



UNITED NATIONS
IN SERBIA

**Submission to the UN Human Rights Council
Universal Periodic Review
For the Review of the Republic of Serbia
15th Session 21 January – 01 February 2013**

Background and framework

A. Scope of international obligations

Serbia is party to the majority of UN Human Rights Treaties and the only instruments yet to be ratified are CMW, CED and OPCECSR. Ratification of OPCECSR is of specific importance, as it would introduce the much needed mechanism for quasi-judicial individual complaints, which would focus on violations of economic, social and cultural rights.

Serbia is party to the ECHR (including its applicable protocols), the Revised European Social Charter, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the European Charter for Regional or Minority Languages, the Framework Convention for the Protection of National Minorities and the CoE Convention on Action against Trafficking in Human Beings. Serbia has also signed, but not ratified, the CoE Convention on Access to Official Documents and the CoE Convention on Preventing and Combating Violence against Women and Domestic Violence.

In 2001 Serbia acceded to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as the 1954 Convention on the Status of Stateless Persons. In December 2011 Serbia acceded to the 1961 Convention on the Reduction of Statelessness.

B. Constitutional and legislative framework

The Serbian Constitution was adopted by way of a referendum in 2006. It guarantees a broad spectrum of human rights and stipulates direct implementation of ratified international legal instruments and generally accepted rules of international law. It also envisages the establishment of a Protector of Citizens (Ombudsman), as an independent institution mandated to protect the rights of citizens and control the work of the public administration.

In general, Serbia's legislative framework for protecting human rights is in place. The Law on Ombudsman, Law on Personal Data Protection and Free access to Information of Public Importance have been adopted, as have the comprehensive Law on the Prohibition of Discrimination, Law on National Councils of National Minorities and Law on Gender Equality. The 2011 adoption of the Law on Permanent and Temporary Residence is of specific importance to the prevention of statelessness and represents a step forward in attempts to resolve issues of persons at risk of statelessness in Serbia. Moreover, the draft Law on Amending the Law on Non-Contentious Procedures has been approved by the government and is awaiting adoption by the Parliament. This law should address the obstacles faced by undocumented persons who are unable to register their births in civil registries and are, therefore, at risk of statelessness.

The Law on Basic Education Systems created normative preconditions for the introduction of inclusive education, while the Law on Social Protection, adopted in 2011, prohibits the institutionalization of children under three years of age. A draft Child Rights Act was prepared and presented under the leadership of the Deputy Ombudsman for Children, with the assistance of the CoE. In December 2011 the first draft of the Children's Act was debated by all relevant stakeholders and will be reviewed further following the formation of the new government.

C. Institutional and human rights infrastructure and policy measures

The Serbian government formed after the 2008 elections included a ministry for human and minority rights (MHMR) in its composition. The UN in Serbia found the work of Serbia's MHMR to be of particular importance to the implementation of the UN

human rights treaties in country. In March 2011 the government of Serbia was restructured and the MHMR was merged with the MSALSG. Within the merged ministry, the Directorate for Human and Minority Rights was established and assumed the mandate of the previous MHMR. The UN in Serbia continues to maintain good cooperation with the directorate and encourages the Serbian authorities to support the work of this institution, as the bearer of the human rights portfolio, and provide it with a stronger voice within government. The UN in Serbia also encourages the government to ensure the continuity and stability of work related to the implementation of the human rights' mandate, including through the avoidance of frequent organizational changes. The UN in Serbia encourages the government to ensure the strong support of all parts of the government for the work of the Ministry/Directorate in charge of the human rights portfolio.

An important element of the institutional human rights protection framework is the institution of the Ombudsman. In March 2010 this institution was awarded the highest 'A' status accreditation by the International Coordination Committee for NHRIs. This accreditation testifies to the highest level of compliance with the internationally recognised 'Paris Principles'. The UN in Serbia is, however, concerned that the parliament and the government of Serbia have failed to secure the stability of this important institution by not ensuring either the appointment of a new Ombudsperson or extending the mandate of the current Ombudsperson prior to the 2012 elections, thus leading to a situation whereby the mandate of the current Ombudsperson ends prior to the convening of the new Parliament is in session¹. The government and parliament failed to act on this issue, despite appeals from the international community, non-governmental organizations and the Ombudsman in Office in late 2011 and early 2012.

The vast majority of complaints received by the Ombudsman relate to good governance issues. In order to respond to the overwhelming number of concerns from this domain, in June 2010 the Ombudsman proposed that the parliament adopt a Good Governance Code. This proposal, however, never reached the parliament's agenda. The Deputy Ombudsperson for Children processed 391 child-related cases in 2011, representing 10.7 percent of total complaints received. The majority of complaints related to violations of the principle of the best interest of the child, as well as child abuse and neglect. The Deputy Ombudsman for Gender Equality resigned in 2010 and has not been replaced since.

Serbia has a very active and influential Commissioner for Free Access to Information and Personal data Protection. In 2010 a Commissioner for Equality Protection was appointed, as stipulated by the Law on the Prohibition of Discrimination. Both institutions complain of a lack of sufficient resources, including basic office space.

In 2008 the Serbian Parliament adopted a set of laws on judicial reform and the main reforms of the judicial system were implemented in 2009. The main criticism of the reform was its aspect involving the re-election of all judges. Both domestic and international professional bodies² and organizations have raised serious concerns regarding the quality of the evaluation criteria and the transparency of the election process³. Specific criticisms relate to the extremely short timeframe within which the process was completed.

Serbian citizens generally have very little faith in the judiciary. The vast majority of cases against Serbia presented to the ECtHR relate to the violation of the right to a fair trial in a reasonable time.

I. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies

Serbia has fulfilled its reporting obligations to the UNTBs. The MHMR, established in 2008, has conducted a comprehensive reform of the State's reporting to the UNTB process. The main objectives of this reform were to align state reporting to the new guidelines on reporting, allow adequate space for participation of civil society in reporting, as well as ensuring adequate

¹ This means that the parliament is not in a position to either appoint a new ombudsperson or extend the mandate of the current ombudsperson

² The CoE, via the Venice Commission, the Consultative Council of European Judges, the OSCE, the Judges' Association of Serbia and the Prosecutor's Association of Serbia.

³ In SR Leandro Despouy's Report on the independence of judges and lawyers, submitted to the UN GA on 19th May 2009, it was noted that two substantive areas in the reform of the justice system give rise to concern from the point of view of compliance with international standards on the independence of the judiciary: the requirement to re-elect sitting judges and the procedures governing the membership of the HJC, including the establishment of its first composition. The SR highlighted the need to establish specific safeguards, in order to ensure compliance with international standards.

coordination within the government. The reform process was supported by the OSCE Mission to Serbia and the UN in Serbia. Through this reform process, the Common Core Document was drafted through a transparent and participatory process.

Translation, publishing and dissemination of the CoBs is not consistent and the UN in Serbia would like to encourage the government to ensure a timely and organized process to translate and disseminate the CoBs provided to Serbia by the UNTBs.

No coherent and comprehensive state mechanism to follow-up and monitor implementation of the recommendations of the UN human rights mechanisms⁴ has been put in place and, as such, the follow-up is inconsistent.

Implementation of the decisions of UNTBs in individual complaints mechanisms still lacks adequate regulation and the existing normative framework does not provide sufficient guidance. The situation is somewhat better when it comes to implementation of ECtHR decisions. However, while some UNTB decisions are implemented, there is no clear mechanism for implementation. The UN in Serbia and the OSCE Mission in Serbia are supporting the Human Rights Directorate to address this problem through drafting and adoption of the Model for implementation of the UNTB decisions in individual cases.

B. Cooperation with special procedures

Serbia has issued a standing invitation to the UN Special Procedures. In 2009 the SR on Freedom of Religion visited Serbia for a fact finding mission and was provided with full access to institutions and high level meetings were organized by the MoFA. Concern remains regarding the follow-up to recommendations provided by the SR after the mission.

In 2008 the MHMR organized an event as a follow-up to the recommendations provided by Hina Jilani, SRSG on Human Rights Defenders, after her 2007 fact finding mission to Serbia.

C. Cooperation with the Office of the High Commissioner for Human Rights

The UN Human Rights Advisor in Serbia notes constructive cooperation with the Ministry and, afterwards, the Directorate on Human and Minority Rights. The main fields of cooperation are: reform of the treaty body reporting process, the situation of human rights defenders, the Universal Periodic Review and cooperation with the mandate holders of the Special Procedures.

Constructive cooperation has also been established with the parliament, specifically in terms of cooperation between the parliament and the Ombudsman.

II. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

A comprehensive Law on the Prohibition of Discrimination was adopted in 2009 and the Commissioner for the Protection of Equality was appointed in 2010. This institution is still struggling with resources, including office space required for it to function effectively.

The Law on Gender Equality was adopted in 2009. Nevertheless, discrimination against women persists. A baseline study on gender-based discrimination in the labour market, completed in 2012, shows that 58% of women faced some type of discrimination in employment and the workplace. Women from specific groups – Roma, disabled, refugees and migrants, rural – continue to be among the most discriminated against and marginalized groups. With the exception of a few surveys, there is lack of reliable and relevant data on the status of these women in various areas that would allow the monitoring of the effects different policies have on them.

Severe discrimination against the Roma minority is still present in all spheres of social life and Roma continue to live in conditions of extreme poverty, with high levels of school drop-out and unemployment rates. Despite the fact that Serbia adopted its National Strategy for Advancement of the Position of Roma, and an accompanying Action Plan, in 2009, the results achieved

⁴ Treaty Bodies, Special Procedures and the Universal Periodic Review

through implementation are far from sufficient. The revised Action Plan to cover period 2012-2014 has not yet been adopted. The UN in Serbia encourages the Serbian government to exert further efforts to address serious issues related to discrimination against Roma.

Discrimination against, and a hostile environment towards, the LGBT community also persists. Violence during the 2010 Pride Parade and the cancellation of the 2011 Pride Parade are of specific concern. Persons with disabilities also continue to suffer from discrimination.

The 2010 UNDP Public Opinion Poll on Discrimination revealed that 63% of Serbian citizens believe that discrimination is widespread in Serbia. Half of citizens believe that discrimination is prohibited by law, but that the law is not respected. Most Respondents, 45%, mentioned Roma as a group discriminated against.

B. Right to life, liberty and security of person

Serbia has abolished the death penalty. The prison system in Serbia is characterised by severe overcrowding and poor conditions, though some state efforts have sought to overcome this problem by building additional prisons and renovating some existing facilities. A system of alternative sanctions has also been introduced to help address the same problem.

Serbia has established a National Preventive Mechanism, managed by the national Ombudsman and functioning in cooperation with civil society organizations. The UN in Serbia encourages the government to continue supporting this important mechanism, including through the provision of sufficient resources.

Domestic violence is a serious problem in Serbia. The UN in Serbia encourages swift ratification of CAHVIO. Serbian legislation stipulates protective measures against domestic violence, application of which should be further strengthened. Special concern is raised by the fact that offenders remain in the family home, despite protective measures stipulating their immediate removal. At the national level there remains a lack of a systematic and regular collection and analysis of data and information on all forms of violence against women, including sexual harassment and domestic violence.

Gender equality institutional mechanisms have been established at all levels of government, which is a significant step forward in terms of integrating a gender sensitive approach to the institutional response to domestic violence against women and children. The MoLSP took the lead in the process of proposing and drafting policies in this field, as well as in strengthening the cooperation of relevant institutions tasked with providing adequate prevention, protection and support to the victims of violence, such as the MoJ, MoI, MoH, MoE. The MoLSP- Gender Equality Directorate⁵ drafted the National strategy for preventing and combating violence against women in the family and in intimate partner relationships and proposed its adoption by the Serbian government. This Strategy is aligned with the requirements of the CAHVIO Convention. The Strategy, however, has not received proper recognition in the State budget and there is a genuine risk that it may remain a mere reference, due to a lack of financial resources for its implementation. Furthermore, the capacities of the gender equality mechanism at the executive level in charge of implementation of this strategy need to be strengthened further in order to ensure capacities and resources for implementation are put in place.

The General Protocol on Procedures and Cooperation of Institutions, Agencies and Organizations in Situations of Domestic and Partner Relationship Violence against Women (hereinafter: General Protocol) was drafted and adopted by the government in November 2011. The purpose of the General Protocol is to ensure each institution's effective and comprehensive compliance with its statutory powers and duties, providing long-term and sustainable protection for the victims of domestic violence, as well as ensuring that offenders receive appropriate punishment. Another purpose of the General Protocol is to establish coordination mechanisms for institutions responsible for protecting victims of violence. General Protocol introduces the obligation for line ministries to draft and adopt specialized protocols of conduct in cases of domestic violence which are expected to be adopted by the end of 2012. In 2011 a series of training sessions on how to better use the General Protocol were held in 11 towns throughout Serbia.

The UNDP Project 'Sexual and Gender-Based Violence' introduced the programme for work with perpetrators of domestic violence in Serbia for the first time, using the globally recognised Norwegian model "Alternative to Violence". The line ministry pledged to introduce this as a standardised social protection service.

⁵ with the support of the UNDP, through a project funded by the Norwegian Government

In November 2011 the MoI established a country-wide domestic violence hotline for reporting domestic violence (whether by victims or witnesses). Specialized Curricula in the area of gender-based violence was developed and adopted by the Judicial Academy, Police Academy and Government Human Resource Department. Since 2009, four new safe houses have been opened, three of which are state funded, while one is funded through a public campaign. This increased the total capacity of safe houses in Serbia by about 50% and these four houses can currently accommodate over 200 women. In terms of raising awareness, public debate on violence against women has changed and significant efforts have been exerted to raise awareness aimed at publicly condemning violence against women.

The Action Plan for the Protection of Children from Abuse and Neglect was adopted in 2010. The body responsible for cross-sector coordination and oversight of this issue was the National Council for the Rights of the Child, which has not been operational for the last two years. As such, coordination at the national level, with regard to improving prevention and response mechanisms to the protection of children from abuse and neglect, has been less effective. Much needed training on the implementation of general and sector protocols, which regulate and specify communication and responsibilities between sectors, still remains largely donor funded.

New judicial measures have been introduced to respond to domestic violence. However, some of these are not fully enforced by the judiciary (e.g. removal of violent individual from home if he is the owner of property) and there are also concerns over the execution of prescribed measures. Support services for victims of violence are under-funded and there are concerns that they may be further affected by the economic situation.

A legal ban on use of corporal punishment as a means of disciplining children was introduced in the draft Children's Act, debated in December 2011. This sparked a fierce media debate and demonstrated that both professionals/practitioners and the general public are divided on this issue. The adoption of this law, and thus the banning of corporal punishment in the family, is not expected soon and it is unclear whether the new government will endorse this draft legislation. UNICEF data on corporal punishment, obtained through the Multiple Indicator Cluster Surveys in 2005 and 2010, demonstrated a drop in the number of parents using more severe physical punishment when disciplining their children (from 7 to 2 percent), as well as a drop in the number of parents that used minor physical punishment (from 51 to 37 percent).

Serbia adopted a NAP on United Nations Security Council Resolution 1325 on Women, Peace and Security in December 2010. The NAP was adopted for the period 2010 – 2015 and covers seven priority areas, including: establishing institutions to implement the NAP, representation, inclusion and protection of women, training and the role of media. In 2011, in its efforts to accelerate the NAP implementation, institutional bodies were established, as were a set of indicators to track progress and reporting mechanisms.

Human trafficking remains a problem in Serbia. According to the State Agency for coordinating the protection of victims of trafficking within the MoLSP, 83% of the victims are Serbian nationals and every third victim is a minor. In March 2012 the government established a Centre for the Protection of VoTs within the MoLSP as a central institution for identification, referral and protection of VoTs. It combines the aforementioned agency and the Urgent Reception Centre for VoTs. The Law on Social Welfare (2011) recognises VoTs as social welfare beneficiaries. IOM notes that this positive stipulation was applied in practice. There are currently three shelters for VoTs in Serbia.

The new National Strategy for prevention, suppression and protection of victims of human trafficking (2013-2018) is currently being drafted⁶. The Strategy builds on two Evaluation reports⁷ and has received contributions from the MoI, MoJ, MoLSP, MoE, MoYS, MHMRSALSG, MoCIS, MoFA, BIA and the two most relevant NGOs. This is an extremely positive development that follows up on the government's decision to define a contextualized strategy and action plan⁸ and to ensure stronger government accountability.

⁶ Supported through the joint IOM, UNHCR and UNODC programme in Serbia to combat human trafficking, funded by the government of Belgium, the government of Switzerland and the UN.GIFT

⁷ D. Bradic, Analysis of the Strategy for Combating Trafficking in Human Beings; A. Vidojevic, National Action Plan to Combat Trafficking in Human Beings of the Republic of Serbia for the period from 2009 to 2011, Report on the implementation of activities (http://www.ungiftserbia.org/?page_id=563)

⁸ Considering the EU Strategy on the eradication of trafficking in human beings (2012-2016)

C. Administration of justice, including impunity, and the rule of law

The most important development in the field of administration of justice is the comprehensive judicial reform implemented by the Serbian government in the previous period. As noted, the set of laws on judicial reform were adopted in late 2008 and prescribed the complete reorganization of the network structure of courts, the appointment of all judges and prosecutors and the establishment of the High Judicial and State Prosecutor's Councils. The two Councils were established as independent and autonomous bodies guaranteeing the independence of courts and judges, as well as the autonomy of public prosecutors. The two bodies were also designated responsibility for the election and promotion of judges and prosecutors. The method of electing members of the Council was criticised by the Venice Commission⁹.

In June 2009 the HJC announced that the new court system of Serbia would require only 1,800 judges of an existing 2,483, while the SPC determined that the number of prosecutors would be 67 public prosecutors and 539 deputies. This represented a decrease of approximately 700 judges and 180 prosecutors and deputies. The HJC received approximately 5,000 applications for judicial positions and the SPC received around 800 applications for prosecutorial positions. The announced criteria for re-election were: worthiness, dignity and qualification. The process of re-election was completed in December 2009, after a three-month period, through the publishing of the names of the elected judges and prosecutors. The process saw only 1,510 judges re-elected. During the re-election process, serious concerns were raised regarding both the quality of the evaluation criteria and the transparency of the process. One of the greatest concerns judges had was related to the legality and constitutionality of the whole re-election process. The re-election itself was seen as interference in the principle of permanency of judicial function. Such doubts were dismissed by the Constitutional Court, which reasoned that the re-election process does not violate the Constitution and does not interfere with the stated principle of permanency of judicial function. Following numerous complaints from judges who were not re-elected, the HJC is currently conducting a review of the entire process.

There is no data available on courts' implementation of the UN Human Rights treaties, despite direct implementation being stipulated in the Serbian Constitution.

Amendments to the Juvenile Justice Law, developed with a view to harmonising this legislation with CoE recommendations, have still not been adopted. The bylaw for the implementation of diversionary measures is also still not in place. In addition to normative obstacles, the non-implementation of diversionary measures (which are applied in 2 to 4 percent of cases) is also due to a need for local level capacity building. Implementation of restorative justice is also not possible without cross-sector coordination at both national and local levels – especially between the justice and social welfare sectors. Such coordination is still far from the norm.

The Council of the MoJ for issues regarding juvenile crime has been very active since its foundation and has facilitated greater cooperation of professionals, as well as the engagement of professionals in the policy debate. However, real change benefiting children in this area is too slow – due to the requirement of consensus of a different system – for them to take place. Sanctions that assume deprivation of liberty (juvenile prison or correctional institution) continue to remain low in Serbia.

In 2011 the Judicial Academy of the Republic of Serbia introduced mandatory training for judges and prosecutors in women's socio-economic rights. A bylaw of the Gender Equality Law, adopted in 2010, stipulates responsibilities of courts to submit to the MoLSP evidence and documentation on all court cases related to protection against gender-based discrimination. Information on the number of cases submitted is not yet publicly available.

The 2010 Law on the National Assembly and the Parliamentary Rules of Procedure introduced public hearings and enhanced the existing instruments of control over the executive. Oversight of the executive role of the parliament, as well as the National Assembly's cooperation with independent and regulatory bodies and institutions, requires further strengthening. The UN in Serbia would like to commend the Serbian Assembly and the Ombudsman for co-organizing the International Expert Seminar on Relations Between Parliaments and NHRIs¹⁰, at which the 'Belgrade Principles'¹¹ were adopted.

⁹ The Venice Commission adopted two opinions for Serbia during its 74th Plenary Session (14-15 March 2008), one on the draft Law on the High Judicial Council (draft Law on the High Court Council CDL (2008) 013 and the Opinion CDL-AD (2008)006) and one on the draft laws on judges and the organization of courts (draft Law on judges CDL(2008) 014 and the Opinion CDL-AD (2008)007). In these opinions the Commission expressed its concern that the Constitution of Serbia did not sufficiently support judicial independence and that there was a risk of politicization of the judiciary by the election of judges and the High Judicial Council by the parliament.

¹⁰ In cooperation with the International Coordination Committee on NHRIs and the OHCHR

¹¹ Report of the Secretary General A/HRC/20/9

In March 2012 the MoJ adopted a Special Protocol on Proceedings of the Judiciary on Protection of Human Trafficking Victims in the Republic of Serbia¹². The Protocol significantly improves and institutionalizes the government's treatment of VoTs and witnesses during judicial proceedings. In addition, the Judicial Academy introduced mandatory anti-human trafficking training for judges and prosecutors.

- D. Right to privacy, marriage and family life
- E. Freedom of movement
- F. Freedom of religion, belief, expression, association and peaceful assembly, and the right to participate in public and political life

In the domain of freedom of religion, the state has found it difficult to accept the 2008 UPR recommendation to Serbia, recommending that the state adopt legislation recognising all churches and religious communities. The current Law on Religious Communities envisages two types of religious communities: traditional and non-traditional. Traditional religious communities are able to organize religious education in the mainstream education system, while this option is not available to non-traditional religions. Moreover, non-traditional communities had difficulties registering as religious communities, due to an unclear procedure and non-transparent decision making process regarding their requests for registration. For that reason, some religious communities complained to the ECtHR and some registered as non-governmental organizations in order to obtain the legal entity capacity required for their daily operations.

In the domain of freedom of expression, it has to be noted that HRDs in Serbia still face issues related to public perceptions of them and their work. Among the wider public they are perceived as traitors and little is done to address their hostile working environment. There is an obvious need to address public perceptions, including through public campaigning to promote their work. The UN in Serbia encourages the government to continue addressing the issues of the HRDs, as noted in the recommendations provided by Hina Jilani, SRSG on HRDs, following her 2007 mission to Serbia.

The UN is also concerned about issues related to the freedom of assembly for the LGBT community in Serbia, in the context of violence at the 2010 Pride Parade and the cancellation of the 2011 Pride Parade.

The representation of women at the highest decision-making levels is significantly lower than that of men. In the government established in 2008, only 14% of cabinet Ministers and 27% of state secretaries were women. Some 22% of ambassadors were women and the country had only one female mayor, as well as nine women Chairs of Municipal Assemblies, of a total of 169. The new Electoral Law, adopted in May 2011, stipulates that every third candidate should be of the less represented sex.

The Gender Equality Law prescribes that public authorities undertake affirmative measures to ensure at least 30% representation of the less represented sex in managerial positions and in management and supervisory boards. Some 30% of all members of all parliamentary delegations should be from the less represented sex. Political parties, trade unions and branch associations should develop special measures to ensure equal representation of both sexes in their structures. The UN in Serbia encourages the government to ensure systematic monitoring of the implementation of these legal provisions.

According to the Rules of Procedure, which were passed in 2010 and will be enforced as of the next parliament, the Committee for Gender Equality will be dissolved and merged with the Committee for Human and Minority Rights and Gender Equality.

- G. Right to work and to just and favourable working conditions

The Law on Vocational Rehabilitation and Employment of Persons with Disabilities was adopted in 2009 with an aim of resolving issues related to the enjoyment of the right to work. The law envisages incentives and obligations for employers and introduces the quota system. However, the number of persons with disabilities registered on the database of the NES is not sufficient to cover this quota. The number of persons with disabilities with long-term employment is unknown. At a public hearing on implementation of CRPD in the National Assembly of Serbia on 2 December 2010, representative of the MoERD noted that, from 1 January to 1 December 2010, 5,200 persons with disabilities found employment, whereas the annual figures for employment of

¹² Supported through the IOM-UNHCR-UNODC Joint Programme on Combating Human Trafficking

persons with disabilities through NES programmes from 2006 until 2009 ranged from 300 to 500 persons, which marks a substantial increase in employment in 2010.

The law foresees the assessment of working ability, but the process and results of assessments, as well as follow-up actions, are still to be harmonised between the MoERD, the Pension and Disability Insurance Fund, the MoLSP and the MoH. Further efforts need to be exerted to address the gap in the NES database, the capacity building needs of the NES professional rehabilitation centres and the reform of the current system of sheltered workshops for employment of persons with disabilities.

H. Right to social security and an adequate standard of living

A particular concern in the domain of adequate standard of living is the situation of the Roma minority in Serbia. Roma people living in informal settlements are often exposed to forced evictions and are not guaranteed the enjoyment of the right to adequate housing. Their exceptional vulnerability is often not recognised; they are seen as usurpers of public land and are ordered to dismantle their improvised houses and leave the area within a three-day period.

The conduct of the Serbian authorities has consistently improved in this regard since 2009. Unlike the forced evictions seen at the Belville settlement in April 2009, when more than 37 families were forcibly evicted from their makeshift homes, their properties destroyed and no alternative housing provided for more than four days, the resettlements in the first half of 2012 show the authorities' increased understanding of international standards in this area.

The Human Rights Directorate organized the first consultations with the affected community during resettlement from the 'Block 72' Roma informal settlement in Belgrade. Further improvements are needed in the consultation processes so as to ensure the concerns of the affected population are addressed and reflected in the final solution.

The resettlement of Roma from the Belville informal settlement in April 2012 was conducted in a manner respecting the human dignity of the affected population on the very day of evictions. The consultative process, however, was not transparent and it is unclear whether the community was appropriately consulted. Concerns also remain with regard to the effectiveness of legal remedies available in the resettlement process. The temporary alternative housing provided, consisting of small metal prefabricated housing units often in remote locations, and access to a limited number of sanitary containers, is not considered adequate for a durable housing solution. The UN would like to encourage the Serbian authorities to adopt a legislative framework that would ensure effective protection of the right to adequate housing in line with ratified instruments of the international human rights law.

I. Right to health

The health system in Serbia is generally accessible through sufficient numbers of primary health centres, hospitals and specialised care facilities, and with satisfactory numbers of health workers. However, the system has shifted towards specialised care, with fewer family practitioners. The MoH, supported by the WHO, the WB and the EU, has invested in the development of primary health care in recent years. The infrastructure and health technology available at some rural primary health care centres is outdated, while some rural areas lack availability of modern life support technology or trained physicians and paramedics able to provide emergency care. Nevertheless, Serbia has been widening its available service in specific fields, such as organ transplantation.

From a health services perspective, Serbia's constitution is based on universal health care. However, some vulnerable people face obstacles to accessing health services. It is important to note that, as of 2010, Roma without personal documents have full access to health care, following specific prescribed procedures. Nevertheless, more needs to be done to raise awareness on these procedures among the Roma and health institutions, in order for the obstacles to be fully removed. It is estimated that many citizens of Serbia do not possess a health insurance card for a variety of reasons: lack of formal employment, changed residential address and agricultural workers. Precise data on people in such a situation is a topic of many debates. The WHO Country Office in Serbia estimates that approximately one million people in Serbia cannot access primary health services for this reason. It is worth noting that emergency care is provided for free to all residents in Serbia.

For others, such as persons with disabilities, access to health care may be limited due to a lack of experts in specific fields (geographic accessibility, mobility). The ageing population in Serbia is a specific vulnerable group. Since most of the pensions are low, their inclusion in a tailored health and social support system is jeopardised. These services mainly exist in large urban

centres and can also be purchased by a few. However, most of the elderly, specifically those who reside in rural areas, do not have access to the care they need.

In 2007 CEDAW recommended that Serbia enforce the legal minimum age of marriage, which is set at 18, and take awareness-raising measures throughout the country regarding the negative effects of early marriage on women's enjoyment of their rights. In 2008 CRC made similar recommendations. In 2010, however, as many as 16 percent of Roma girls (aged 15 to 19) report that they were married before the age of 15 and 56 percent were married before the age of 18. There has been virtually no improvement in this regard since 2005. In addition to the negative impact early marriage has on the educational attainment and life outcomes of girls, their right to health is also jeopardised by this harmful traditional practice, with one third of girls in Roma settlements giving birth to their first child before turning 18.

In an effort to improve the health and quality of life of the Roma in Serbia, the MoH launched a healthcare mediator project in 2008. Healthcare mediators are women and mothers who have completed minimum primary education, for whom this project represented an employment opportunity. They underwent a training course covering public health, chronic non-infectious disease prevention, communication skills, hygiene, infectious disease prevention, vaccination, rights in the area of healthcare and health insurance, family neglect and violence, and human trafficking. The UN in Serbia encourages the government to further develop the concept of Healthcare Mediators, as positive results of their work have already been seen. The UN also encourages the strengthening of the position of Health Mediators.

J. Right to education

In 2008 CRC recommended that Serbia continue working on increasing the participation of Roma children in early childhood programmes and education. In 2010, however, only eight percent of Roma children aged 3 and 4 years attend some form of preschool education. At the same time, significant steps have been taken to increase the level of enrolment of Roma children in primary education – which increased from 66 percent in 2005 to 91 percent in 2010. Although the Law on the Basis of Education (adopted in 2009) prohibits discrimination, in line with the Law on the Prohibition of Discrimination, its implementation is still partial and greater attention must be paid to preventing the segregation of Roma students in special schools and within mainstream schools.

K. Cultural rights

The Law on National Councils of National Minorities stipulates that one of the main competencies of the National Councils is in the domain of Culture. The National Councils can establish cultural institutions in order to preserve, advance and develop cultural specificities, as well as preserving the national identity of the national minority.

L. Persons with disabilities

There is a noted and continual drop in the number of children in residential care in Serbia (although different sources of data do not fully match). There has been a continual increase in the number of children in foster care, with five regional foster care centres now fully operational (and three more being planned in Vojvodina) and children with disabilities being placed in foster care (which was not the case earlier). As part of the de-institutionalisation process, there is a marked increase of community services for children with disabilities (who are at greatest risk of institutionalisation) – which have received funding from the national level (consistently over the years), EU and local self-governments. The de-institutionalisation process has also included the establishment of three small group homes (for a maximum of 12 children) for children with severe or complex disabilities who have been in institutional care for a considerable amount of time.

There is, however, no remarkable progress in the de-institutionalisation process for adults and more state efforts are needed in this regard. Large scale institutions for both children and adults with mental disabilities are still a cause for concern in Serbia and attempts to increase the quality of care have not always yielded the anticipated results. Advancement regarding children in this area is significantly more pronounced, as small scale institutional care or foster care for adults with complex disabilities does not exist in practice – although normative frameworks are adequate. The new Law on Social Welfare, adopted in 2011, has the potential to significantly improve the social protection and inclusion of children – if adequately implemented. It prioritises community-based care, limits residential care (e.g. a ban on the institutionalisation of children under three) and brings non-state actors into the social-care service provision system.

It must be noted that general accessibility standards for persons with disabilities have not been met in the majority of commercial buildings and, more importantly, the accessibility of workplaces remains an issue from the point of view of public transport accessible to persons with disabilities, accessible public buildings and the majority of streets (footpaths). The State provides subsidies for accessibility related investments, as well as for workplace adaptation for employers who employ persons with disabilities, but very few employers have applied for those subsidies. There is also a widespread lack of knowledge among employers on how accessibility standards could be met and how an employee with disabilities could be recruited and retained at work.

M. Minorities and indigenous peoples

Following adoption of the Law on National Councils of National Minorities, elections for national councils were organized in 2010. A total 19 National Councils were to be established: 16 through direct elections and three indirectly. To date, 18 National Councils have been established and are functioning, while the establishment of a Bosniak National Council was not recognised by the state and repeated elections for this council are pending.

The ethnically diverse populations of communities in southwest Serbia (known as the Sandzak region) “co-exist,” living alongside one another, studying and working in common institutions and/or organizations, but in segregated communities. Neighbourhoods are divided along ethnic lines and most in the Bosniak community distrust the national government. This distrust originates from the conflicts of the 1990s, but has grown because a succession of national governments has neglected socio-economic issues, notably unemployment. In a citizen’s survey conducted in December 2010¹³ in 25 municipalities in south and southwest Serbia, 31% of respondents in Novi Pazar said that they feared for their safety. The dominant threats were associated with crime (32%), followed by poor inter-ethnic and inter-religious relations.

Of specific concern for the UN is the situation of the Roma national minority. Despite the fact that the National Strategy for the Improvement of the Position of Roma in Serbia was adopted in 2009, there are no tangible results of the implementation of this strategy and its action plan, in terms of improving the lives of Roma in Serbia. This population continues to live in severe poverty, exposed to discrimination and violence.

In December 2011 a draft new Action Plan for the Improvement of the Position of Roma in Serbia for the period 2012-2014 was prepared. It is yet to be adopted. The draft Action Plan covers different areas, including a specific chapter on the Status of Women. As with the previous Action Plan (2009-2011), the allocation of funds for its implementation is not clear. Gender-sensitive monitoring of measures undertaken towards the inclusion of Roma and improving their socio-economic status is necessary, considering that Roma women face multiple discriminations and their participation in public life is negligible.

The majority (99 percent) of children living in Roma settlements are registered at birth. The under-5 mortality rate of children in Roma settlements, which has been halved in comparison with five years ago, is still twice the national average (15 versus 8 per thousand live births). Among Roma children aged 3 and 4, only 8 percent attend preschool programmes, while the national average is 44 percent. Regarding education, the percentage of Roma children enrolled in primary school has increased and is close to the national average (91 percent vs. 95 percent). However, significant disparities are still evident in attendance and completion rates for primary education and in the transition to secondary education.¹⁴

There is a series of positive developments related to acknowledging and resolving problems related to the risk of statelessness among domestic and displaced Roma in Serbia. The UNHCR acknowledges the efforts of the government to work together with the UNHCR on this issue by signing a tripartite MoU with the MHMRSALSG, and the Ombudsman. The MoU provides a framework for joint cooperation and coordination, in order to resolve the problems of the undocumented “legally invisible” Roma.

The removal of administrative fees related to subsequent birth registration procedures represents a step forward, but other costs (such as municipal taxes, travel costs etc.) remain a significant obstacle in the area of birth registration, citizenship and documentation for poor and marginalized Roma. The adoption of the Law on Permanent and Temporary Residence, which provides an opportunity for those who do not have registered residence to register their residence with social welfare centres, is a much welcomed step. The UN encourages adoption of the bylaws necessary to implement relevant provisions of this law. Moreover, the problem of “undocumented” Roma remains without a solution, due to existing legislative shortfalls in the area of

¹³ Citizens’ Satisfaction Survey, EU-PROGRESS, UNOPS, January 2011

¹⁴ All data from the 2010 Multiple Indicator Cluster Survey (MICS 4)

subsequent birth registration. The UN in Serbia welcomes the fact that the government has approved a draft Law on Amending the Law on Non-Contentious Procedures, in 2011, aimed at resolving this problem, and encourages its adoption.

Preliminary results of the UNHCR's "Survey on Persons at Risk of Statelessness in Serbia"¹⁵, conducted in October 2010, indicate that 6.8% of people living in Roma settlements in Serbia are at risk of statelessness due to a lack of civil registration and/or personal documentation.

N. Migrants, refugees and asylum seekers

Serbia hosts 70,550 refugees from Bosnia and Herzegovina and Croatia, as well as 270 asylum seekers, according to the latest statistics provided to UNHCR as of the end of March 2012.¹⁶

Serbian authorities demonstrated a constructive and active approach in the regional process to end the 1991-95 displacement period in the Western Balkans. Since the Ministerial Conference held in Belgrade in March 2010, a number of issues preventing refugees from achieving durable solutions have been or are being resolved through intensified cooperation among four countries of the region. In addition, Serbia, Croatia, Bosnia & Herzegovina and Montenegro jointly prepared a Regional Housing Programme aimed at providing durable housing solutions for some 74,000 vulnerable persons displaced by the 1991-95 conflicts. This programme drew significant attention and support of the international donor community at a donors conference held in Sarajevo in April 2012. Successful implementation of the national component of this programme should enable some 45,000 vulnerable refugees to find a durable solution in Serbia.

The number of registered asylum seekers correlates with the capacity of accommodation in Serbia's two asylum reception centres. However, the broader picture shows that the number of persons seeking asylum in Serbia has risen sharply over the last several years – from a total of 275 persons seeking asylum in 2009, to 522 in 2010 and 3,132 in 2011. Despite this sharp increase, protection rates remain extremely low.¹⁷ Since adopting the Law on Asylum and taking over refugee status determination from UNHCR in 2008, the government has yet to recognise a single refugee under the new law. Of the 55 decisions of the asylum office in 2011, 53 were rejected on the basis of the 'safe third country' concept¹⁸, while two cases were rejected on the merits of the respective claims. Since 2008 five persons have been granted subsidiary protection.

Key areas of concern include: access to the territory and effective protection against refoulement, current shortcomings in the processing of asylum applications and ensuring fair and efficient asylum procedures. In addition, the long-term integration of refugees and persons granted subsidiary protection remains a concern, as there is no legal framework for the integration of recognised refugees in place. The government proposed the Law on Migration Management, which if adopted will provide the legal framework for the integration of persons granted refugee status under the Law on Asylum. The government also proposed a Law on the Employment of Foreigners which, if adopted, would provide a legal framework for issuing work permits to the same category of persons.

One of the key problems with the current asylum system in Serbia is the fact that access to Refugee Status Determination procedures of the Asylum Office within the MoI is linked to accommodation in one of Serbia's two asylum centres, managed by the Serbian Commissariat for Refugees. When these centres are at full capacity, asylum seekers who cannot obtain shelter are effectively denied access to the asylum process. Another problem is linked to the capacity and size of the Asylum Office and the resulting backlog and drawn out waiting times between the five steps of the first instance procedure.

¹⁵ The survey is available via: <http://www.unhcr.rs/en/resources/research/persons-at-risk-of-statelessness-in-serbia.html>

¹⁶ These statistics are based on official data provided by the government.

¹⁷ The "protection rate" is the percentage of positive decisions for both refugee status and subsidiary protection against the total number of substantive first instance decisions for a given period.

¹⁸ The decision Determining the List of Safe Countries of Origin and Safe Third Countries (Official Gazette of RS, 67/2009). In 2009 the Serbian Government adopted a list of 'safe third countries', which includes all neighbouring countries and others. The Asylum Office applies the 'safe third country' notion to all asylum seekers who have transited through countries on their list, without ensuring adequate safeguards or considering the quality of access to the asylum process in the so-called 'safe third country'.

O. Internally displaced persons

Serbia hosts 210,146 internally displaced persons from Kosovo. Those particularly vulnerable to human rights violations within the displaced are Roma, Ashkali and Egyptian communities. Most of them live in informal settlements in deplorable conditions, often below the level of human dignity, without basic infrastructure, legally recognised residence status, civil registration or personal documents. In addition to being unable to enjoy basic human rights, many of these persons lack civil documentation and are at risk of becoming stateless.

The UNHCR welcomes the fact that Serbia conducted an IDP Needs Assessment in 2011, identifying 97,000 IDPs from Kosovo still remaining with displacement related needs and without access to a durable solution. The Serbian government adopted a new National Strategy for Resolving the Situation of Refugees and IDPs for the period from 2011 to 2014, revising the policy framework addressing the problems of IDPs from Kosovo and refugees from the 1991-95 conflicts.

The number of returnees to Kosovo remains low. The Government of Serbia has adopted a National Strategy for Resolving the Situation of Refugees and IDPs, but has not adopted an Action Plan for the implementation of this strategy – despite being supposed to do so within a period of six months after the adoption of the strategy (2011). More funding is required for the implementation of the strategy.

P. Right to development and environmental issues

Serbia's Human Development Index (HDI) value for 2011 is 0.766—in the high human development category—positioning the country 59th of 187 countries and territories. Between 2000 and 2011, Serbia's HDI value increased from 0.719 to 0.766, an increase of 7.0 % or an average annual increase of about 0.6 %.

The 2010 Human Development Report ranked Serbia 60 out of 169 countries. However, it is misleading to compare values and ranks with those of previously published reports, because the underlying data and methods have changed, as have the number of countries included in the HDI.

Between 2000 and 2011 Serbia's life expectancy at birth increased by 1.8 years, mean years of schooling increased by 1 year and GNI per capita increased by 56 %.

Problems persist with regard to access to safe drinking water, improved sanitation and environmental conditions in some areas in Serbia and among specific groups, namely among Roma and in rural areas. Environmental “hot spots” with exposure to hazards exist in areas of mines and smelting works. Occupational work and mitigating exposures have been on the government agenda, though more attention is required.

Q. Human rights and counter-terrorism

R. Situation in, or in relation to, specific regions and territories

List of abbreviations

BIA	Intelligence Service
CAHVIO	Convention on Preventing and Combating Violence against Women and Domestic Violence (CoE)
CED	International Convention for the Protection of All Persons from Enforced Disappearance
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CoBs	Concluding Observations
CoE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EU	European Union
GA	General Assembly
HJC	High Judicial Council
HRD	Human Rights Defender
IDP	Internally Displaced Person
LGBT	Lesbian, Gay, Bisexual and Transsexual
MHMR	Ministry of Human and Minority Rights
MHMRSALSG	Ministry of Human and Minority Rights, State Administration and Local Self-Governance
MoCIS	Ministry of Culture and Information Society
MoE	Ministry of Education
MoERD	Ministry of Economy and Regional Development
MoFA	Ministry of Foreign Affairs
MoH	Ministry of Health
Mol	Ministry of Interior
MoJ	Ministry of Justice
MoLSP	Ministry of Labour and Social Policy
MoYS	Ministry of Youth and Sports
MSALSG	Ministry of State Administration and Local Self-Governance
NES	National Employment Service
NHRI	National Human Rights Institution
OHCHR	Office of the High Commissioner for Human Rights
OPCESCR	Optional Protocol to the Covenant on Economic, Social and Cultural Rights
OPCESCR	Optional Protocol to the International Covenant on Economic, Social and Cultural Rights
OSCE	Organization for Security and Cooperation in Europe
SPC	State Prosecutors Council
SR	Special Rapporteur
SMSG	Special Representative of the Secretary General
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNOPS	United Nations Office for Project Services
NAP	National Action Plan
UNICEF	United Nations Children's Fund
UNTB	United Nations Treaty Body
UPR	Universal Periodic Review
VoT	Victim of Trafficking
WB	World Bank
WHO	World Health Organization