



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2068th meeting

Held at the Palais Wilson, Geneva, on Friday, 25 February 2011, at 10 a.m.

Chairperson: Mr. Calí Tzay (Vice-Chairperson)
later: Mr. Kemal

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The meeting was called to order at 10.15 a.m.

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

Initial report of Serbia (continued) (CERD/C/SRB/1; CERD/C/SRB/Q/1;
HRI/CORE/SRB/2010)

1. *At the invitation of the Chairperson, the delegation of Serbia took places at the Committee table.*
2. **Mr. Bašić** (Serbian human rights Ombudsman) said that, for nearly two decades, massive human rights violations had been committed in the Balkans. However, they had come to an end in 2000, and the Committee should bear that in mind when discussing and adopting its concluding observations with regard to Serbia.
3. Since then, Serbia had adopted a comprehensive array of legislation establishing new national human rights protection bodies, such as the Council for National Minorities and the Gender Equality Council in 2004 and the institution of Ombudsman in 2005. Despite considerable efforts to ensure that the rights of all persons living in Serbia were respected, many vestiges of the past remained and continued to affect certain population groups. Some minorities were “neglected”. That was a result of a combination of factors, not least the fact that the mandate of the office of the Ombudsman was not to address instances of failure to respect human rights, but rather to help the public administration optimize State resources to meet the citizens’ needs, and the fact that human rights legislation was not uniformly implemented in a manner for all minorities. While the Autonomous Province of Vojvodina afforded a very high level of protection of the rights of national minorities, for example, that was not always true of other provinces.
4. Given that the Roma minority was the poorest and most marginalized in Serbia, it had been decided in 2008 to establish the Council for the Promotion of the Status of Roma. The national human rights institution, having received very few complaints from Roma of violations of their rights, had taken a number of steps in order to inform them of their rights in that regard. In cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR), the institution was preparing a memorandum in order to regularize the status of persons who were “socially invisible”, not least because they had no identity documents. A programme was also being drawn up, with support from the Office of the United Nations High Commissioner for Human Rights, with a view to adopting a strategy to promote the human rights of Roma.
5. There was currently no system in Serbia for monitoring observance of human rights. That task should not be entrusted exclusively to NGOs, and the public administration should establish specific institutional mechanisms to that end. An appropriate system of sanctions should also be established, in tandem with a series of proactive measures aimed at preventing acts of discrimination.
6. **Ms. Jašarević-Kužić** (Serbia) said that in the 1990s Serbia had undergone a very difficult period, marked by acute inter-ethnic conflict; however, good relations had been established with the former republics of Yugoslavia, which had become sovereign States. The definition of national minority — which applied to 29 recognized minorities — had recently been adopted and would gradually be implemented.
7. The persistence of racist speech in Serbia was an unfortunate vestige of the past. The Serbian authorities were aware of the need for a clear definition of acts of racial hatred, and the Criminal Code was to be amended in order to criminalize racist acts and the promotion of racial hatred.

8. Serbia attached high priority to protecting and defending human rights, especially the rights of “invisible” minorities, and had drawn up a three-year programme that focused exclusively on improving the situation of Roma living in Serbia.

9. **Ms. Mohorović** (Serbia) said that independent State bodies were tasked with protecting human rights at all levels. The Act on the Protection of Rights and Freedoms of National Minorities, adopted in 2002, governed the status of national minorities in the Republic of Serbia. Under the Act, a national minority was considered to be any group of citizens that was sufficient in number to be representative; whose members had long-standing, solid ties with the territory of the State; and had features such as language, culture, ethnic origin or religious convictions that distinguished them from the majority of the population. Since that definition had been deemed to be problematic, consultations with a view to improving it had started in December 2009 with stakeholders in Serbia’s various provinces. At the same time, a working group made up of national lawyers had drafted a manual explaining the provisions of the Act and how it was implemented.

10. **Mr. Gačević** (Serbia) said that no person was obliged to declare their ethnic origin when applying for a post under the Ministry of Internal Affairs. Additional efforts had been made to solve the problem of underrepresentation of the Roma minority in the police force.

11. **Mr. Koka** (Serbia) said that the strategy adopted in 2009 to improve the situation of Roma had brought results in the areas of housing, education, employment and health. Under the strategy, 56 coordinators had been appointed in local governments to liaise between Roma and the local authorities. Similarly, 180 teaching assistants had been appointed to serve in schools.

12. The living conditions in Roma camps, particularly in Belgrade, were not as bad as sometimes claimed, even if hygiene conditions were poor and there was no sanitation system. Many Roma families living in makeshift camps under the Gazela Bridge in Belgrade had been rehoused in the suburbs. Persons whose official place of residence was Belgrade had been allowed to stay there, assert their right to housing, and in some cases even claim benefits. Others had been encouraged to return to their region of origin – the south of Serbia. In total, 120 jobs had been offered to members of the Roma community but very few, unfortunately, had accepted them. It was therefore necessary to take steps to encourage the integration of Roma into the labour market. Roma mainly worked in rubbish collection and recycling, but were unaware of the need to register their companies.

13. Fewer than 10 European universities gave classes in Romani. In Serbia, primary schools provided teaching in the language, while the national council of the Rom national minority was currently working on its codification.

14. In order to avoid Roma pupils being sent to schools “for Gypsies”, the Ministry of Education was setting up a system of inclusive education based on corrective measures that consisted of crediting Roma pupils with extra points in order to give them access to higher education.

15. **Ms. Ivanović** (Serbia) said that, as a matter of priority for the Serbian Government, the issue of social integration had been incorporated into the new social bill submitted to Parliament in December 2010 for adoption. The Government was also seeking to improve access to mainstream schools and eliminate all forms of discrimination in education, with the aim of assisting pupils who belonged to particularly vulnerable groups. Under a Ministry of Education ordinance, it had been decided that, from the start of the school year 2010/11, all pupils of school age residing in their local school catchment area would be accepted in the school of the appropriate municipality. In addition, those who had academic problems or came from a background that did not encourage study, as was the case for Roma, and the children of displaced persons, would be allowed to enrol after the deadline

and would not be required to submit proof of address or proof of preschooling attendance, which was usually compulsory.

16. Primary and Secondary pupils in difficulty were put in special classes, on the decision of a special committee, following consideration of their file. Roma children who had not attended a crèche and whose parents were uneducated were often placed in such classes since, having had no preschool experience, they had not done well in the pre-enrolment tests. Under the new legislation on primary education, pre-enrolment tests would no longer be used as a basis for deciding into which class pupils should be put, but rather for deciding the overall level of a specific age group. It was only once pupils had been admitted to a school that the decision was taken to offer them remedial classes or psychosocial support. The special classes would not be abolished, but reserved for pupils with major learning difficulties. The order to place children in such classes was only given, however, following a collegial decision, and with the parents' agreement.

17. In order to foster gender equality and promote women from ethnic minorities, an action plan for Roma women — who suffered various forms of discrimination — had been drawn up. With regard to education, almost 70 per cent of illiterates in the Roma community were women; for that reason, positive measures had been taken to try and remedy the situation. Since the measures had been adopted, the dropout rate for Roma girls had fallen.

18. In the area of employment, the National Employment Service had allocated funds for the creation of small businesses, but few women had seized the opportunity to set up their own business.

19. With regard to health, 85 women mediators had been appointed to encourage Roma women living in camps to be vaccinated, take care of their reproductive health and register their children's births. The mediators played an important role in that they worked in tandem with social workers, telling them when a child was born or if there were any problems with a child's upbringing.

20. **Mr. Andjić** (Serbia) said that the number of "legally invisible" individuals, that is the undeclared, accounted for 1.8 per cent of the Roma population in Serbia.

21. The number of refugees and displaced persons was on the rise. The Government was trying to find suitable accommodation for all displaced persons originally from Kosovo, who were housed in shelters. Under the new legislation on birth registration, they were no longer required to produce the same official documents each time they renewed their identity papers, they being now permanently valid and scanned by the police. Projects designed to improve the socio-economic situation of displaced persons and refugees had been implemented to help them find housing and become economically independent.

22. **Ms. Govedarica** (Serbia) said that members of national minorities effectively exercised their right to be taught in their own language, save for the Bunjevac community, whose language was not codified. They could also use their own language in their dealings with local authorities — where they were often employed in administrative posts — and could obtain information in their language.

23. Serbia had ratified the Framework Convention for the Protection of National Minorities, and the European Charter for Regional or Minority Languages, of the Council of Europe, and had consequently taken a number of measures on education, public information, economic life and the organization of cultural exchanges, which had been commended by the advisory committee of the aforementioned Framework Convention. The advisory committee had taken note of the measures taken by Serbia to assist small population groups.

24. The Council of Europe had also commended the Republic of Serbia for incorporating into its Constitution the principle that “every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice”, as established in article 3 of the Framework Convention. In addition, the pollsters were required to record people’s statements without questioning them about their stated cultural identity. They had recorded that 54,000 persons considered themselves to belong to the Vlach minority and spoke the Vlach language. Since that language had not been codified, they were unable to exercise the right to be taught in their own language or use it in administrative procedures.

25. **Mr. Trnavac** (Serbia) said that the Constitution guaranteed all Serbian citizens the right to express their religious beliefs, individually or collectively, a right not subject to official registration of the religious community to which they belonged. Some informal religious groups were not registered because they did not fulfil the legal requirements, but that was not discrimination. In addition, the religious groups concerned had the right to ask for the findings of the Ministry of Religion to be reviewed by the administrative courts.

26. The Ministry of Religion had officially recorded 10 religious communities over the previous three decades. With regard to the restitution of property of churches and religious communities, the applicable procedure was governed by legislation, on the basis of the principle of equal treatment of all religious communities. At the time of submission of the report, 3,409 applications had been lodged and 574 had been the subject of a final decision. The procedures had been delayed by the lack of data on church property at the time of the property’s confiscation, the large number of applications, and unresolved inheritance disputes.

27. *Mr. Kemal took the Chair.*

28. **Ms. Dah** noted that Serbia faced three challenges, the first being to move on from the past and prevent the return of hate speech. That required strong political will. The second was to create a solid legal and institutional framework. As she saw it, Serbian anti-discrimination legislation, which contained a very broad definition of discrimination, should focus more specifically on racial discrimination. There was, also, an overlap among the many, but relevant, institutions. It would be useful to clarify their respective areas of competence. The third challenge was to build an inclusive society, while maintaining the diversity that enriched it. Serbia had adopted a comprehensive legal framework in that regard, which needed to be evaluated; to that end, it would be useful to have more detailed information on the matter in Serbia’s next report. Education was the cornerstone of a society that respected diversity and was open to all.

29. **Ms. Jašarević-Kužić** (Serbia) said that the State would make a determined effort to deal more specifically with issues of racial discrimination. The Government had focused on combating discrimination against minorities, since cases of racial discrimination were less common in Serbia.

30. **Mr. Calí Tzay** expressed surprise at the delegation’s claim that there was no racism in Serbian society, since that did not hold for any country in the world. As to reports of Serbian organizations inciting racial hatred, he would like to know how many people worked for such organizations, and what steps the State planned to take to ban them. He would be interested to hear the delegation’s views on the need to ensure the independence of the judiciary, and on non-discriminatory justice, and whether Serbia planned to conduct racial discrimination awareness-raising campaigns, including for judges. He would like to learn whether all languages officially recognized by the State were actually used in public services, and whether there were any indigenous peoples in Serbia.

31. **Ms. Jašarević-Kužić** (Serbia) said that the Government was aware of the existence of acts of racial discrimination in Serbia and had adopted sweeping anti-discrimination legislation covering all areas where discrimination was most apparent. The main focus was on discrimination against women, especially in the labour market, and on discrimination against Roma. The State had also started to prepare draft legislation, based on the relevant international instruments, to combat hate speech.

32. **Ms. Govedarica** (Serbia) said that the languages of the largest groups of national minorities were used by local government in many parts of the country, in particular Albanian, Bosnian, Hungarian, Romanian, Croatian, Slovak and Czech. There were no indigenous peoples in Serbia.

33. **Mr. de Gouttes** said that another challenge currently facing Serbia was to ensure that the strong sense of national identity and nationalism entrenched in the population did not ignite an upsurge of racism or xenophobia. The intermingling of nationalist convictions with the risks of ethnic or racial discrimination was a constant subtext in Serbia, as it was in many other countries with a strong nationalist identity. Noting the reports of forced expulsions of Roma communities by State officials, sometimes accompanied by violence, and of inadequate compensation for those expelled, he requested further information on the matter. He would also appreciate information on racist attacks against minorities, the perpetrators of which were apparently not being prosecuted by the authorities, and asked what resources were being made available to the Ombudsman and other human rights institutions so that they could fulfil their mandate effectively.

34. **Mr. Koka** (Serbia) said that it was often very difficult to rehouse people living in informal accommodation, including in Belgrade, and that to organize such rehousing often took too long, sometimes as long as two years.

35. **Ms. Ivanović** (Serbia) added that the State was aware of the human rights violations committed against Roma when moving them to other accommodation that provided them with better conditions. The Government had rehoused 53 families from the suburbs of Belgrade in municipalities in the south of Serbia, where they had been given temporary shelter and financial compensation, and had had new housing specially built for them. Serbia was, however, committed to correcting past mistakes in that area and would submit a written report to the Committee on the way the rehousing operations had been conducted.

36. **Mr. Gačević** (Serbia) said that when the perpetrator of an offence was unknown it was impossible to know with any certainty whether the offence had been motivated by racial hatred, so that the offence might be classified, for example, as assault. A number of categories of racist offences were provided for: physical attacks, verbal insults, threats, desecration of places of worship, incitement to racial hatred, and destruction of the home of members of minorities. In 2009, some 69 racist offences involving assault and battery had been reported. That classification enabled the Ministry of Internal Affairs to monitor how the situation evolved. Data were also collected on the perpetrators, who were not obliged to state the ethnic group to which they belonged.

37. **Ms. Jašarević-Kužić** (Serbia) added, with regard to racist offences, that 28 cases had remained unresolved in 2009, and that the courts had handed down 9 prison sentences, 28 suspended sentences, and 1 fine. In 2010, legal proceedings had been brought in 29 cases of alleged discrimination, which had resulted in 5 convictions to date.

38. **Ms. Mohorović** (Serbia) said that the Ombudsman's budget had been €1,370,000 in 2010. The Commissioner for the Protection of Equality, a post established in May 2010, was drawing up a charter and looking for permanent office space for the approximately 60 people expected to work alongside the Commissioner. There were plans to allocate a budget of over €960,000 to the new independent body for 2011.

39. **Mr. Kut** (Country Rapporteur) asked whether Serbia recognised Albanian university diplomas and whether rumours of possible abolition of the Ministry of Human and Minority Rights were true. The delegation might provide more detailed information about the fact that offences could not be classified as racist if the perpetrator had not been found. He wondered whether that also applied to such blatant cases as setting fire to a mosque for instance.

40. **Mr. Gačević** (Serbia) agreed that when a mosque was set on fire there was little doubt of the perpetrators' racist motivation. In reality, the decision not to classify an offence as racist because the perpetrator was unknown was not automatic, even if that was what generally occurred; the prosecutor could decide with the police that an offence was racist, particularly if there was pre-existing evidence.

41. **Ms. Jašarević-Kužić** (Serbia) said that she could not reply objectively to the question of whether the Ministry of Human and Minority Rights, her own ministry, was under threat. The ministry was only in its second year and its establishment had received stalwart support from civil society, including organizations representing minorities; International organizations consulted had also expressed support for the ministry.

42. **Mr. Diaconu** urged the State party to resolve the problem of "invisible" persons, by issuing them with at least a residence permit if not an identity card. That meant working within and with the communities themselves, and in conjunction with them, amending legislation if it was no longer enforceable owing to the disappearance of registers. The State party could adopt as a model the procedure based on witness statements used following the Second World War.

43. When a community had no intellectuals to standardize the language, it fell to the State to do so, possibly in cooperation with neighbouring States in which the language was also spoken.

44. **Ms. Jašarević-Kužić** (Serbia) said that the issue of "invisible" persons was one of the Government's priorities. A number of solutions were being considered, including amending legislation or, more likely, recording the number of "invisible" persons during the general population census to be carried out in the autumn of 2011, and simplifying the procedures for granting identity documents.

45. **Ms. Mohorović** (Serbia) said that new registration legislation had been adopted in 2009, and contained instructions on keeping birth, marriage, divorce and death registers, including details of desired format. In the event of damaged, destroyed or lost records, an emergency procedure for reinstating the missing records could be instituted. When the person was unable to provide the required documentary proof and the registry had no other means of obtaining it, an application could be made to the competent court. Once the court had handed down its decision, the records were reinstated. As at the end of 2010, more than 120,000 records had been reinstated.

46. **Ms. Govedarica** (Serbia) said that the fact that no written trace of an unstandardized language did not mean it was not spoken. Many languages around the world were only spoken languages. Their standardization fell to the communities themselves, if they were so inclined. Matters would be facilitated by the recent establishment of the councils for national minorities, which had broad powers. The Bunjevac communities, for example, had launched such a project in 2009. Following grassroots studies, they planned to publish an alphabet and a grammar in 2012. It was not for the State to undertake such work, and in any case no State body had a mandate to do so, although the communities could request public assistance, including financial aid.

47. **Mr. Koka** (Serbia) said that, there was de facto standardization of the Roma language since it was used throughout Europe by all Roma. The National Council of the

Roma National Minority could officially apply, for example, to the Ministry of Education to have school textbooks published in the Roma language. Serbia had been the first country to broadcast television programmes in the Roma language, since 1996. Various radio programmes in that language were broadcast, and the Ministry of Culture subsidized the publication of several Roma magazines.

48. **Mr. Murillo Martínez**, noting Serbia's considerable efforts to combat impunity for racist offences, drew attention to the role of political parties and expressed surprise that, as of 2009, no party had ever been banned. He wished to know whether any parties had been banned since then and, if not, whether any such bans had been requested. He would appreciate information from the delegation on whether the membership of the Constitutional Court reflected the country's diversity.

49. **Ms. Jašarević-Kužić** (Serbia) said that three of the judges on the Constitutional Court belonged to a national minority, and that replies to the other questions would later be provided in writing.

50. **Mr. Kut** thanked the delegation of Serbia for the detailed information it had given to the Committee, and thanked the Ombudsman for his very positive contribution. In its concluding observations, the Committee would refer to Serbia's progress, due in no small part to its leader's political will. However, in the interests of constructive recommendations, the Committee would also draw the Government's attention to persisting areas of concern, not least the overlap of different structures and the risk of their politicization, the inadequacy of resources, the human rights bodies' lack of independence and autonomy and the lack of cooperation with civil society. Topics such as codifying racist offences and banning racist organizations would also be addressed, as would education, awareness-raising, data collection; and the economic, social and cultural rights of Roma and other underprivileged communities, particularly those of "invisible" persons. The concluding observations would be transmitted to the State party at the end of the Committee's session. The ultimate aim of the measures taken by Serbia must be to integrate all persons in society, making it important that the measures should neither reflect nor perpetuate the segregation prevalent in Serbian society.

51. **Ms. Jašarević-Kužić** (Serbia) thanked the Committee for its sound recommendations. She hoped that the Committee would take account of the delegation's statements on the implementation of the Convention in the Autonomous Province of Kosovo and Metohija and contact the United Nations Interim Administration Mission in Kosovo on that matter.

52. Serbia was committed to using its limited resources to create infrastructure. Its current priority was legislative reform, including harmonizing its legislation with European standards. In its work her country paid great attention to non-discrimination and would provide written replies to all outstanding questions.

The meeting rose at 1.05 p.m.