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Committee on the Elimination of Racial Discrimination**Seventy-eighth session**

14 February – 11 March 2011

**Consideration of reports submitted by States parties under
article 9 of the convention****Concluding observations of the Committee on the Elimination of Racial
Discrimination****Serbia**

1. The Committee considered the initial periodic report of the Republic of Serbia (CERD/C/SRB/1) at its 2067th and 2068th meetings (CERD/C/SR.2067 and CERD/C/SR.2068), held on 24 and 25 February 2011. At its 2086th meeting (CERD/C/SR.2086), held on 10 March 2011, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report submitted by the Republic of Serbia and the opportunity thus offered to restart its dialogue with the State party on a new basis. The Committee appreciates the additional information provided orally by the delegation in response to the questions and comments posed by the Committee.

3. The Committee notes that the Report comprises the period from 1992 to 2008 including a period of great losses and gross human rights violations in former Yugoslavia before the year 2000, not covered by the report. The Committee encourages the State party to deal with the legacy of past discrimination as it moves forward with its reconstruction processes and to ensure inclusive public participation therein.

B. Positive aspects

4. The Committee welcomes the ratification, in 2009, of the Convention on the Rights of Persons with Disabilities and its Optional Protocol by the State party.

5. The Committee notes with interest a new Constitution of 2006 which includes a commendable chapter guaranteeing the protection of the rights of national minorities and contains provisions prohibiting discrimination in line with article 1 of the Convention.
6. The Committee notes with appreciation that the Criminal Code of 2005 contains anti-discrimination provisions.
7. The Committee notes with appreciation the adoption of a number of laws aimed at preventing or combating discrimination including:
 - (a) the Law on National Minorities Councils (2009),
 - (b) the Law on the Prohibition of Discrimination (2009),
 - (c) the Law on Gender Equality (2009),
 - (d) the Law on Social Housing (2009),
 - (e) the Law on Offences (2005, 2008 and 2009),
 - (f) the Law on the Prevention of Violence and Improper Conduct at Sports Events (2007 and 2009),
 - (g) the Law on the Ombudsman (2005 and 2007),
 - (h) the Law on the Prevention of Discrimination against Disabled Persons (2006), and
 - (i) the Law on the Protection of Rights and Freedoms of National Minorities (2002).
8. The Committee notes with interest the efforts made by the State party in establishing an extensive institutional framework to monitor the protection of human rights, including the Commissioner for the Protection of Equality, the Ministry of Human and Minority Rights, of the Ombudsman, the Provincial Ombudsman and the network of local Ombudsmen, the Council for National Minorities, and the Council for Improving the Status of the Roma.
9. The Committee notes with satisfaction that the State party has adopted a number of programmes and plans for, inter alia, the prevention of discrimination against persons belonging to national minorities, including through the National Strategy for the Promotion of the Position of Roma (2009) and the expanded opportunities in certain areas of the State party for persons belonging to national minorities to learn their languages.
10. The Committee notes with interest the longer term efforts to support and promote understanding and tolerance among national minorities living in the Autonomous Province of Vojvodina.

C. Concerns and recommendations

11. The Committee notes with interest the existence of institutions dealing with racial discrimination, namely the Ministry of Human and Minority Rights; the Ombudsman Offices at the State, Provincial, and local levels; and the Commissioner for the Protection of Equality, and acknowledges the unique value of each, but is concerned by the possible overlap of roles and jurisdictions of these institutions which could result in preventing their effective functioning (art. 2 (c)).

The Committee recommends that the State party ensure the complementarity of these institutions by clarifying the competences and jurisdictions among the institutions dealing with racial discrimination. It recommends that the State party:

(a) allocate sufficient resources to allow the effective functioning of the Commissioner for the Protection of Equality without delay;

(b) strengthen the Ministry of Human and Minority Rights, including through an adequate allocation of human and financial resources.

(c) ensure the effective functioning of the Office of the Ombudsman, in accordance with the Paris Principles of 1993.

The Committee also encourages the State party to carry out awareness-raising campaigns to familiarise the public administration and the general public with the roles, work, and ways to access the services provided by these organs.

12. While noting with interest information on the upcoming Census in 2011 and the data on the national composition of the population provided in the State party report, the Committee is concerned by the lack of disaggregated indicators on the enjoyment by the various groups of the rights guaranteed in national legislation and in the Convention.

The Committee recommends that the State party take into account in the elaboration of its next periodic report paragraph 11 of the Committee's Guidelines for the submission of treaty-specific documents (CERD/C/2007/1) and recalls that reliable, disaggregated information is necessary for the monitoring and evaluation of policies in favour of minorities and for assessing the implementation of the Convention. The Committee recommends that the State party develop time-bound indicators to monitor impact of its policies and programmes and that it include this information in its next periodic report. The Committee also recommends that the State party guarantee, in its upcoming census, the right to self-identification.

13. The Committee notes with interest the extensive legal framework and general policies to eliminate racial discrimination and prohibit incitement to national, racial or religious hatred, but is concerned that acts of racial discrimination, exclusive nationalism and hate speech are still prevalent in society, including in political discourse, in sports, in the media and by groups and organizations. The Committee is concerned by the absence of a codification of hate crimes and the fact that racially motivated offences may not be reported (arts. 2 (a, b, d, e), 4, and 6).

The Committee urges the State party to take all further necessary legislative, judicial and administrative measures to give effect to the provisions of articles 2 and 4 of the Convention and also that it:

(a) enact legislation and other effective measures to prevent, combat and punish hate crimes and speech as well as incitement to hatred;

(b) pursue and prosecute the activities of racist or xenophobic extremist groups, and if necessary, ban them;

(c) intensify the enforcement of criminal law against racially motivated crimes;

(d) combat racial prejudice and discrimination in the media, both public and private, including through increased efforts to foster understanding, tolerance and friendship among the various ethnic minority groups in the State party, and through the adoption of a code of media/journalistic ethics;

(e) continue its efforts to combat racism in sports, particularly in football;

(f) encourage and support non-governmental organizations and institutions that combat racial discrimination and promote a culture of tolerance and cultural and ethnic diversity.

The Committee requests that the State party provide, in its next periodic report, information on the enforcement and implementation of national legislation including statistics on and analysis of prosecutions launched and penalties imposed, in cases of acts prohibited under article 4 of the Convention.

14. The Committee is concerned that the Roma population, in many cases, lives in segregated settlements and experiences discrimination in respect of adequate housing and, in particular, is often subject to forced eviction with no provision of alternative housing, legal remedies, or compensation for damage and destruction of personal property. While noting with interest the Law on Social Housing, the Committee expresses concern about the particular difficulties faced by the Roma when applying for social housing programmes, resulting in a perpetuation of discrimination (arts. 2, 3, 5 (e) (iii) and 6).

The Committee urges the State party to ensure that any resettlements do not involve further forced evictions and that procedural protections which respect due process and human dignity be put in place. It recommends that the State party strengthen the measures aimed at improving the housing conditions of the Roma, and in this regard, recommends that it accelerate the implementation of the National Plan for Housing of Roma adopted in 2009. In light of the Committee's general recommendations 27, paragraphs 30-31 (2000), on discrimination against Roma, and 32 (2009) on the meaning and scope of special measures, it also recommends that the State party intensify efforts to avoid residential segregation of minorities and encourages it to consider developing social housing programmes for the Roma.

15. The Committee expresses its concern that members of the Roma minority continue to experience segregation with regard to access to education. It is also concerned by the fact that Roma children returnees, upon readmission agreements from Western European countries, face additional difficulties in entering the Serbian educational system, due to *inter alia* enrolment and placement procedures (art. 3 and 5 (e) (v)).

Bearing in mind its general recommendations 27, paragraphs 17-26 (2000) on discrimination against Roma, 32 on the meaning and scope of special measures, the Committee strongly urges the State party to address de facto public school segregation, and carry out the necessary measures to facilitate access to quality education including through anti-discrimination training for school staff and awareness-raising for parents, increasing the number of Roma teaching assistants, preventing de facto segregation of Roma pupils, and other measures for the promotion of inclusive education. It also encourages the State party to develop specialized and appropriate procedures for the reception, assessment and placement of children returnees and to increase the awareness of school teachers of the importance of such procedures.

16. While noting with appreciation the efforts taken by the State party to improve the situation of Roma, Ashkali and Egyptians and to prevent and combat racial discrimination against persons belonging to these groups, the Committee is concerned that they are subject to discrimination, prejudice, and stereotyping, in particular in access to employment, health care services, political participation and access to public places (art. 2 (2) and 5).

Bearing in mind its general recommendations No. 27 (2000) on discrimination against Roma and No. 32 (2009) on the meaning and scope of special measures, the Committee encourages the State party to intensify its efforts to prevent and combat racial discrimination against Roma, Ashkali and Egyptians. It recommends that the State party ensure effective implementation of policies aimed at the equal enjoyment by Roma, Ashkali and Egyptians of the rights and freedoms listed in article 5 and special measures to advance their effective equality in employment in public institutions and adequate political representation at all levels. The Committee also

encourages the State party to actively carry out campaigns that raise awareness of the difficult position of these groups, in particular the Roma, and build solidarity.

17. The Committee notes with concern the existing structural discrimination in the State party as indicated by the political and historical prejudices towards certain minorities including Bosniaks in Sanjak, Albanians in Southern Serbia, as well as Vlachs and Bunjevac communities. The Committee is concerned that they continue to be subject to exclusion and discrimination with regard to their rights and freedoms as referred to by the Convention, particularly in the areas of employment, education, and representation in the conduct of national public affairs (art. 2 (1) (c), (e) and 5).

The Committee recommends the State party to take the necessary measures, at all levels, to prevent stigmatization and prejudice against these groups to avoid and discourage tendencies that result in or perpetuate structural discrimination. It also recommends that the State party create an environment of dialogue to address these issues with the minority communities concerned and that it further encourage and implement projects and policies to eliminate barriers between communities. It encourages the State party to continue promoting the preservation and development of the languages and cultures of the aforementioned communities. The Committee also recommends that the State party adopt the necessary measures, including legislative, social and cultural, to ensure that engagement among minorities and with the larger public sphere is meaningful, builds trust, and fosters social cohesion and integration.

18. The Committee expresses its concern about reports of obstacles experienced by religious authorities of certain minority groups seeking their registration as legal entities under the Law on Churches and Religious Communities. It is also concerned by reports of discrimination in the restitution of property to certain minority religious groups whose assets were confiscated (arts. 2 (c) and 5 ((c) (v)) and (d) (vii)).

The Committee recalls the possible intersectionality of racial and religious discrimination and urges the State party to take all necessary measures to ensure the equal right to freedom of religion for all, without preferential treatment, including through a review of laws or practices that perpetuate an intermingling of the secular and religious spheres, which may impede the full implementation of the Convention. It also encourages the State party to ensure that the process of property restitution is carried out without further delay and without discrimination.

19. The Committee expresses its concern about the problem of legally invisible persons, who are according to reports, mostly Roma, Ashkali and Egyptian, and it is also concerned by the enduring vulnerability faced by returnees and internally displaced persons. In particular, it is concerned that members of the Roma minority face difficulties and discrimination due to their lack of personal identification documents and birth certificates which puts them at risk of statelessness and affects the exercise of their rights (arts. 5 (b) and 5 (d) (i), (ii), and (iii)).

The Committee urges the State party to carry out the necessary measures, including legal amendments, to ensure that all persons lacking the required personal documents have access to registration and the necessary documents to exercise their rights. In particular, it recommends that the State party carry out campaigns to increase awareness of the importance of registration among the Roma, Ashkali and Egyptian population. In addition, the Committee recommends that the State party increase the safeguards against statelessness, and that it ratify the Convention on the Reduction of Statelessness of 1961.

20. The Committee notes with concern the very few complaints of racial discrimination taken up by the Ombudsman's Office as well as the very few court decisions issued on any complaint (art. 5 and 6).

Bearing in mind its general recommendation No. 31 (2005), on the prevention of racial discrimination in the administration and functioning of the criminal justice system the Committee recommends that the State party ensure that the lack of any such complaints does not result from a lack of awareness of their rights or lack of confidence in the police and judicial authorities by victims, lack of attention or sensitivity to cases of racial discrimination by the authorities. The Committee requests that the State party include in its next periodic report further statistics on complaints, prosecutions and judgments relating to acts of racial or ethnic discrimination, and examples of actual cases illustrating these statistical data.

21. The Committee welcomes efforts by the State party to conduct human rights training among children and youth and to civil servants, but remains concerned that training in human rights and in interethnic harmony and tolerance remains insufficient and that a negative perception and stereotyping of minorities persists among the general public and judicial and administrative staff (art. 7).

The Committee encourages the State party to strengthen its human rights training and continue programmes that foster intercultural dialogue, and emphasize tolerance and understanding with respect to the culture and history of different minority groups, especially among judiciary and law enforcement officials, including police and prison administration personnel, and among lawyers and teachers. The Committee further encourages the State party to continue implementing such programs in public education, in political fora, and in the media, with a view towards fostering greater respect for, and appreciation of the role of multicultural diversity in the State party.

22. The Committee welcomes the State party's expressed commitment to its international obligations to fully and effectively cooperate with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and notes with appreciation the developments on investigations and prosecutions, but notes with concern that the fugitives Ratko Mladić and Goran Hadžić remain at large.

Taking into account that combating impunity is essential for coming to terms with the past and as a starting point for reparation and reconciliation of the victims and communities concerned, the Committee encourages the State party to increase its efforts to search, detain and transfer Ratko Mladić and Goran Hadžić, accused of genocide and crimes against humanity to the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to ensure that all indicted persons for complicity in and perpetrating of crimes against humanity are brought to justice in adequate penal proceedings, including after the closure of the ICTY. The Committee also encourages the State party in its cooperation with the ICTY, granting full access to requested documents and potential witnesses and to ensure that witnesses are effectively protected throughout all stages of the proceedings and afterwards.

23. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties the provisions of which have a direct bearing on the subject of racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

24. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the Outcome Document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal order. The

Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

25. The Committee recommends that the State party undertake and publicize adequately an appropriate programme of activities to commemorate 2011 as the International Year for People of African Descent, as proclaimed by the General Assembly at its sixty-fourth session (A/Res/64/169 of 18 December 2009).

26. The Committee recommends that the State party continue consulting and expanding its dialogue with organizations of civil society working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report.

27. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 16 December 1992. In this connection, the Committee cites General Assembly resolution 61/148 and 63/243, in which the Assembly General strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

28. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

29. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present conclusions, on its follow-up to the recommendations contained in paragraphs 11, 15, 19, and 22 above.

30. The Committee also wishes to draw the attention of the State party to the particular importance of recommendations 13, 14, 17, and 21, and request the State party to provide detailed information in its next periodic report on concrete measures taken to implement these recommendations.

31. The Committee recommends that the State party submit its second and third periodic reports in a single document, due on 4 January 2014 taking into account the guidelines for the CERD-specific document adopted by the Committee during its seventy-first session (CERD/C/2007/1), and that it address all points raised in the present concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60-80 pages for the common core document (see harmonized guidelines for reporting contained in document HRI/GEN.2/Rev.6, para. 19).