



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Ninety-fourth session

### Summary record of the 2589th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 22 November 2017, at 10 a.m.

*Chair:* Ms. Crickley

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*Combined second to fifth periodic reports of Serbia (continued)*

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*The meeting was called to order at 10.05 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Combined second to fifth periodic reports of Serbia (continued)* (CERD/C/SRB/2-5 and CERD/C/SRB/Q/2-5)

1. *At the invitation of the Chair, the delegation of Serbia took places at the Committee table.*

2. **Ms. Paunović** (Serbia), replying to questions raised at the previous meeting, said that, despite the unilateral declaration of independence of the so-called Kosovo, the Autonomous Province of Kosovo and Metohija remained an integral part of the territory of the Republic of Serbia, as borne out by United Nations Security Council resolution 1244 (1999). That said, the Serbian authorities had been unable to implement the Convention or monitor its application in that province, since the territory remained under the administration of the United Nations. She therefore invited the Committee to seek information from the United Nations Interim Administration Mission in Kosovo in that regard. It should be pointed out, however, that, although all Albanians who had been displaced from the province had returned in 1999, the sustainable return of some 200,000 Serbs and other ethnic minorities had still not been achieved.

3. The 2011 population census had not been conducted in the Autonomous Province of Kosovo and Metohija. Under article 47 of the Constitution, citizens had the right not to declare their nationality; individuals who exercised that right in the census were treated no differently from other members of the population. Following an organized boycott of the census by the Albanian national minority in the southern municipalities, a further assessment had been carried out, in cooperation with international organizations and the National Council of the Albanian National Minority, in order to obtain more accurate data. The Serbian Government was committed to dialogue as regards the rights of national minorities; however, it was not prepared to enter into a debate regarding its territorial sovereignty.

4. The Office for Human and Minority Rights, which was a government agency, and the Commissioner for Protection of Equality and the Protector of Citizens Ombudsman, both independent bodies, had specific competencies that did not overlap. Funding for both the Commissioner for Protection of Equality and the Protector of Citizens had increased markedly since 2014, underscoring the Government's commitment to strengthening both of those institutions. An increase in the number of complaints received and recommendations made by the Commissioner were testament to its improved funding, efficiency and visibility. The Commissioner had initiated 13 cases relating to discrimination, several of which had involved discrimination against Roma persons. Seven of those cases had been decided in the Commissioner's favour. In 2016, the Ombudsman had been involved in 99 cases relating to national minority rights, a 16 per cent decrease on the year before. In fact, discrimination against minorities accounted for just 1.58 per cent of the 6,272 cases investigated that year, underlining the progress that had been made in terms of upholding national minority rights. Both the Commissioner and the Ombudsman had the authority to launch proceedings on their own initiative. Lastly, the Government was shortly due to discuss the possibility of ratifying the amendments to article 8 of the Convention, which concerned the financing of the Committee.

5. **Mr. Andrić** (Serbia) said that accommodation was provided for persons who had expressed their intention to apply for asylum. Suggestions that there was a large backlog of asylum applications were unfounded since, in the vast majority of cases, expressions of intent never materialized into actual applications for asylum, which indicated that the system was open to abuse. For example, between January and October 2017, more than 4,000 people had expressed their intention to seek asylum, whereas only 46 persons had then gone on to do so. In most cases, migrants and asylum seekers had no intention of seeking asylum in Serbia, instead wishing to continue their journey towards countries of the European Union. Nevertheless, a list of safe countries of origin and safe third countries had been drawn up by the Government to streamline the processing of asylum applications.

Specific legal provisions were in place governing the treatment of certain categories of migrants and asylum seekers, in particular unaccompanied minors. Accommodation was provided, either in migrant centres or with foster families, and they were allocated a lawyer or guardian to ensure that their rights were protected. Allegations of ill-treatment of asylum seekers were completely groundless: lawyers from the Belgrade Centre for Human Rights were present throughout the registration process, which was also monitored by representatives of the Office of the United Nations High Commissioner for Refugees in Belgrade.

6. **Ms. Konjević** (Serbia) said that, along with accommodation, migrants were provided with food, clothing, psychological assistance, free legal aid and recreational and educational activities. There were 18 permanent reception centres and 13 transit centres, offering a total capacity of more than 6,000 places, although additional temporary places were available to deal with large influxes. A decree had been passed in July 2017 establishing guidelines for providing assistance, such as financial assistance towards housing costs, to persons who had been granted refugee status or subsidiary protection. Such support was provided for a period of one year starting from the time protection had been granted.

7. **Ms. Vuković** (Serbia), turning to questions relating to education, said that poverty remained one of the main causes of primary school dropouts. Measures had been taken to foster the enrolment of Roma children in primary and secondary schools. For instance, entrance exams had been replaced with post-enrolment aptitude tests, often conducted in the Roma language; 10 per cent of scholarships had been reserved for Roma pupils, with a further 10 per cent for other minority groups; and accommodation and free school meals had been provided to Roma children. As a result, the secondary school dropout rate had been reduced by 4 percentage points, from 7 per cent to 3 per cent, and Roma pupils in receipt of scholarships were more likely to complete their education. Affirmative action taken to increase the enrolment of Roma children in secondary school had seen more than 6,000 pupils successfully enrolled, 55 per cent of whom were girls. Similar efforts had been undertaken to increase enrolment rates in higher education. Other measures included the use of certified Roma teaching assistants and training on Roma language and culture for new teachers. With support from the World Bank, efforts were also being undertaken to provide for inclusive preschool education, with a view to ensuring that Roma children and children from other vulnerable groups were taken into consideration.

8. A new law on the country's national minority councils had granted significant powers to the National Council of the Roma National Minority as regards education. For instance, the Council could propose curriculum for preschool and primary education, with a focus on Roma culture and art; provide input during the development of courses on Roma language and culture; and participate in affirmative measures aimed at increasing Roma children's enrolment rates. A 2008 law allowing parents to freely choose which school their children attended contained sanctions for any actions that demeaned, discriminated against or excluded anyone on any number of grounds. Moreover, under the Law on the Fundamentals of the Education System, special schools had a new role to play as resource centres and as part of a pilot project aimed at enhancing the competencies of teachers. Roma children enrolled in special schools would receive additional support to aid their integration into mainstream education. For those children in higher grades, preparatory training and exams would be provided to facilitate their inclusion in mainstream secondary schools. In that connection, mainstream schools were required to enrol children within their catchment area; they could accept applications for children living outside that area so long as there were sufficient resources available. Some schools enrolled higher numbers of Roma children than did others, which could be explained by their proximity to Roma settlements.

9. Discrimination of any kind within the education system was prohibited; the Government was currently preparing a manual on that subject for teachers and schools. The issues raised by the Committee related more to individual cases and did not so much reflect a general attitude within the education system; training sessions had been organized and regulations were in place to prevent and tackle abuse. Moreover, an assessment of schools' compliance with education standards had been carried out. Although the authorities had not

observed that Roma children were particularly exposed to violence, any cases of violence in schools were dealt with in line with the relevant protocols. Primary education was compulsory for all children.

10. **Mr. Vukicević** (Serbia) said that the Government was implementing reform of the judicial system, and had developed an action plan to that end. A plan of action had also been developed as part of Serbia's preparations for accession to membership of the European Union; more than half of the activities contained in that plan relating to the judiciary had been implemented and a dual monitoring system existed: at national level and through the European Commission. A range of measures, including legislative amendments, had been introduced to increase transparency and guarantee the independence of the judiciary, particularly with regard to the High Judicial Council and the State Council of Prosecutors. In 2017, the Ministry of Justice had launched a consultation process prior to the drafting of a constitutional amendment relating to the judiciary. A broad range of stakeholders had participated in the consultations and their recommendations on issues such as the remit and composition of the two judicial councils, the role of the Minister of Justice and the process for the election of judges would be taken into account in the drafting of the new bill. On the issue of political pressure on the judiciary, the rules of procedure of the High Judicial Council and the State Council of Prosecutors had been amended and the post of a commissioner for the independence of prosecutors had been created. In that context, efforts had been made to raise awareness of the commissioner's work and the relevant complaints procedures. Moreover, codes of conduct had been introduced for members of parliament relating to the limits of commenting on court decisions and the speaker of the National Assembly had the power to sanction any breaches of those codes; training was also provided and guidelines had been drafted regarding court decisions. Furthermore, judges' and prosecutors' offices had trained public relations officers to protect the reputation of the profession.

11. In order to improve the efficiency of the justice system, and to tackle the backlog of cases, a system involving public notaries had been introduced to relieve the workload of the courts and handle certain types of cases, such as enforcement cases concerning unpaid bills. Moreover, new legislation on enforcement and security had been introduced. Thanks to the public notary system and the support of registered mediators, a large proportion of the case backlog had been cleared. With regard to information technology, the Ministry of Justice was preparing guidelines for developing a strategy on the basis of the analysis carried out by the World Bank. Efforts to modernize the system included software and hardware development and steps to enhance network capacity. Measures specifically relating to the judicial system included the electronic monitoring of case flows. Investment in information technology also formed part of the framework of reform prior to accession to membership of the European Union. Efforts to expand and enhance information technology systems and to introduce new technologies and software were being undertaken in a range of sectors, including at ministerial level and in the business and real estate sectors.

12. In 2016, the European Court of Human Rights had received just over 1,330 applications concerning Serbia, most of which had been dismissed. Between 1959 and 2016, a total of 153 judgements had been handed down by the Court relating to Serbia.

13. The official language in the country was Serbian and the Cyrillic script was used. However, the provisions of the Constitution stipulated that other languages should also be adequately represented. For example, in municipalities where more than 15 per cent of the population belonged to an ethnic minority, it was possible to authorize the official use of a minority language; there were currently 11 minority languages in use in Serbian municipalities. Likewise, there were provisions to facilitate the use of minority languages in the education sector and in legal proceedings. Under the Criminal Procedure Code and legislation on litigation proceedings, both parties in a case and any witnesses had the right to use their own language in court and to have access to documents and interpretation in their mother tongue. Criminal penalties, however, existed to sanction any abuse.

14. **Mr. Nikolić** (Serbia) said that religious services within the main Christian denominations, including the Serbian Orthodox Church and the Roman Catholic Church, as well as in the Muslim and Jewish communities, were conducted in Serbian and in a range of

minority languages, including Bulgarian, Greek, Roma, Hungarian, Croatian, Turkish and Slovak.

15. **Ms. Mirović** (Serbia) said that the work of the Public Prosecutor's Office of the Republic of Serbia focused on the prosecution of criminal cases, improving the efficiency of legal proceedings and ensuring support for victims. It was responsible for the protection of constitutional rights and the prosecution of all violations, including racial discrimination. Amendments to the Criminal Code introduced in 2012 had established the concept of aggravating circumstances for hate crimes. The Office was therefore taking steps to clarify the concept of hate crime, in accordance with the rulings of the European Court of Human Rights and the opinions of the Committee on the Elimination of Racial Discrimination relating to the State's obligation to examine hate-based motives for crimes. In that context, the Government had begun to compile guidelines for monitoring hate crimes.

16. Measures had been taken to address the problem of human trafficking, in line with the Council of Europe Convention on Action against Trafficking in Human Beings; strict penalties were applied, with minimum limits for sentences. The Office handled those types of crimes and, in 2012, had appointed specialized prosecutors to deal with trafficking cases. Training was also provided and there was cooperation with civil society. Indeed, the Office had signed a memorandum with two civil society organizations working to support victims of human trafficking. Guidelines on trafficking issues had been drafted, in line with the Council of Europe Convention, and were put into practice by the Office and by the courts.

17. **Ms. Vladisavljev** (Serbia) said that the Office of the War Crimes Prosecutor cooperated with the International Criminal Tribunal for the former Yugoslavia and responded to all its requests. Ensuring that war crimes perpetrated in the 1990s were effectively prosecuted was a vital part of the process of national reconciliation and a precondition for the full democratization of Serbian society. The Government was aware of the need for a strategic approach and comprehensive measures to investigate such crimes. Thus, in 2016, the Government had developed a national strategy on prosecuting war crimes, due to be adopted by the end of the current year. The aim was to ensure the proper investigation and prosecution of all crimes, regardless of the circumstances or backgrounds of the perpetrators or victims. Some of the cases were highly complex and concerned more than 100 victims. They required specialized investigative techniques, owing to the lack of material evidence and the time frames involved. In spite of the fact that the Office had much smaller capacity in comparison with the International Criminal Tribunal for the former Yugoslavia, no less than 189 persons had been indicted in Serbia for war crimes causing thousands of victims.

18. Data from the Organization for Security and Cooperation in Europe indicated that 86 per cent of indicted persons were former members of the Serbian forces, while the remainder were mostly former members of Albanian forces: only three had belonged to Bosnian or Croatian forces. The majority of the victims had been Bosnian or Croatian; a smaller number of victims had been of Kosovo Albanian, Roma or Serbian origin. With regard to Srebrenica, one person had been convicted while the cases of eight other persons charged with the murder of more than one thousand people, were currently before the courts. Assistance had also been provided to other public prosecution services in the region, predominantly to Bosnia and Herzegovina and Croatia. The Office of the War Crimes Prosecutor had also signed an agreement with the Serbian police on witness protection and cooperated closely with the police authorities. Under the mandate of the newly elected War Crimes Prosecutor, further indictments were expected before the end of the year.

19. **Ms. Paunović** (Serbia) said that, in line with the legislation in force, all births had to be registered at once, with the baby's name and the mother's details. If a child was not named by the mother within 30 days of birth, a name was allocated by social workers.

20. A total of 21 National Minority Councils operated in Serbia. The Government was fully committed to facilitating the exercise of all rights for ethnic minorities.

*The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.*

21. **Mr. Yeung Sik Yuen** (Country Rapporteur) said that, in the light of the fact that the State party had more lay judges than professional judges, it would be useful to hear details

on how lay judges were appointed and by whom, how they could be dismissed, to whom they were answerable and whether they handled discrimination cases.

22. In connection with organizations considered to be promoting hate speech, it was unclear why court action to ban such organizations could be initiated only by the Public Prosecutor's Office. It would be interesting to hear whether any pro-Government organizations had been the subject of a ban; if that was not the case, the Government might find itself open to accusations of an uneven playing field.

23. He wished to know whether the legislation in place in the State party contained a definition of racial discrimination that was fully in line with article 1 of the Convention and expressly prohibited direct and indirect forms of discrimination. He would welcome more information on the specific measures that had been taken to combat racist hate speech disseminated by politicians, the media, online platforms and football supporters.

24. It was unclear how many years of work the considerable backlog of cases represented for the judiciary. Similarly, it would be helpful to know the annual case load of the High Court in order to put into context the number of cases outstanding. It appeared that many cases could not proceed due to the statutes of limitations set forth in article 103 of the Criminal Code.

25. With regard to the codes of conduct for the government and members of parliament, he wished to know what the sanctions for breaching the Codes consisted of and whether they were effective. Clarification would be welcome regarding the status of the lawyers who attended asylum proceedings. He would appreciate the delegation's comments on whether legal aid was unavailable solely because the relevant draft legislation had not yet passed into law.

26. **Ms. Shepherd** said that she was concerned about statistics showing that only 0.3 per cent of Roma were enrolled in tertiary education. She would welcome details on the obstacles preventing more Roma from enrolling. She would appreciate information on the measures being taken to ensure that ethnic minorities, including Roma, were able to vote and participate in politics. She had received reports that more than 60,000 Roma, Ashkhali and Egyptians lived in informal settlements lacking in basic services and that forced evictions from such settlements took place without consultation. She wished to learn about the concrete measures that were in place to ensure adequate housing for Roma, who accounted for one-third of homeless persons in the State party.

27. **Mr. Murillo Martínez** said that he would be interested to hear about the State party's activities within the framework of the International Decade for People of African Descent. He would be grateful for information on how the Government was tackling racism and racial discrimination in the world of sport, particularly football.

28. **Mr. Yeung Sik Yuen** said that he wished to hear the delegation's comments on an incident in which a Brazilian player had been heckled during a match between Partizan Belgrade and Red Star Belgrade.

29. **Ms. Mirović** (Serbia) said that the statutes of limitations set forth in the Criminal Code were determined on the basis of the length of the applicable sentences. The Constitutional Court had the power to ban organizations that sought to incite racial hatred. The Government, the Public Prosecutor's Office and the bodies responsible for registering organizations were all authorized to request a ban. In 2011, the Constitutional Court had upheld requests from the Public Prosecutor's Office to ban the National Alignment group and the Obraz organization. In 2012, however, it had rejected a request to ban the 1389 Movement.

30. Complaints of racial discrimination and hate speech could be filed anonymously and the Public Prosecutor's Office was always obliged to investigate them. With regard to violence at sports events, the Criminal Code contained provisions prohibiting the incitement to hatred that resulted in violence at public gatherings. Perpetrators of such offences were banned from attending future sporting events. The Public Prosecutor's Office was currently investigating an incident that had occurred in March 2016 during a football match between FK Novi Pazar and Red Star Belgrade but as yet had been unable to identify

the perpetrators. The Office had a comprehensive strategy in place for preventing violence at sporting events.

31. **Ms. Paunović** (Serbia) said that the incident involving racism at a football match had been condemned as unacceptable by the players, the Government and the general public. It would be unfortunate for one atypical incident to overshadow the high degree of tolerance the citizens of Serbia had shown towards the more than 1 million people in the country who were of a different nationality or religious affiliation.

32. The current enrolment rate of Roma students in tertiary education was between 2 and 3 per cent, not 0.3 per cent, as Ms. Shepherd had suggested. Over the previous three years, the State had provided free tuition, meals and accommodation for the 1 per cent of Roma students who had passed the university entrance exam but were unable to enrol. The Government had decided to abolish the 1 per cent quota and would henceforth pay the living costs and tuition fees of all Roma applicants who passed the university entrance exam.

33. **Ms. Knjeginjić** (Serbia) said that the Government had been focusing on helping Roma children to complete primary and secondary education, which had led to an increase in the number of Roma students enrolling in university. Supporting members of the Roma community through their education was vital to improving their employment prospects. With the provision of consistent support to Roma families, the number of Roma students in university would increase.

34. **Mr. Vukićević** (Serbia) said that cases involving racial discrimination were processed by a mixed panel of lay and professional judges. The ratio of professional to lay judges increased with the severity of the sentence prescribed for the crime. A panel composed solely of professional judges processed cases that fell within the jurisdiction of special prosecutors' offices.

35. Lay judges were elected by the High Judicial Council on a five-year mandate. All Serbian citizens over the age of 25 who met the relevant employment requirements were eligible for election. Under the Law on Asylum and the Law on the Prohibition of Discrimination, appropriately qualified legal staff employed by non-governmental organizations (NGOs) could provide free legal aid. A bill regulating the free legal aid system was being prepared.

36. **Ms. Paunović** (Serbia) said that there were seven political parties representing the Roma community in Serbia. Financial support was provided for the participation of those parties in parliamentary elections.

37. **Mr. Avtonomov** said that the Committee would appreciate information on how Serbia might participate in the International Decade for People of African Descent and on whether the Government planned to ratify the International Labour Organization Domestic Workers Convention, 2011 (No. 189). Many working migrants were women, which meant that they were especially susceptible to discrimination. He wondered whether literature in the Romani language was made available in the country.

38. **Mr. Kemal** said that he wondered whether the Government had attempted to source funding and resources to meet the needs of the many internally displaced persons in Serbia. The issue could be brought to the attention of the international community, for example, because the Government would have difficulty finding a solution with its own limited budget.

39. **Mr. Lindgren Alves** said that many ultranationalist groups had been active in Serbia during the 1990s. He wondered whether the modern Serbian public might, to any extent, tolerate the reappearance of such groups, especially considering the undertones of fascism currently rife in Europe, particularly in Poland.

40. **Mr. Marugán** said that the data on hate crimes provided in the State party's combined reports stopped at 2015. According to data provided by Serbia to the Organization for Security and Cooperation in Europe, hate crime was down in 2016 in general. However, that data did not make any distinction for racially motivated hate crime. He invited the delegation to submit up-to-date data on hate speech, aggravating

circumstances in cases of hate crime, and the other activities referred to in article 4 of the Convention to the Committee in writing.

41. **Ms. Paunović** (Serbia) said that her country had changed considerably since the 1990s. As a European Union candidate country, Serbia was committed to international rule-of-law and human rights standards. For example, the Government had established a body to monitor the implementation of United Nation recommendations, including those of the Committee. Ultranationalist groups were forbidden by law: neither the Public Prosecutor's Office nor the national police would tolerate their reappearance.

42. **Ms. Anić Ćurko** (Serbia) said that some of the Rapporteur's questions regarding evictions referenced outdated information on refugees. The Commissariat for Refugees and Migrations, with support from the Swiss embassy in Serbia, was monitoring the number of refugees in the country. More than 600,000 refugees had been registered and 27,000 had been allocated refugee status. Many refugees from Bosnia and Herzegovina had opted for Serbian naturalization. The situation in the Autonomous Province of Kosovo and Metohija was not conducive to the return of refugees. The blame lay with the international community, which, alongside the government that had been set up in the province, had assumed a leading role in the repatriation of refugees. As a result, those refugees were unable to enjoy a number of rights, but Serbia was working to improve the dignity of their lives in conjunction with the Instrument for Pre-accession Assistance of the European Union. Around 70,000 people had applied for refugee status. The number of internally displaced persons had decreased and millions of dinars were earmarked for their support each year, but the lack of international assistance and donors made it difficult to resolve the situation entirely.

43. **Ms. Paunović** (Serbia) said that the Government had made a record of all of the informal Romani settlements in the country in order to improve the planning of greenfield investments and the living conditions of the settlements' inhabitants. When it came to evictions, the new Law on Housing and Residential Buildings, which was based on international standards, specified that all citizens must be fully informed of their housing rights, especially members of the Roma community. The relocation of those living in settlements in the area of Belgrade had been conducted in accordance with that law. The wall partially surrounding the settlement in Kruševac had been erected for the safety of residents, separating the settlement from a busy main road. The other side of the settlement was open and residents' access to the town was unimpeded.

44. **The Chair** invited the delegation to submit in writing over the following two days any information that it felt had been left out during the interactive dialogue. She invited the Country Rapporteur to make his concluding remarks.

45. **Mr. Yeung Sik Yuen** said that his experience as Country Rapporteur had been an enriching one. He assured the delegation that the Committee would prepare its concluding observations in a spirit of fairness and understanding.

46. **Ms. Paunović** (Serbia) said that she hoped that the information that the delegation had provided over the course of the interactive dialogue would help to improve the Committee's understanding of how Serbia was implementing the Convention. The delegation looked forward to studying the Committee's concluding observations in great depth.

47. **The Chair** said that she wished to remind the delegation that the case of each country that came before the Committee was considered in context. The Committee did not seek to make comparisons between States parties. She was aware of the complexity of the State party's case. For example, that very morning, the International Tribunal for the Former Yugoslavia had released views that were indirectly associated with Serbia. The delegation had comprehensively explained the development of its country's legislative framework. What the Committee wished to understand, however, was the gap between the adoption of legislation and its implementation. Eliminating racial discrimination remained a challenge, even in countries in which it was strictly prohibited by the law.

*The meeting rose at 1 p.m.*