granted to victims.

Rights of persons with disabilities (arts. 2, 16, 23, 25 and 26)

13. Please respond to reports that a large number of persons with mental, intellectual and psychosocial disabilities, including older people, are subjected to involuntary placement in psychiatric institutions and to forced treatment and medical interventions. Please report on safeguards in place against arbitrary committal to such institutions and measures taken to ensure that the free, prior and informed consent of the person concerned to any treatment is respected in practice. Please also report on measures taken to: (a) address the poor living conditions in mental health facilities, including overcrowding and abuse, neglect and overmedication of patients, as well as excessive and insufficiently monitored use of isolation and physical restraint; and (b) ensure that the free, prior and informed consent to any treatment of persons with mental and psychosocial disabilities is strictly respected in practice.

14. Please indicate what measures have been taken to review existing legal provisions denying persons with disabilities who are deprived of legal capacity the right to marry and to vote. Please respond to allegations of overuse of decisions on deprivation of legal capacity in respect of persons with disabilities and report on the progress made in the comprehensive review of all guardianship cases, and the outcome of the review, including the percentage of cases in which legal capacity has been restored.

Liberty and security of person and humane treatment of persons deprived of their liberty (arts. 7, 9 and 10)

15. With reference to the Committee's previous recommendations (see CCPR/C/SRB/CO/2, paras. 14 and 15), please report on progress made in addressing overcrowding in detention facilities, including on construction projects for new facilities and on measures taken to: (a) ensure that the judiciary uses non-custodial preventive measures and alternatives to custodial sentences more efficiently; and (b) improve conditions of detention, particularly in police detention premises, and the availability of adequate health-care services and meaningful activities for prisoners.

Elimination of slavery and servitude (art. 8)

16. Please provide information on measures taken to ensure: (a) the efficient identification of victims of trafficking, including among asylum seekers and unaccompanied children, and referral of victims; (b) that the rights of victims of trafficking are duly respected during court proceedings and that efficient protection is provided against retraumatization, threats and intimidation by traffickers; (c) that victims of trafficking and foreign witnesses in trafficking proceedings are able, based on individual circumstances, to renew their residence permits; and (d) the effective investigation of cases of trafficking and prosecution of perpetrators and imposition of deterrent penalties on them, including firms engaging in trafficking abroad that operate in Serbia or target Serbians. Please indicate whether steps have been taken to include in legislation a non-punishment and non-prosecution clause for acts committed by victims of trafficking as a direct result of being trafficked. Please provide information on reports of trafficking of Serbian citizens in relation to the XXII Winter Olympic Games, held in 2014 in Sochi in the Russian Federation.

17. Please provide information on efforts to eliminate the use of child labour, including the illegal use of child labour in the agricultural and industrial sectors, and other forms of exploitation of children, and report on measures taken to: (a) adopt legislation defining and

forbidding the employment of children in hazardous work and ensure its enforcement, including by strengthening the resources of the labour inspectorate to investigate workplaces suspected of employing children; (b) ensure punishment for the use of children in the production of pornographic materials; and (c) ensure adequate recovery, rehabilitation and education of child victims of forced labour and other forms of exploitation.

Rights of displaced persons, refugees and asylum seekers (arts. 7 and 13)

18. Please provide information on measures taken to ensure that internally displaced Roma living in informal settlements throughout the country are able to register their place of residence in displacement and to acquire identification documents. Please report on progress made: (a) in addressing the poor living conditions in the collective centres for displaced persons; and (b) in finding durable solutions to the situation of displaced persons from Kosovo, including Roma, and in facilitating their local integration.

19. Please report on measures taken to: (a) ensure that formal procedures for asylum applications are made available at all border points, including international airports and transit zones; (b) prevent collective expulsion of aliens, including asylum seekers and unaccompanied children, along the so-called “Western Balkan route” and observe the principle of non-refoulement; (c) provide unaccompanied and separated children with measures of protection against any form of abuse, neglect or violence; and (d) address poor living conditions and allegations of abuse and extortion of asylum seekers by Serbian police and border guards, including punishment of the perpetrators.

Right to a fair trial and independence of the judiciary (art. 14)

20. With reference to the previous recommendations (see CCPR/C/SRB/CO/2, para. 17) and the information provided in the State party report (see CCPR/C/SRB/3, paras. 138-148), please report on the impact of the measures taken, including in the context of the National Judicial Reform Strategy for the period 2013-2018 and its action plan, to ensure both in law and in practice strict observance of the independence and impartiality of the judiciary. In particular, please clarify whether measures taken address the following: (a) the role of executive and legislative authorities in the process of selection, appointment and dismissal of judges and public prosecutors and the political influence in the activities of self-governing bodies of the judiciary, namely, the High Judicial Council and the State Prosecutorial Council; (b) probationary periods for judges and security of tenure; (c) pressure exercised on the judiciary by politicians and the media and the reported lack of effective procedures to counter it; and (d) the failure to implement strictly the rules on random allocation of cases.

21. Please report on measures taken to address the backlog of court cases, excessively lengthy court proceedings, the non-enforcement of final decisions of domestic courts, and the reported inconsistency of jurisprudence across the country. With reference to the previous recommendations (see CCPR/C/SRB/CO/2, para. 18), please clarify whether measures have been taken to provide free legal aid in any case where the interests of justice so require, including in civil cases, and report on progress made in adopting a law on free legal aid (see CCPR/C/SRB/3, para. 72).

Right to privacy and family life (art. 17)

22. With reference to information provided by the State party (see CCPR/C/SRB/3, paras. 155 and 156), please indicate what follow-up has been given to the model of the law aimed at defining protection of personal data in sufficiently precise and comprehensive terms prepared by the Commissioner for Information of Public Importance and Protection

of Personal Data. Please clarify whether steps have been taken to adopt regulations on personal data processing related to video surveillance and biometry.

Freedom of conscience and religious belief (arts. 2, 18 and 26)

23. With reference to the Committee's previous recommendation (see CCPR/C/SRB/CO/2, para. 20), please report on measures taken to do away with the legal differentiation between "traditional" and "non-traditional" religious communities and give expression, both in law and in practice, to the principle of equal treatment of all these communities.

Freedom of expression and peaceful assembly (arts. 19 and 21)

24. Please report on progress made in ensuring transparency of media ownership and of sources of advertising and funding. Please provide information on measures taken to: (a) combat self-censorship and undue political or corporate interference with media freedom; (b) address open vilification of media workers by public officials; (c) effectively protect journalists and media workers against continuing attacks, threats, harassment and intimidation and address impunity for such acts; and (d) prevent cyberattacks on media websites and blocking or removal of content deemed critical of the Government. Please indicate whether a new law on public gatherings has been adopted following the entry into force of the decision by Constitutional Court declaring the previous law unconstitutional.

Right to nationality (arts. 23, 24 and 26)

25. Please report on: (a) progress made in resolving the lack of birth registration and personal documentation, mainly for Roma; and (b) measures taken to ensure that children whose parents lack personal documentation (predominantly Roma children) are registered immediately after birth and have the right to acquire a nationality.

Right to participate in public life (arts. 25, 26 and 27)

26. Please report on measures taken to address effectively the underrepresentation of national minorities, including Roma, in public administration, in particular at the State level. In this regard, please provide relevant statistics. Please report on allegations of attacks targeting opposition political figures and violence inhibiting the conduct of local elections, including coercion and intimidation of voters. Please comment on alleged irregularities in the April 2016 elections and efforts by the Republic Electoral Commission to investigate alleged irregularities.

Dissemination of information relating to the Covenant and its Optional Protocols (art. 2)

27. Please indicate what measures have been taken to disseminate information on the Covenant and its Optional Protocols, the third periodic report of the State party and its forthcoming examination by the Committee. Please provide detailed information on the involvement of representatives of ethnic and minority groups, civil society and non-governmental organizations in the preparation of the report.