



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.
GENERAL

CAT/C/SRB/Q/1
7 August 2008

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Forty-first session

Geneva, 3 – 21 November 2008

**List of issues to be considered during the examination of the
initial report of the Republic of Serbia (CAT/C/SRB/1)**

Articles 1 and 4

1. The Committee notes that article 25 of the new Constitution states that “Physical and mental integrity is inviolable”, and that “nobody may be subject to torture, inhuman or degrading treatment or punishment, nor subjected to medical and other experiments without their free consent”. Please provide information on how the elements of article 25 of the Constitution and article 1 of the Convention against Torture are reflected in the penal and criminal procedure codes of the Republic of Serbia. Please provide also clarification on how the State party interprets its recognition of torture as a crime under its criminal legislation.

Article 2

2. Please provide information about the protection by the State party of the guarantees for detainees to access a lawyer, to contact her/his relatives and to receive medical attention.

3. The Committee requests information on legal and administrative guarantees with respect to “no exceptional circumstances whatsoever” and “order from superior officer or a public authority” may not be invoked as a justification of torture. Please provide information on actual cases (if any) where this has been referred to.

4. Please provide information about possible statutory limitations in Serbian legislation for acts that might be considered as torture.

5. Please provide detailed information with respect to the structures and activities of independent mechanisms for the inspection of places of detention, prisons, hospitals, psychiatric

facilities, and institutions engaged in the care of children. Please also provide information on follow-up to recommendations from such independent inspection mechanisms.

6. Please inform the Committee about the current situation and practice with respect to different places of detention and prisons for women and juvenile offenders, including composition of prison wardens, medical and other personnel, etc.

7. Please provide information on the mandate, functions and activities of the Ombudsman Office (Protector of Citizens) with respect to prevention of torture and other cruel, inhuman or degrading treatment and punishment.

Article 3

8. The Committee takes note of, inter alia, article 88 of the Criminal Code that prohibits expulsion of an “offender that enjoys protection pursuant to the ratified international treaties”, and the Criminal Procedure Code (article 525, paragraph 2) that prohibits expulsion where there are “serious reasons to believe that the foreigner can be exposed to ill-treatment or torture in the State requesting extradition”. Please provide information on how often and in which cases these provisions have been applied and what the other safeguards are against non-refoulement of foreign nationals to countries where they have reason to fear persecution. Please provide information on legislative developments in this field. Please also provide information on cases where asylum-seekers and foreigners demanding refuge are held while waiting for respective decisions by authorities.

9. Please indicate whether it is the practice of authorities in the Republic of Serbia to seek diplomatic assurances from a third country to which an individual is to be extradited, returned or expelled.

10. Please provide information on what legislation determines asylum-seeking and refugee procedures. Provide also statistical information, disaggregated by age, sex and nationality, on:

- (a) The number of asylum requests registered and the number of requests granted;
- (b) The number of deportation or expulsions;
- (c) The number of rejected asylum-seekers and undocumented migrants who are held in administrative detention;
- (d) The countries to which these persons were expelled.

Article 5

11. Please provide detailed information on actual cases and judgments related to the State party’s universal jurisdiction to either extradite or prosecute acts of torture where the alleged offender is present in the territory of the State party. Please provide also information on the mechanisms to establish such a jurisdiction.

12. Please provide further information on the application of the provisions referred to in the State party report (paragraphs 302 to 304) on criminal offences against the constitutional order, including by aliens who commit a criminal offence against the State party or its citizens outside of the territory of the State party.

13. With reference to the annex to the State party report, please provide information on cases of torture in Kosovo for which Serbian authorities were responsible.

Article 8

14. The Committee notes the information in the State party report (paragraph 320) on a number of bilateral conventions and treaties regulating extradition matters. Has the State party rejected, for any reason, any requests for extradition by another State for an individual suspected of having committed a crime of torture, and thus engaging its own prosecution as a result?

Article 9

15. Please provide information on cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and in particular information on apprehensions, arrests and transfers to the custody of the Tribunal of the remaining fugitives indicted by ICTY, including Ratko Mladic. The Committee also requests information on access of the Tribunal to archives and documents, and the implementation of legislation and the "Action Plan" for cooperation with ICTY. Provide information with respect to any particular challenges that the State party may face with respect to this requirement.

Article 10

16. The Committee notes the information provided in the State party report, in particular paragraphs 323 to 338, on a number of education and training activities organized for police and law enforcement officials, including in cooperation with international, regional and non-governmental organizations. Please provide further information on how prison wardens, medical personnel, public officials, border guards and other persons who may be involved in the custody, interrogation or treatment of individuals subject to any form of arrest, detention or imprisonment are trained in the application of human rights norms and the Republic of Serbia's international obligations. The Committee would also welcome information on progress made with respect to the reform of police training and how and by whom trainings are being monitored and evaluated and their impact assessed.

Article 11

17. Please provide statistical information, disaggregated by sex, age and origin of persons taken into custody in relation to prosecutions during the last five years. Provide also information on the use of incommunicado detention and statistical information on the duration of pre-trial detention, including the use and application of the maximum length of pre-trial detention.

Articles 11 and 12

18. Please provide information on the number of investigations and prosecutions of cases involving allegations of torture and other cruel, inhuman or degrading treatment or punishment during the last five years, including convictions, sentences and acquittals in the different courts. Please provide information on the time frame for the consideration of such cases in the respective courts.

19. Please provide information on the structure, functioning (including cases) and composition of the War Crimes Chamber of the Belgrade District Court.

Article 12

20. The Committee notes the information provided in the State party report on responsibilities, functions and activities of the Office of the Inspector General (paragraphs 339 to 344) and in particular its investigation into alleged abuse and violations. Please indicate whether the same Office, or another authority or judicial body, is in charge of regularly reviewing detention measures. What are the procedures to be followed with respect to review of practices?

21. Please indicate whether recommendations from international, regional, and non-governmental organizations, the Ombudsman Offices or other detention and prison monitoring or visiting mechanisms are taken into consideration and what mechanisms there are for cooperation with them.

Article 13

22. The Committee notes the information in the State party report (paragraphs 351 to 358) on the appeals procedures as enshrined in the Constitution (inter alia in article 36) and in the Criminal Procedure Code (articles 255 and 282). Please provide further information on the mechanisms to handle complaints related to torture or acts amounting to cruel, inhuman and degrading treatment in places of detention and prisons, including follow-up to such complaints. In addition, the Committee requests information on the number and type of complaints against the police or prison wardens that have been filed during the last five years, as well as information on the investigations, prosecutions and penal or disciplinary sentences imposed, if any.

Article 14

23. The Committee notes the information in the State party report, in particular paragraphs 395 to 377, with respect to the legal provisions for redress and compensation as laid out in the Constitution (inter alia in article 36) and the Criminal Procedure Code (inter alia in article 7 and Chapter 36) and other relevant legislation. The Committee however requests more specific information, including disaggregated statistical data by sex, age and ethnicity and type of crime, on the number of cases where redress and/or compensation measures have been ordered by the courts, and on those actually provided to victims of torture or cruel inhuman or degrading treatment or punishment or their families during the last five years.

Article 15

24. The Committee notes the information in the State party report (paragraphs 378 to 382) on the legal framework in the Criminal Procedure Code (articles 9 and 15) relating to the use of evidence obtained as a result of torture, cruel, inhuman or degrading treatment. Please provide information on actual cases where such evidence has been excluded and decisions or judgments revoked as a result of this provision.

Article 16

25. Please provide detailed information concerning the legal and policy framework for the prevention and combating of the phenomenon of violence against women and girls, including domestic violence. Please provide information on how this is monitored by the authorities and

information on any awareness-raising programmes. The Committee requests information on training for law enforcement officials for the prevention and recognition of this phenomenon, and information on actual court cases and available mechanisms of redress for possible victims.

26. Please provide information on laws, their application, and practice with respect to the protection of minority or marginalized groups, in particular Roma, in the Republic of Serbia. The Committee requests information with respect to specific activities directed towards protecting minority or marginalized groups from possible torture, ill-treatment and discrimination.

27. Please provide information on the current national legislation and/or administrative procedures providing protection for refugees. If such legislation does not exist, please provide information on how the international legal framework has been used to protect refugees from forcible return or expulsion to countries where persons might face torture and persecution.

28. Please provide information on the current national legislation and/or administrative procedures providing protection for victims of trafficking. Provide also statistical information on the number of cases investigated, alleged offenders prosecuted and the type of sentences handed down.

29. Please provide information, disaggregated by sex, age, ethnicity and type of crime, on the current prison population and the regime of activities for remand prisoners.

Other

30. Please indicate whether there is any legislation aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about the content and implementation of such legislation. If not, please indicate whether the adoption of such legislation is being considered.

31. Please provide information on the legislative, administrative and other measures the State party has taken to respond to the threat of terrorist acts, and please describe if and how these measures have affected human rights safeguards in law and practice. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, the number of complaints of non-observance of international standards, and the outcome of these complaints.

32. With reference to the annex to State party report, please provide information on the State party's position in respect of its responsibilities in relation to the conduct of its public officials in Kosovo.

33. Please provide information about the State party's consideration of the ratification of the Optional Protocol to the Convention.
