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ECRI CONCLUSIONS ON THE IMPLEMENTATION OF THE RECOMMENDATIONS IN RESPECT OF SERBIA SUBJECT TO INTERIM FOLLOW-UP

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[1] Except where specifically indicated, any developments which occurred after 25 October 2019, the date on which the response of the Serbian authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, have not been taken into account in this analysis.

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FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012[1], not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim follow-up recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

[1] CM/Del/Dec(2012)1154/4.2.

1. In its report on Serbia (fifth monitoring cycle) published on 16 March 2017, ECRI recommended that the Serbian Parliament and Government adopt codes of conduct, which prohibit the use of hate speech, provide for suspension of mandate and other sanctions for breach of their provisions and establish effective reporting channels.

The Serbian authorities informed ECRI that the rights and obligations of the Members of Parliament (MP) are regulated by the Constitution, different pieces of legislation and the Rules of Procedure of the National Assembly. Articles 107 and 109 of the Rules of Procedure prohibit the use of insulting expressions (cf. § 18b of ECRI's General Policy Recommendation (GPR) No. 7) and its Article 108 provides the President of the National Assembly with the power to issue a warning to MPs, bar them from speaking and exclude them from a session; in this case, a fine will be deducted from the MP's salary according to Article 114 of the Rules of Procedure. In 2017, the rules of procedure were further amended with the aim of preventing MPs from resorting to hate speech when commenting on court decisions; this covers court decisions taken in the framework of war crime trials, and the denial of such crimes (cf. § 18e of GPR No. 7).

According to the authorities, additional work is under way to implement ECRI's recommendation and to further strengthen the prohibition of hate speech in the Rules of Procedure of the National Assembly.

The Serbian Commissioner for the Protection of Equality (Commissioner) informed ECRI that she has addressed a recommendation to the National Assembly to amend the Rules of Procedure with a view to ensuring the respect of the prohibition of discrimination as enshrined in the Constitution and the law, and that disciplinary penalties should be introduced for those failing to adhere to the prohibition of discrimination. In June 2019, the Commissioner decided that a statement by a MP from Nis had violated Article 20 of the Law on Prohibition of Discrimination on the ground of gender.

With regard to the second part of the recommendation on the adoption of a code of conduct by the Serbian Government, the Commissioner refers to the Code of Conduct for Civil Servants of 2008; its Article 13 states that a civil servant shall abide by the principle of equality and refrain from granting privileges on the ground of a client's characteristics and personal traits and shall in particular take due care to show respect to client's dignity when interacting with persons with disabilities and special needs.[1]

ECRI regrets that no progress has been made with regard to the adoption of rules by the Serbian Government that would prohibit the use of hate speech by its members and contain sanctions for the breach of its provisions and effective reporting channels (cf. § 6a of ECRI's GPR No. 15 on Combating hate speech). With regard to the prohibition of hate speech in the Serbian Parliament's Rules of Procedure, ECRI takes positive note of the progress made with regard to the denial of war crimes. At the same time, it underlines that these rules need further strengthening and that they should contain a coherent and appropriate prohibition of hate speech (cf. § 6a of GPR No. 15 and the different forms of hate speech listed in § 18a to f of ECRI's GPR No. 7). ECRI concludes that this recommendation has been partly implemented.

2. In its report on Serbia published on 16 May 2017, ECRI recommended that the authorities give high priority to hiring a proportionate number of Roma and members of other minorities to the civil service and ensure that they benefit from equally stable working conditions as other civil servants.

The Serbian authorities informed ECRI that the Action Plan for the Realisation of the Rights of National Minorities contains one chapter with 21 activities that aim to achieve adequate representation of members of national minorities in the public sector and public enterprises. They comprise activities in view of (i) facilitating the economic recovery and

[1] ECRI furthermore notes that the Serbian Government and its Office for Human and Minority Rights recently adopted the IHRA Working Definition of Antisemitism. In this respect ECRI refers to its ongoing work on the revision of its General Policy Recommendation No. 9 on the fight against antisemitism.

development of underdeveloped regions, which are traditionally inhabited by national minorities; (ii) attracting investment in these areas; (iii) improving the employability and encouraging employment of members of national minorities by implementing active employment measures and (iv) encouraging foreign investment in these areas. Without giving concrete figures, the government informed ECRI that Roma have been hired as pedagogical assistants, health mediators and coordinators for Roma issues. The Ministry of Interior continued to organise workshops in which it prepared Roma to succeed in the competitions that are organised for the recruitment of police officers. Among the employees of public utility companies in Novi Sad, 121 have declared that they are Roma. This figure could be higher as Serbia does not oblige national minorities to declare their ethnic belonging, in line with ECRI's recommendations. In Nis, another 166 employees of such companies declared themselves to be Roma, and in Belgrade 27 others did so. Furthermore, among the employees of the local self-government bodies in the Autonomous Province of Vojvodina, 609 (8,99%) belong to the Hungarian minority and their number increases. According to data of the National Employment Service, 9 007 members of national minorities took part in active employment measures in 2018. In Belgrade, 102 Roma attended training for starting a business and 50 of them received funds to do so. The Commissioner for the Protection of Equality informed ECRI that its office hired one young Roma professional following an internship programme that two Roma participants had completed.

The Protector of Citizens informed ECRI that, according to a survey carried out by his institution, only ten Roma men and two Roma women are members of local assemblies and only 26 Roma men and 13 Roma women were employed in the administration of the participating 143 local self-government units. These figures show, according to the report, the continued exclusion of Roma as well as the non-existence or non-application of adequate instruments and institutional frameworks for their participation at all levels of local administration.[2] The 2019 EU-report on Serbia calls on the authorities to ensure a consistent implementation of legislation regarding national minorities, including Roma, leading to a tangible improvement in the effective exercise of their rights across the country.[3]

ECRI regrets to note that the number of Roma and members of other minorities employed in the public sector of Serbia remains far from being proportionate and that the progress made with the implementation of this recommendation remains narrow. Furthermore, ECRI did not receive any information regarding the question of whether they benefit from equally stable working conditions as other civil servants. Given the described improvements, it concludes that this recommendation has been partly implemented.

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[2] Serbian Protector of Citizens (2018), Representation of Women in Decision-Making Positions and the Position and Activities of Local Gender Equality Mechanisms in Local Self-Government Units in Serbia, p. 23, https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5902-special-report-of-the-protector-of-citizens-representation-of-women-in-decision-making-positions-and-the-position-and-activities-of-local-gender-equality-mechanisms-in-local-self-government-units-in-serbia, accessed on 04.12.2019.

[3] European Union, European Commission (2019): Serbia 2019 Report, SWD(2019) 219 final: 23 et seq.