



International Covenant on Civil and Political Rights

Distr.: General
10 March 2017

Original: English

Human Rights Committee 119th session

Summary record of the 3341st meeting

Held at the Palais Wilson, Geneva, on Tuesday, 7 March 2017, at 3 p.m.

Chair: Mr. Iwasawa

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Third periodic report of Serbia (CCPR/C/SRB/3; CCPR/C/SRB/Q/3 and Add.1)

1. *At the invitation of the Chair, the delegation of Serbia took places at the Committee table.*
2. **Ms. Paunović** (Serbia) said that, as a party to many international and regional human rights instruments, Serbia cooperated actively with United Nations treaty bodies and European bodies such as the Council of Europe to protect and promote human rights and the rights of minorities. It was conducting comprehensive legal and institutional reforms in that regard as a candidate for accession to the European Union, particularly in the context of negotiations on chapter 23 of the European Union acquis, on judiciary and fundamental rights.
3. It should be noted that the third periodic report of Serbia did not contain detailed information on implementation of the Covenant in the autonomous province of Kosovo and Metohija, since that province was under the responsibility of the United Nations Interim Administration Mission in Kosovo (UNMIK), pursuant to resolution 1244 (1999) of the United Nations Security Council. She suggested that the Committee invite UNMIK to submit information to supplement the report. Such an insight would be particularly valuable as members of non-Albanian communities in Kosovo and Metohija often faced obstacles to the enjoyment of their rights.
4. The Council for monitoring the implementation of recommendations of United Nations mechanisms for human rights, which operated on the basis of inclusiveness and transparency, had drafted a plan for follow-up to all recommendations of United Nations treaty bodies, establishing goals, deadlines and responsibilities. The Government had also set up a council to oversee implementation of the action plan that had been drawn up under the strategy for the prevention of and protection from discrimination for 2014-2018.
5. Issues relating to the protection of human rights were addressed at the highest level of State authority, through the Committee for Human and Minority Rights and Gender Equality of the National Assembly, and by independent bodies that had been established and provided with the necessary resources by the Government. The Council for Child Rights had launched an initiative for the adoption of a bill that would enable children to file complaints with a children's ombudsman.
6. Since the start of the global refugee crisis, large numbers of refugees from war-affected areas had travelled through Serbia and a total of 6,976 persons under the age of 18 years had been registered at reception centres. The Government had taken responsible action, in conformity with international and European standards, to deal with the situation and the people of Serbia had shown great tolerance and solidarity towards the refugees. The Government had also prosecuted many human traffickers, demonstrating its commitment to the protection of persons passing through Serbian territory.
7. **Ms. Cleveland**, noting that the State party had not provided many examples of specific cases in which the provisions of the Covenant had been invoked and had not given any examples of direct enforcement of the Covenant, said that she wished to know the scope of the specific training on the Covenant that was provided by the Judicial Academy, how long such training had been available, how many acting judges had received training of that kind and what steps had been taken in response to the European Commission's recommendation to improve the training provided by the Academy.
8. It would be useful to know whether the Council for monitoring the implementation of recommendations of United Nations mechanisms for human rights was responsible for the dissemination and implementation of the Committee's concluding observations and, more generally, what mechanisms were in place to ensure implementation of the Committee's recommendations and participation in the follow-up process between reporting cycles.

9. Noting that it had taken 15 months for the Committee's Views in communication No. 1556/2007, *Novaković and Novaković v. Serbia*, to be published in the State party, she wished to know what procedures were in place and which entity was responsible for implementation of the Committee's Views under the Optional Protocol. With regard to communication No. 1556/2007 specifically, she would welcome clarification on the compensation that was envisaged, the entity that was responsible for determining the amount of compensation, the status of payment, as well as the status and expected completion date of the criminal proceedings against those responsible for the death of Mr. Novaković and the steps taken to prevent similar violations in future.

10. She would like to know the current status of planned amendments to the anti-discrimination law. She would also like clarification as to whether, in its efforts to harmonize domestic legislation with European Union directives, the Government intended to amend the definition of indirect discrimination contained in that law and, if so, how the definition would be amended. She invited the delegation to comment on the Protector of Citizens' finding that both the assessment and fulfilment of the strategy for the prevention of and protection from discrimination for 2014-2018 were inadequate and to provide information on steps that would be taken to improve reporting and accelerate fulfilment of the strategy. More details would be appreciated on measures that had been taken and results that had been achieved in the framework of that strategy.

11. She wished to know how many claims of discrimination had been litigated successfully under the anti-discrimination law, on what grounds those cases had been brought and what remedies had been obtained. She would welcome clarification on the number of cases brought by the Commissioner for the Protection of Equality as a method of enforcing anti-discrimination legislation. Lastly, the State party was invited to confirm whether the human, financial and logistical resources available to the Commissioner were deemed by the latter to be adequate in view of her responsibilities and whether the new premises of the Office of the Commissioner were accessible to persons with disabilities.

12. **Ms. Waterval**, with reference to the action plan for implementation of the strategy for the prevention of and protection from discrimination, said that she wished to know whether the third report on the action plan had been finalized, whether it revealed an increase or decrease in the fulfilment of indicators compared to the first and second reports and how the findings of the third report demonstrated the impact of the revision of the action plan.

13. Noting that proceedings relating to discrimination had been brought before 67 basic courts and that three such cases had been resolved, she would appreciate clarification as to the outcome of the other cases. She would also like to know the overall status of women, persons with disabilities, older persons, migrants and asylum seekers after three years of implementation of the action plan. The State party was invited to respond to reports that a number of cases of hate crime against lesbian, gay, bisexual, transgender and intersex persons brought before Serbian courts remained unresolved and that, in other such cases, investigations had been inefficient or in breach of human rights standards.

14. The Committee wished to hear more about the situation of displaced Roma and the practice of forced evictions from informal settlements. The delegation was also invited to comment on concerns that had been raised regarding the disproportionate number of Roma children in special schools and to describe the impact on Roma persons of employment-related discrimination at the local self-government level.

15. She would like to know the outcome of the investigation into the death of a resident who had been restrained in bed, during a fire that had broken out at an institution for persons with disabilities in the spring of 2016. Further information would be appreciated on the procedure whereby adults with intellectual and psychosocial disabilities were deprived of their legal capacity. Lastly, she would welcome a response to the claim that, in cases of reinstatement of legal capacity, efforts to correct mistakes were rarely successful, and to concerns regarding the placement of persons with intellectual and psychosocial disabilities in institutions without their free and informed consent.

16. **Mr. Ben Achour** said that he would like further information on efforts to combat stereotypes regarding the roles of women and to address the issue of early, arranged

marriage in some Roma communities. He would like the delegation to comment on the Protector of Citizens' concerns at the delays in implementing measures to prevent early marriage, the fact that early marriage and incest had not been included in the Criminal Code under the chapter on criminal offences against sexual freedom, the failure to harmonize the bill on gender equality with international standards, and the fact that, in some municipalities, no gender equality mechanism had been established. Additional information would be appreciated on the status and content of the bill on gender equality, the number of women in local government positions, and the pilot programme for the rehabilitation of Roma children.

17. Acknowledging the State party's efforts to combat violence against women and children, he nonetheless wished to address a number of concerns that had been raised by the Protector of Citizens as to the lack of human rights training for civil servants and the failure to gather feedback on training provided; delays in the implementation of legislation to protect women and children from violence and a lack of cooperation and follow-up on protection measures to combat domestic violence; and problems relating to the administration of justice. He encouraged the State party to increase the resources devoted to tackling those issues; to ensure the strict implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; to reduce the delay between the approval and implementation of laws; and to establish appropriate penalties for violence against women. Lastly, he wished to know what progress had been made towards the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

18. **Mr. Shany** said that he would like the delegation to comment on the concern that insufficient funds had been allocated to the discovery of missing persons and to provide information on searches that were underway or planned. With regard to the status of victims, he wished to know whether the State party considered the existing legal framework to be adequate; how it viewed the initiative of the Protector of Citizens to develop a model law on the protection of civilian victims of war to help families of victims to obtain victim status and reparations; and whether it was still planning to amend the Criminal Procedure Code to broaden the definition of a damaged party.

19. He invited the State party to comment on allegations that the Law on the Rights of Civilian Invalids of War of 1996 was too narrow in scope and that State assistance was denied in many cases; to clarify whether it planned to amend that piece of legislation; and to respond to the concern that victims had been denied the right to compensation on the basis of statutes of limitation.

20. With regard to the national strategy for the prosecution of war crimes, he wished to know how that would advance the State party's efforts to discover missing persons and he invited the delegation to explain why no criminal proceedings had been conducive to the discovery of missing persons, with the exception of the Sotin case, which had led to the discovery of a mass grave.

21. Further details would be appreciated on how interested parties or NGOs could gain access to military and police archives regarding disappearances in the 1990s and what steps were being taken to declassify documents or, at least, to ensure that public authorities refrained from invoking article 9 of the Law on Free Access to Information of Public Interest to restrict access to information.

22. He wished to know how the Government planned to address the huge backlog of war crime cases; whether a plan to prioritize specific cases, rather than categories of cases, had been adopted, pursuant to the national strategy for the prosecution of war crimes; whether any cases had been brought against high-ranking commanders on grounds of command responsibility and, if not, why not; and whether any cases had been brought concerning sexual violence and the concealment of bodies in mass graves.

23. Noting that the State party had attributed the backlog to a lack of capacity, he would like clarification as to whether that lack of capacity had also affected the quality of the investigations. He invited the delegation to respond to allegations that some indictments had not been sufficiently supported by evidence, that the number of complaints filed by the

War Crimes Investigation Service had decreased, and that the Service was staffed by ex-combatants who were unwilling to gather evidence against former colleagues.

24. The Committee would like the delegation to clarify whether a new War Crimes Prosecutor had been appointed and whether austerity measures had eroded the capacities of the Office of the War Crimes Prosecutor; to comment on allegations of interference in the work of the Office and attempts by the Belgrade Bar Association to punish the former War Crimes Prosecutor, Mr. Vukčević; and to supply further information on the legal proceedings that had been brought against the Humanitarian Law Center with regard to the Ljubiša Diković dossier. Lastly, it was unclear whether progress had been made with regard to witness protection under the action plan for chapter 23 of the European Union acquis, given that witnesses were reportedly still being intimidated.

25. **Mr. Fathalla** said that he would like confirmation that autopsies were carried out in all cases of death in custody, irrespective of the cause of death. It would be useful to know whether the number of deaths in custody, including as a result of suicide and violence between prisoners, had decreased since the Committee against Torture had raised concerns in that regard in April 2015.

26. He invited the delegation to provide information for 2016 on the number of investigations into deaths in custody, the outcome of those investigations and the number of cases in which those responsible had been brought to justice. He also wished to know the measures taken to provide remedies to victims' families. With reference to the alleged deaths or disappearances of newborns in maternity wards from the 1970s to the 1990s, he would like to know the status and estimated dates of adoption and implementation of the bill that was being prepared and how that bill would ensure the provision of redress to parents.

27. He would appreciate clarification as to why no activities had been undertaken to raise the maximum prison term for torture and related crimes and why the definition of torture in the Criminal Code had not yet been amended to bring it into full conformity with article 7 of the Covenant and other internationally established norms. He would also like confirmation as to whether public prosecutors had a legal obligation to carry out prompt, effective, independent and impartial investigations into all allegations of torture and ill-treatment.

28. It was unclear whether any rehabilitation programmes for victims of torture had been introduced, particularly in the light of reports that the International Aid Network Centre mentioned in paragraph 102 of the State party's replies to the list of issues had been established by an NGO rather than the Government. Lastly, he requested the delegation to provide detailed replies to all points raised in paragraph 12 of the list of issues.

The meeting was suspended at 4.15 p.m. and resumed at 4.35 p.m.

29. **The Chair** invited the delegation to respond to the questions raised by Committee members.

30. **Mr. Backović** (Serbia) said that the fact that the Serbian courts did not refer specifically to the provisions of the Covenant in their decisions did not mean that Covenant rights were not fully protected in Serbia. Each of those rights was fully protected by specific laws adopted by Parliament. The Judicial Academy provided training for judicial personnel in the application of Covenant rights, with priority being given to the rights most prone to violation, such as the right to be tried without undue delay. Some 90 per cent of judges and prosecutors had received training on that right, while 60 per cent had received training on the other Covenant rights.

31. Regarding the Novaković case, the Office for Human and Minority Rights was responsible for identifying the institutions that would implement the Committee's recommendations. It had assigned responsibility for dealing with the question of criminal liability for Mr. Novaković's death to the judicial system. As for non-pecuniary compensation, the aggrieved family had chosen to go to the litigation court, where proceedings were in progress. Meanwhile, negotiations were under way between the family's lawyers and the Ministry of Justice over compensation for delays in the consideration of the case. The Ministry of Justice was responsible for dealing with the

prevention of similar cases in the future; a law had subsequently been adopted on the protection of the right to a trial within a reasonable time, which, among other things, provided for the payment of compensation in the event of any unreasonable delay.

32. **Ms. Paunović** (Serbia) said that a council had been set up in 2014 to monitor the implementation of the recommendations of United Nations human rights mechanisms, and had already assigned responsibility and set deadlines for implementing those recommendations. It has also provided training to civil servants as necessary. As a result, the implementation status of each recommendation could now be determined at any given time.

33. **Ms. Rodić** (Serbia), replying to questions about judicial protection from discrimination, said it should be borne in mind that different laws were applicable depending on the grounds for discrimination. The reason why only a small number of anti-discrimination cases appeared to have been resolved was that the only related offence for which records were kept was the violation of equality, which was defined as a criminal offence in the Criminal Code. In many cases, damages were sought in litigation proceedings. Nevertheless, a range of courts, including appellate courts and the Supreme Court of Cassation, had taken numerous decisions on cases involving discrimination; indeed, the Supreme Court, in cooperation with the Ministry of Foreign Affairs, compiled an annual list of examples of court decisions related to the protection of Covenant rights.

34. **Ms. Plavšić** (Serbia) said that work on the amendments to the law on prohibition of discrimination had been completed. The resulting bill, which included a definition of indirect discrimination, had been harmonized with European directives and submitted to the European Commission for an opinion.

35. **Mr. Bošnjak** (Serbia) said that the Ministry of Public Administration and Local Self-Government was in the process of establishing an academy to train civil servants, which would place special emphasis on training in human and minority rights. The training was intended for all civil servants at all levels throughout the country, to ensure that all citizens were treated equally by the public authorities. Some ministries already provided training in human rights; the Ministry of the Interior, for example, had a compulsory course for police officers. Just a few days earlier, the first of a series of regional workshops had been held on protection against discrimination in the work of public authorities, based on guidelines provided by the Commissioner for Protection of Equality.

36. Regarding the monitoring of the Action Plan for the Implementation of the Strategy for Prevention of and Protection from Discrimination, all the ministries involved in implementing the Plan had appointed individuals to monitor progress on a daily basis, and had provided input in response to a questionnaire on ways to improve the Plan.

37. As for the working conditions in the Office of the Commissioner for Protection of Equality, personnel had moved into new, fully equipped premises and the Office's budget had been significantly increased despite the austerity measures currently being taken by the Government.

38. **Mr. Odalović** (Serbia) said that Serbia had resolved 70 per cent of the cases of missing persons thanks to various agreements it had with neighbouring countries and the work done by a working group set up for that purpose and chaired by the International Committee of the Red Cross (ICRC). However the fact that there remained over 10,000 unresolved cases of missing persons was disturbing. Serbia shared all the information in its possession, including military archives, with the authorities in Croatia, Bosnia and Herzegovina, and, through the intermediary of ICRC, Pristina. In particular, over 2,500 documents had been handed over to ICRC in relation to the events in Kosovo and Metohija. Because of the nature of the conflict in the former Yugoslavia, victims of that conflict were to be found not only in Serbia but also in the territories of Croatia, Bosnia and Herzegovina, and Kosovo and Metohija. His Government was committed to identifying all victims wherever they might be. Four mass graves had been found in Serbia and the remains of 902 Kosovo Albanians had been returned to their families after being identified by their DNA. In addition, 481 bodies had been recovered from rivers flowing into Serbia from neighbouring countries.

39. His Government was grateful to the Governments of Switzerland and the United Kingdom for financial support for its efforts to excavate possible mass graves. Such work was expensive and once the yearly budget of €67,000 earmarked for that purpose had been used up, the work was unavoidably delayed. Nevertheless, there was not one single location identified as a possible mass grave in Serbia, Croatia, Bosnia and Herzegovina or Pristina that had not been investigated.

40. Regarding the status of victims' families, it was important to remember that the recovery of missing persons was a complex business, as Serbian law only applied in Serbian territory. The war in Serbia had lasted only from March to June 1999, when it had been brought to an end by the NATO (North Atlantic Treaty Organization) air campaign, but the armed conflict had also taken place outside the territory of Serbia, where different laws were applicable. The work of the War Crimes Prosecutor's Office was very important, as the prosecution of war crimes enabled more victims' remains to be found. For example, a person convicted of a war crime two years previously had agreed to travel to Croatia and identify graves there, which had led to the identification of a number of victims.

41. Of the 10,000 remaining missing persons, over 4,000 were ethnic Serbs, but his Government was intent on locating all missing persons on humanitarian grounds, regardless of their origin or the location of their graves. It had no desire to conceal anything: it had investigated a possible mass grave in Pristina without finding anything and had allowed the Kosovo Police to investigate allegations that there was a mass grave in a mosque in Mitrovica. His Government refused to allow the issue of missing persons to be held hostage to political considerations, and despite the difficult political situation created by the unilateral declaration of independence by Kosovo, it was determined to continue the process of locating and identifying those persons.

42. **Mr. Rabrenović** (Serbia) said that it was not correct to say there had been a decrease in the number of cases dealt with by the War Crimes Prosecutor's Office. On the contrary, there had been an increase in the number of indictments in 2016 as compared with 2015. In total, 184 persons had been indicted for war crimes by the Office and sentences totalling 857 years had been handed down.

43. A common criticism was that not enough middle- or high-ranking individuals had been indicted. In fact, the War Crimes Prosecutor's Office had indicted a general in command of a brigade and was investigating a highly placed security officer. Moreover, the International Criminal Tribunal for the Former Yugoslavia (ICTY) was responsible for the prosecution of some high-ranking individuals. It should be remembered that the successful conclusion of investigations did not depend solely on Serbia, but also on the cooperation of the authorities in Kosovo, which was not always forthcoming.

44. Regarding the repeated criticisms of the National Strategy for Processing War Crimes in the Republic of Serbia, he wished to point out that, in draft form, the National Strategy had been prepared in collaboration with civil society organizations and approved by the European Commission. The National Strategy covered the important issues of mass graves, missing persons, regional cooperation and witness protection. It was expected that improved cooperation between the War Crimes Prosecutor's Office and the Witness Protection Unit of the Ministry of the Interior would lead to efficiency gains in implementing the National Strategy. As to whether the austerity measures in place would affect the work of the Office, he was pleased to inform the Committee that the prosecutor and a deputy prosecutor were in the process of being recruited, and that two further vacancies for deputies were expected to be announced shortly.

45. On the question of whether the presence of former members of the Armed Forces in the War Crimes Investigation Service of the Ministry of the Interior might compromise the effectiveness of the Service, it should be noted that the aforementioned National Strategy covered that issue too, as well as the independence of prosecutors. He could not overemphasize the importance of the National Strategy for the work of the War Crimes Prosecutor's Office.

46. As for access to archives, Serbia had opened all its archives, including police and military archives, to ICTY under the law on freedom of access to information, and it was on

the basis of the evidence contained in them that Vlastimir Djordjević had been convicted by the Tribunal.

47. With reference to the “huge backlog” of cases that had been mentioned, he said that those cases had not yet reached the stage of investigations; only when they did would it be possible to determine how many concerned war crimes. In addition, it should be noted that many cases that could not be resolved in Serbia were being transferred to the jurisdiction of Croatia or Bosnia and Herzegovina.

48. **Ms. Plavšić** (Serbia) said that the third report of the Office for Human and Minority Rights on implementation of the Action Plan under the Strategy for Prevention of and Protection from Discrimination covered the first half of 2016. The indicators set out in the Plan had been fully achieved in 37 per cent of cases in that period, as compared with 47 and 46 per cent in the two previous reporting periods. However, the percentage of indicators that had not been achieved at all had also decreased over the same period, to 6 per cent. The Office was in the process of preparing a report on the achievement of indicators in the second half of 2016.

49. **Mr. Bošnjak** (Serbia), referring to the situation of the Roma, said that the National Council of the Roma National Minority was one of 21 national minority councils set up to ensure the exercise of minority rights in compliance with the Constitution and the law. A special strategy on the social inclusion of the Roma had been adopted, and a body had just been set up to oversee the implementation of that strategy. According to the National Council, the number of local Roma coordinators employed by the Ministry of State Administration and Local Self-Government had risen fivefold since 2005, while the number of Roma health mediators, whose main job was to improve health care for Roma women and children in particular, had remained steady at around 68. Under affirmative action measures, a number of Roma were employed by various ministries and institutions, including 133 Roma working as police officers.

50. The new law on the protection of the rights and freedoms of national minorities would enable more accurate data to be collected on ethnic affiliation. Elections for the national minority councils had been held, and the law governing such councils was under review. He was therefore confident that the legal framework governing affirmative measures for minorities would have improved by 2018.

51. **Ms. Paunović** (Serbia) said that under a European Union-funded scheme for the inclusion of Roma, 242 private enterprises had responded to a call in 2016 for applications for technical support to employ Roma. As a result, 60 Roma, mostly women, had found employment.

52. **Ms. Vuković** (Serbia) said that a working group had been established to draw up instructions on the implementation of the rulebook on detailed criteria for the identification of discrimination by staff or pupils in the education system, and had met for the first time a few days earlier. Another rulebook, on criteria and procedures for the involvement of Roma students in secondary schools under more favourable conditions in pursuit of full equality, had also been adopted and was being implemented. Already, some 63 per cent of 3- to 5-year-olds from Roma settlements were enrolled in some form of preschool programme, and the figure was growing. She expected a contract on preschool education signed recently with the World Bank to be ratified by the Government soon. The procedures for enrolment in primary school had been facilitated; there was no longer any need for children from vulnerable groups to produce proof of residence or other documentation, and they could enrol at any time during the school year. Moreover, children could take exams in Romany or Serbian, which greatly facilitated their entry to school. Once in school, be it primary or secondary, inclusive education teams were on hand to assess children’s need for individual support. The number of trained and accredited teaching assistants helping Roma children in primary schools had reached 175. In 2015/16, 418 Roma students had been enrolled in secondary school under affirmative action measures. In the current academic year, as a result of changes to the rules, that figure had risen to 1,632. Roma children who had been enrolled in special schools without a prior decision of the local intersectoral committee would be moved to ordinary schools; moreover, special schools were required to provide

special support programs for children in grades 7 and 8 who could not be transferred to an ordinary primary school to prepare them for entry to a mainstream secondary school.

53. **Ms. Gavrilović** (Serbia) said that forced evictions were now regulated by the Housing Law of December 2016, which entitled those concerned, such as the Roma, to be heard throughout the process and entitled them to free legal aid, social assistance and accommodation if they had nowhere to go.

54. **Ms. Paunović** (Serbia) added that, for the first time, Serbia had a regularly updated database on informal settlements.

55. **Mr. Vulević** (Serbia) said that deprivation of legal capacity was currently regulated by the Law on Non-Contentious Procedure and the Family Law. A proposed amendment to the Family Law would provide for partial, rather than full, deprivation of legal capacity. The Law on Non-Contentious Procedure already placed an obligation on non-contentious courts to review ex officio their decisions on deprivation of legal capacity every three years. As a result, a small number of people had had their legal capacity either fully or partially restored. The intention was to make the deprivation of partial legal capacity the only option, and to limit it to those actions that the individual concerned was patently incapable of carrying out without assistance.

56. As for forced admission to social care institutions, only a tiny percentage of admissions were voluntary. However, that did not mean that the vast majority of inmates were institutionalized against their will. Some felt, perhaps because of their family or social situation, that they needed to be taken care of in an institution, while in other cases a guardian had been duly appointed and had given consent for the person to be placed in an institution. That did not amount to unlawful deprivation of liberty. Of course, it was possible that the provision of certain local services would enable some people to stay in their home environment rather than move into an institution.

57. Serbia had adopted a law on mental health that provided for the use of physical or chemical restraints and isolation in institutions under certain conditions. However, the rules were applied by human beings, and abuses of authority did take place. Control mechanisms were in place to deal with such situations in the shape of periodic inspections carried out by health inspectors and social workers.

58. In the case of the resident of an institution for persons with disabilities who had died in a fire, the director of the institution had been dismissed; one worker had been suspended, and another worker had retired before being suspended. The three had all been reported to the public prosecutor, but he was not aware whether proceedings had been initiated. Efforts were being made to improve safety and reduce the number of residents in the institution. More generally, the Government was beginning to see some results from measures it had taken to reduce the numbers of, in particular, children with developmental problems in institutions. Although there were still some 300 children in institutions other than small residential communities or foster care, he was confident that the number would be reduced further.

59. **Ms. Mirović** (Serbia) said that the public prosecutor's offices had to act within the Serbian legal framework, which was currently in the process of being aligned with the European Union acquis. In the process, Serbia was reforming its criminal law in phases and starting to update its approach to crimes such as torture, violence against women and hate crimes. For example, the public prosecutor had issued instructions that required special records to be kept on hate crimes, which would produce more reliable data on offenders and victims and on the number of proceedings instituted. The public prosecutor was engaged in numerous actions under existing laws to counter cybercrime and crimes against lesbian, gay, bisexual and transgender (LGBT) persons. The public prosecutor's office was active alongside civil society and LGBT organizations in seeking ways to enforce the existing laws protecting LGBT persons.

60. In the framework of the talks on the accession of Serbia to the European Union, the public prosecutor's offices and the relevant ministries, with the support of the mission of the Organization for Security and Cooperation in Europe (OSCE) in Serbia, would be preparing guidelines for the investigation of torture. It was expected that those guidelines

would help reduce the apparent discrepancy between the number of cases of torture reported and the number of convictions. Importantly, there would be a greater emphasis on support for victims. Again in the framework of the talks on the accession of Serbia to the European Union, the public prosecutor's office had prepared instructions on how best to organize the various support services for victims, especially victims from vulnerable groups.

61. **Mr. Backović** (Serbia) said that the responsibilities of the public prosecutor in the case of a death in detention were set out clearly in article 129 of the Code of Criminal Procedure. It was for the prosecutor to conduct a preliminary investigation and then decide how to proceed. If there was reasonable doubt that a crime had been committed, the prosecutor, not the police, would conduct the investigation. The family of the deceased, meanwhile, was entitled to initiate criminal proceedings and appeal the prosecutor's decisions.

62. **Ms. Paunović** (Serbia) said that the bill on missing babies, as it was known, was ready for submission to Parliament. It was consistent with the Committee's views, and addressed every aspect of the issue from investigations to the protection of procedural rights and compensation. Although the European Union accession process placed a heavy burden on the country's lawmakers, and the adoption of laws could not be rushed, she hoped the bill would be passed at the next session of Parliament.

63. **Ms. Gavrilović** (Serbia) said that Serbia was the only country outside the European Union to adopt the Gender Equality Index, which would provide statistical input that would enable it to further develop its gender equality policies. It was also in the process of implementing the Action Plan under the National Strategy for Gender Equality. She agreed with the Ombudsman that the old law on gender equality did not meet international standards, which was why a new law had been drafted. However, it had been withdrawn from Parliament by the Deputy Prime Minister, who chaired the Gender Equality Coordinating Body, while he sought the full social consensus that was necessary when legislating for such a universal value as gender equality. The text was in the final stages of consolidation and should be endorsed shortly by the Government and submitted to Parliament. The new law would provide for increased political participation by women, with a quota of 40 per cent of women in high-level positions in institutions and delegations to international organizations; measures to combat gender-based violence; greater protection for women against multiple discrimination; gender-sensitive budgeting; job protection during maternity leave; the prohibition of invasive personal questions during job interviews; and counselling, helplines and shelters for the victims of gender-based violence.

64. Lastly, to illustrate the current participation of women in local government, she said that 32 per cent of local assembly members, 55 per cent of local government employees and 42 per cent of the heads of local or municipal services were women.

65. **Mr. Vulević** (Serbia) said that Serbia intended to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, but was waiting for the enactment of a new law on children's rights and one on the establishment of a children's ombudsman, as those new laws would facilitate the ratification process.

The meeting rose at 6.05 p.m.