Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**499**
Land:	Serbien
Kilde:	UN General Assembly
Titel:	Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21
Udgivet:	9. november 2012
Optaget på baggrundsmaterialet:	7. november 2013

United Nations A/HRC/WG.6/15/SRB/2

General Assembly

Distr.: General
9 November 2012

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Fifteenth session
21 January–1 February 2013

Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21

Serbia

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the High Commissioner for Human Rights (OHCHR), and other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

I. Background and framework

A. Scope of international obligations[1]

International human rights treaties[2]

	Status during previous cycle	*Action after review*	*Not ratified/not accepted*
Ratification, accession or succession	ICERD (2001) ICESCR (2001) ICCPR (2001) ICCPR-OP 2 (2001) CEDAW (2001) CAT (2001) OP-CAT (2006) CRC (2001) OP-CRC-AC (2003) OP-CRC-SC (2002)	CRPD (2009) CPED (2011)	ICRMW (signature only, 2004)
Reservations, declarations and/or understandings	-	-	-
Complaint procedures, inquiry and urgent action[3]	ICERD, art. 14 (2001) ICCPR-OP 1 (2001) OP-CEDAW, art. 8 (2003) CAT, arts. 20, 21 and 22 (2001)	OP-CRPD, art. 6 (2009) CPED, arts. 31 and 32 (2011)	OP-ICESCR ICCPR, art. 41 OP-CRC-IC (signature only, 2012) ICRMW (signature only, 2004)

Other main relevant international instruments

	Status during previous cycle	*Action after review*	*Not ratified*
Ratification, accession or succession	Convention on the Prevention and Punishment of the Crime of Genocide Rome Statute of the International Criminal Court Palermo Protocol[4] Conventions on refugees and stateless persons,[5] except the 1961 Convention		ILO Conventions No. 169 and No. 189[6] 1961 Convention on the Reduction of Statelessness

Status during previous cycle	*Action after review*	*Not ratified*
Geneva Conventions of 12 August 1949 and Additional Protocols thereto, and Additional Protocols I and II[7]		Additional Protocol III to the Geneva Conventions of 12 August 1949[9]
ILO fundamental conventions[8]		
UNESCO Convention against Discrimination in Education		

1. Several treaty bodies encouraged Serbia to ratify ICRMW.[10]

2. In 2011, the Committee on the Elimination of Racial Discrimination (CERD) recommended that Serbia ratify the 1961 Convention on the Reduction of Statelessness.[11]

3. In 2010, Committee on the Rights of the Child (CRC) recommended that Serbia ratify the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Intercountry Adoption; and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (2007).[12]

4. CERD recommended that Serbia ratify the amendments to article 8, paragraph 6, of the Convention.[13]

5. CRC recommended that Serbia amend the declaration made upon its ratification of OP-CRC-AC to reflect the new legislation regarding military recruitment.[14]

6. The United Nations Country Team in Serbia (UNCT) stated that ratification of OP-ICESCR would be of specific importance as it would introduce the much needed mechanism for individual complaints, which would focus on violations of economic, social and cultural rights.[15]

B. Constitutional and legislative framework

7. Several treaty bodies welcomed the new Constitution (2006) protecting the rights of national minorities and containing provisions prohibiting discrimination and torture;[16] and the Criminal Code containing anti-discrimination provisions and criminalizing torture.[17]

8. UNCT noted that in general a legislative framework for protecting human rights was in place in Serbia. In that connection, UNCT referred to the Law on Ombudsman, Law on Personal Data Protection and Free Access to Information of Public Importance, Law on the Prohibition of Discrimination, Law on National Councils of National Minorities and Law on Gender Equality. It underscored the importance of the 2011 Law on Permanent and Temporary Residence, which represented a step forward to resolve issues of persons at risk of statelessness. Further, UNCT noted that the draft Law on Amending the Law on Non-Contentious Procedures should address the obstacles faced by undocumented persons who are unable to register their births in civil registries.[18]

9. While noting the Penal Code amendments, CRC urged Serbia to incorporate an explicit definition of the crime of sale of children into the Penal Code and the draft Child Act.[19]

10. CRC recommended that Serbia criminalize in its Penal Code the recruitment of children into armed groups that are distinct from the State's armed forces.[20]

C. Institutional and human rights infrastructure and policy measures

Status of national human rights institutions[21]

National human rights institution	*Status during previous cycle*	*Status during present cycle*[22]
Protector of Citizens of the Republic of Serbia (Ombudsman)	No accreditation status	A status

11. CERD noted the extensive institutional framework that Serbia had for monitoring the protection of human rights (Commissioner for the Protection of Equality, Ministry of Human and Minority Rights, Ombudsman, Provincial Ombudsman and local Ombudsmen network, Council for National Minorities and Council for Improving the Status of the Roma);[23] it recommended that Serbia ensure their complementarity and allocate resources for the functioning of the Commissioner for the Protection of Equality, Ministry of Human and Minority Rights, and Ombudsman.[24]

12. In 2008, the Committee against Torture (CAT) remained concerned at the lack of an independent and external oversight mechanism for alleged unlawful acts committed by the police, and recommended that the Ombudsman monitor and investigate independently and impartially alleged police misconduct.[25] It also recommended that Serbia consider taking measures to ensure that the Ombudsman protect children from violence, and that it adopt the Law for the Ombudsman for the Rights of the Child.[26]

13. CRC noted the Deputy Ombudsman's specialized responsibility to monitor the rights of children, and recommended that Serbia provide that office with sufficient resources.[27]

14. The Human Rights Committee (HR Committee) welcomed that the Ombudsman was officially empowered to act as the national preventive mechanism for OP-CAT purposes, and recommended that Serbia provide that office with the necessary resources.[28]

15. CERD noted several programmes and plans to, inter alia, prevent discrimination against national minorities.[29] The HR Committee particularly noted the Strategy for Improving the Status of Roma (2009) and its Action Plan, and the implementation of the Decade of Roma Inclusion (2005-2015).[30]

16. CRC welcomed the National Plan of Action to Combat Trafficking in Human Beings (2009-2011) and the National Strategy for Prevention and Protection of Children from Violence (2008) and its Action Plan (2010).[31]

17. CRC recommended that Serbia incorporate in its National Plan of Action for Children 2010-2015 all issues covered by both Optional Protocols; and provide adequate resources for its implementation.[32]

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies[33]

18. CAT noted that a new law provided for the reconsideration of a case on the basis of a decision of an international body established by an international treaty.[34] UNCT noted that no coherent and comprehensive mechanism to follow up and monitor implementation of the recommendations of United Nations human rights mechanisms had been put in place.[35]

19. In 2011, the HR Committee recommended that Serbia establish a mechanism to study the Committee's conclusions to individual communications, and provide victims with remedies.[36]

1. Reporting status

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
CERD	March 1998[37]	2009	March 2011	Combined second to fourth reports due in 2014
CESCR	May 2005[38]	2011	--	Second report pending consideration
HR Committee	July 2004[39]	2009	March 2011	Third report due in 2015
CEDAW	May 2007	2010	--	Combined second and third reports pending consideration in October 2012
CAT	November 1998[40]	--	November 2008	Second report due in November 2012
CRC	June 2008	2008 (initial CRC-OP-AC and CRC-OP-SC reports)	June 2010 (initial CRC-OP-AC and CRC-OP-SC reports)	Combined second and third reports due in 2013
CRPD	--	2012	--	Initial report pending consideration
CED	--	--	--	Initial report due in 2013

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

Treaty body	*Due in*	*Subject matter*	*Submitted in*
CERD	2012	Institutions dealing with racial discrimination; Roma situation; identification documents of vulnerable groups; and cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY).[41]	--
HR Committee	2012	Investigation of the Batajnica killings; administration of justice; and situation of the Roma.[42]	--
CEDAW	--	--	--
CAT	2009	Fundamental safeguards; refugees; cooperation with the ICTY; other war crimes investigations;	2010[44] and 2012[45]

	human rights defenders; and investigation of torture or cruel, inhuman or degrading treatment or punishment of persons with disability in institutions.[43]

Views

Treaty body	*Number of views*	*Status*
HR Committee	1[46]	Further information and action requested.[48]
CAT	1[47]	Further information and action requested.[49]

B. Cooperation with special procedures

	Status during previous cycle	*Current status*
Standing invitation	Yes	Yes
Visits undertaken	Internally displaced persons(2005) Human rights defenders (2007)	Religion (2009) Internally displaced persons (2009)
Visits agreed to in principle	-	Minority issues
Visits requested	-	Racism
Responses to letters of allegations and urgent appeals	During the period under review, 15 communications were sent. The Government replied to six of these communications.	
Follow-up reports and missions	-	-

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

20. Serbia contributed financially to OHCHR in 2008 and 2010.[50]

III. Implementation of international human rights obligations

A. Equality and non-discrimination

21. The HR Committee was concerned about stereotypes regarding women in society, including Roma women, and recommended that Serbia ensure that men and women are treated equally and eradicate stereotypes regarding women.[51] UNCT expressed similar concerns.[52]

22. CERD was concerned that racial discrimination, exclusive nationalism and hate speech were prevalent in society, including in political discourse, sports, the media and by groups; that hate crimes were not codified; and that racially motivated offences may not be reported. It urged Serbia to enact legislation and other measures to combat hate crimes and speech and incitement to hatred; prosecute racist or xenophobic extremist groups; enforce criminal law against racially motivated crimes; combat racial prejudice and discrimination

in the media, both public and private, through, inter alia, the adoption of an ethics code of media/journalistic ethics; and promote a culture of tolerance and ethnic diversity.[53]

23. CERD remained concerned about a negative perception and stereotyping of minorities among the public and judicial and administrative staff, and encouraged Serbia to continue programmes fostering intercultural dialogue, tolerance and understanding of minority groups among judiciary and law enforcement officials, lawyers and teachers, and to implement programmes in public education, political forums and the media to foster respect for multicultural diversity.[54]

24. CRC was concerned at discriminatory attitudes faced by children, especially Roma children, children with disabilities, and refugee and internally displaced children.[55]

B. Right to life, liberty and security of the person

25. CAT recommended that Serbia bring its definition of torture into line with the Convention, ensure that the Criminal Code penalties are brought into line with the gravity of such crime, and speedily complete the judicial reforms so that no statute of limitations applies to torture.[56] The HR Committee was concerned that torture and ill-treatment were only punishable by a sentence of up to a maximum of eight years' imprisonment and that the statutory limitation period was 10 years, and urged Serbia to amend its legislation and practice in that regard.[57]

26. CAT expressed concern over the slowness of investigations and the fact that officials were not suspended during investigations of torture or ill-treatment. It recommended that Serbia undertake investigations into allegations of torture and other prohibited cruel, inhuman or degrading treatment or punishment, and suspend, during the investigation, persons who have allegedly committed such acts.[58]

27. CAT was concerned that the police did not respect the right of a detainee to access to a lawyer of his or her own choice, access to an examination by an independent doctor, and the right to contact his or her family.[59]

28. CAT was concerned at the absence of protocols for the medical profession on how to report on findings of torture and other cruel and inhuman or degrading treatment or punishment.[60]

29. CAT regretted the lack of a programme to implement the rights of victims of torture and ill-treatment to redress and compensation, and recommended that Serbia develop a specific assistance programme.[61]

30. The HR Committee was concerned about the poor and inadequate conditions of police detention premises, and the fact that accused and suspects were held together and minors were detained with adults.[62]

31. CAT was concerned about detention conditions, the lack of independence of medical personnel in prisons, and the lack of an inspection system of imprisonment conditions by independent experts. It recommended that Serbia implement the prison system reform and set up an inspection system.[63]

32. The HR Committee remained concerned about overcrowding in prisons, and recommended that Serbia improve prisoners' treatment and prison conditions and consider the wider application of alternative non-custodial sentences.[64] UNCT expressed the same concern.[65]

33. CAT remained concerned at the treatment of children and adults with mental or physical disability, especially forceful internment and long-term restraint in social-protection institutions and psychiatric hospitals, and recommended that Serbia investigate

reports of torture or cruel, inhuman or degrading treatment or punishment of persons with disability in institutions.[66] In the framework of the CAT follow-up to concluding observations, Serbia reported that: the position of persons in social care institutions had been resolved; causes indicating the existence of unlawful placement–deprivation of liberty had been eliminated; the Ministry of Labour and Social Policy had prohibited the acceptance of children of younger age at the institutions where adults were placed; and the Inspection Department of the Ministry of Labour and Social Policy had prohibited the use of rooms within the institutions that did not meet minimum standards.[67]

34. CRC recommended that Serbia: combat child pornography on the Internet; in cooperation with the media, inform children and their parents about safe use of the Internet; and adopt specific legislation on the obligation of Internet providers to prevent the dissemination of and access to child pornography on the Internet.[68]

35. The HR Committee remained concerned about prevalent domestic violence, and recommended that Serbia combat such violence and establish shelters and support centres with medical, psychological and legal support.[69] CAT was particularly concerned about the sexual abuse of girls and lack of prevention and protection measures; it urged Serbia to implement the national strategy to prevent domestic violence, and conduct awareness-raising campaigns and training on domestic violence for officials.[70]

36. The HR Committee remained concerned that few domestic violence cases reached the courts.[71] CAT was concerned about the low penalties pronounced and the slowness of proceedings, and urged Serbia to punish perpetrators of violence against women and children, including domestic violence.[72] UNCT expressed particular concern that offenders remained in the family home, despite protective measures stipulating their immediate removal.[73]

37. CRC was concerned about the lack of a social protection system covering all child victims, and recommended that Serbia establish one.[74] The Committee particularly regretted the lack of programmes targeting Roma children, refugee and internally displaced children, children in care institutions, children in street situations and the girl child, aimed at preventing their abuse and neglect. It encouraged Serbia to strengthen prevention activities, including birth registration, targeting children who were especially vulnerable or at risk.[75]

38. CAT noted that corporal punishment of children was a common means of childrearing, and urged Serbia to adopt legislation prohibiting corporal punishment in all settings.[76]

39. CAT expressed concern about the hostile environment for human rights defenders, particularly those working on transitional justice and minority rights. It urged Serbia to give legitimate recognition to human rights defenders.[77]

40. In the framework of the CAT follow-up to concluding observations, Serbia reported that the Law on Prohibition of Discrimination (2009) reflected the contribution to improvement in the status of human rights defenders.[78] Serbia reported that in 2008, the Ministry of Human and Minority Rights initiated a reform on the application of human rights supervision mechanisms, aimed at institutionalizing cooperation and consultation with the civil sector. In 2009, within this reform, the Ministry concluded the Memorandum on Cooperation, by which it undertook an obligation to, inter alia, exchange regular information with the civil sector regarding the preparation of reports on the implementation of international obligations and support non-governmental organizations in the performance of their activities.[79]

41. The HR Committee remained concerned that journalists, human rights defenders and media workers were attacked, threatened and murdered; it recommended that Serbia protect such workers and prosecute those responsible for such crimes.[80]

42. CAT was concerned about cross-border trafficking in women for sexual and other exploitative purposes, the low number of prosecutions, and the decrease in the minimum penalties to three years of imprisonment. It recommended that Serbia prosecute and punish perpetrators, provide redress and reintegration services to victims, and raise awareness and train law-enforcement officials, migration officials and border police.[81]

43. The HR Committee was concerned that more than half of the victims of trafficking and sexual exploitation were minors, and recommended that Serbia combat the phenomenon; prosecute and punish all those responsible; and provide victims with rehabilitation, assistance and protection.[82]

44. CRC was concerned at the high number of offences relating to the sale of children, economic and sexual exploitation of children, child prostitution and child pornography.[83] It was also concerned at the lack of compensation and recovery and reintegration services for child victims of sale, prostitution and pornography, and recommended that Serbia ensure access to procedures to seek compensation and services for their physical and psychological recovery and social reintegration, and provide shelters where children are separated from adults.[84] Further, the Committee recommended that Serbia take measures to prevent child sex tourism.[85]

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

45. While welcoming the enactment of the new Law on Judges, the HR Committee was concerned about the inadequate functioning of the courts in the administration of justice, which had resulted in unreasonable delays and other shortcomings in the procedures. It urged Serbia to ensure strict observance of judiciary independence and make the functioning of the courts and administration of justice more efficient.[86]

46. UNCT noted the adoption of a set of laws on judicial reform in 2008 and the implementation of the main judicial system reforms in 2009. At the same time, it noted the main criticism regarding the quality of the evaluation criteria and the transparency of the election process of judges.[87]

47. CAT remained concerned about constitutional provisions providing for the election of judges of all levels by the National Assembly, and recommended that Serbia make judicial appointments according to objective criteria, such as qualifications, integrity, ability and efficiency.[88]

48. CAT was concerned about the definition of rules of procedures of courts and the absence of legislation on disciplinary measures against judges, recommending that Serbia define the rules of procedures of courts and establish an independent disciplinary body in that regard.[89]

49. While noting that the Law on Criminal Procedure allowed for free legal aid in certain criminal cases, the HR Committee urged Serbia to review its free legal aid scheme to provide for free legal assistance in any case where the interests of justice so required.[90]

50. CERD noted with concern the very few complaints of racial discrimination taken up by the Ombudsman's Office and the very few court decisions issued on any complaint.[91]

51. The HR Committee remained concerned at the persistence of impunity for human rights violations committed before and after 2000, the fact that few investigations had led to prosecutions, and that light sentences had been handed down. It reiterated its recommendation that Serbia investigate all cases of alleged human rights violations from the 1990s and bring those responsible to trial.[92]

52. The HR Committee was concerned at the difficulties faced by individuals to obtain compensation regarding war crimes, and the existing statutory limitation period of five years.[93]

53. CERD welcomed the cooperation of Serbia with ICTY but noted with concern that the fugitives Ratko Mladić and Goran Hadžić remained at large. The Committee encouraged Serbia to ensure that all persons indicted for complicity in and perpetrating crimes against humanity are brought to justice, and to protect witnesses throughout all stages of the proceedings and afterwards.[94] CAT and the HR Committee raised similar concerns and recommendations.[95]

54. In the framework of its follow-up to concluding observations, in 2011 CAT was pleased to note the support of Serbia for mechanisms to take on the functions of ICTY upon its closure, such as the creation of a new residual mechanism, utilizing national courts or assigning certain functions to the International Criminal Court.[96]

55. The HR Committee remained concerned about insignificant progress in investigating, prosecuting and punishing those responsible for killing the persons whose bodies were found in the Batajnica region, and urged Serbia to establish the circumstances that led to the burial of hundreds of people in Batajnica and provide compensation to the victims' relatives.[97]

D. Right to privacy and family life

56. CERD was concerned that Roma lacked personal identification documents and birth certificates, and urged Serbia to ensure that all persons lacking personal documents have access to registration and documents to exercise their rights.[98] The HR Committee raised similar concerns and recommendations.[99]

E. Freedom of religion or belief, expression, association and peaceful assembly and right to participate in public and political life

57. The HR Committee was concerned at the differentiation made in the Act on Churches and Religious Communities between "traditional" and other religions, particularly regarding official registration of a church or religious community and the acquisition of a legal personality.[100] CERD expressed concern about reports of obstacles faced by religious authorities of certain minority groups to register as legal entities.[101] The HR Committee and CERD urged Serbia to ensure respect for the principle of equal treatment and equal right to freedom of religion for all.[102]

58. During her 2009 visit, the Special Rapporteur on freedom of religion or belief stressed that that registration should not be a precondition for practising one's religion, but only for the acquisition of a legal personality and related benefits. Registration should not depend on reviews of the substantive content of the belief, the structure or the clergy. In addition, no religious group should be empowered to decide about the registration of another religious group.[103]

59. The Special Rapporteur noticed that the voices of those individuals who did not profess any religion and those who were dissenters within their communities or dispassionate about religions were being marginalized. Those individuals were neither realistically reflected in the latest census nor given an opportunity to institutionally express their views in matters of religion or belief.[104]

60. CERD expressed concern about discrimination in the restitution of property to certain minority religious groups whose assets had been confiscated.[105]

61. The HR Committee was concerned that defamation remained a crime under Serbian law, and urged the State to ensure that the restrictions on freedom of opinion and expression are in line with the Covenant and to consider decriminalizing defamation.[106]

62. The Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression, on the rights to freedom of peaceful assembly and of association; and on the situation of human rights defenders sent a communication with regard to the alleged ban of the 2011 Belgrade Pride Parade. According to the information received, in early August 2011, the Belgrade Pride Parade association submitted a written request to the Ministry of Interior to hold the 2011 Belgrade Pride Parade on 2 October 2011. In the meantime, peaceful counter-protests on 1 and 2 October 2011 were announced. On 30 September 2011, following a meeting of the National Security Council, the Minister of Interior announced that all public gatherings for the weekend of 1 and 2 October 2011 were banned under article 11(1) of the Law on Gathering of Citizens of the Republic of Serbia.[107]

63. The High Commissioner for Human Rights regretted the decision by Serbian authorities to ban all public gatherings scheduled for 6 October 2012. She urged them to facilitate the rescheduling of a pride parade for the lesbian, gay, bisexual and transgender (LGBT) community that was planned for that day, instead of preventing its members from exercising their fundamental freedoms of expression, association and peaceful assembly. Further, she urged the Government of Serbia to take steps to ensure adequate protection of the LGBT community, as well as other vulnerable communities and minorities, such as Roma, so that they are able to exercise their freedoms of expression, association and peaceful assembly.[108]

64. The HR Committee was concerned about the low number of women in high-level and decision-making positions, and recommended that Serbia improve the representation of women within the State and local administration.[109]

65. The HR Committee urged Serbia to enhance the representation of national minorities in national and local organs and ensure the full protection and equal treatment of members of national minorities under its jurisdiction.[110]

F. Right to work and to just and favourable conditions of work

66. The HR Committee was concerned about the gap between women and men as regards the principle of equal pay for equal work.[111]

67. UNCT noted that the Law on Vocational Rehabilitation and Employment of Persons with Disabilities had been adopted in 2009 with the aim to resolve issues relating to the enjoyment of the right to work. According to UNCT, the Law envisaged incentives and obligations for employers and introduced a quota system. However, the number of persons with disabilities registered on the database was not sufficient to cover the quota. Further, the number of persons with disabilities with long-term employment was unknown.[112]

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

68. CERD was concerned that Roma lived in segregated settlements and experienced discrimination regarding adequate housing, often subject to forced evictions without provision of alternative housing, legal remedies or compensation, and faced difficulties when applying for social housing programmes, resulting in discrimination. It urged Serbia to: ensure that any resettlements do not involve forced evictions; improve Roma housing conditions; avoid residential segregation of minorities; and develop social housing programmes for Roma.[113]

69. Similarly, UNCT expressed concern on the situation of Roma living in informal settlements, who are often exposed to forced evictions.[114]

70. In 2011, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, expressed concern at the alleged eviction of a Roma community in Novi Beograd by the Building Directorate of Serbia to build commercial housing, noting that some 27 Roma families (111 persons) in Block 72, Novi Beograd, faced imminent eviction. She further noted allegations that the eviction process had been initiated without prior consultation with the Roma community and no alternative accommodation had been offered. In addition, the eviction allegedly proceeded despite the appeal to the Ombudsman who was seized with the matter.[115]

H. Right to health

71. UNCT stated that the health system was generally accessible through sufficient numbers of primary health centres, hospitals and specialized care facilities and with satisfactory numbers of health workers. However, the system had shifted towards specialized care, with fewer family practitioners.[116]

I. Right to education

72. CERD expressed concern about Roma segregation regarding access to education, and urged Serbia to address de facto public school segregation; facilitate access to quality education by, inter alia, increasing the number of Roma teaching assistants; and develop specialized procedures for the reception and placement of Roma children returnees.[117]

73. UNCT noted that although the Law on Basis of Education adopted in 2009 prohibited discrimination in line with the Law on the Prohibition of Discrimination, its implementation was still partial and greater attention must be paid to preventing the segregation of Roma students in special schools and within mainstream schools.[118]

J. Cultural rights

74. UNCT noted that the Councils of National Minorities could establish cultural institutions to preserve, advance and develop cultural specificities as well as preserve the national identity of national minorities.[119]

K. Persons with disabilities

75. UNCT noted that no remarkable progress had been made in the de-institutionalization process for adult persons with disabilities. Large-scale institutions for both children and adults with mental disabilities were still a cause for concern.[120]

L. Minorities

76. CERD also noted with concern the political and historical prejudices towards minorities, including Bosniaks, Albanians, Vlachs and Bunjevac communities, which were subject to exclusion and discrimination, particularly regarding employment, education and representation in national public affairs.[121] In addition, the Committee was concerned that Roma, Ashkali and Egyptians were subject to discrimination, prejudice and stereotyping,

particularly regarding employment, health-care services, political participation and access to public places.[122] The HR Committee shared the CERD concerns regarding Roma.[123] In particular, UNCT expressed concern about the severe discrimination faced by Roma.[124]

77. The Office of the United Nations High Commissioner for Refugees (UNHCR) stated that Roma, Ashkali and Egyptian communities in Serbia often faced obstacles in meeting the requirements for obtaining national identity cards, primarily because they lacked proof of birth registration along with proof of citizenship and registration of residence.[125]

78. In addition, UNCT viewed the removal of administrative fees relating to birth registration procedures as a step forward, but expressed concern that other costs, such as municipal taxes and travel costs, remained a significant obstacle in the area of birth registration, citizenship and documentation for poor and marginalized Roma.[126]

79. CAT expressed concern at the failure to protect minorities, and urged Serbia to protect them from attacks, especially when political events indicate that they may be at risk of violence, and to ensure greater ethnic diversity in the police force.[127]

M. Migrants, refugees and asylum seekers

80. Noting the new Law on Asylum (2008), CAT recommended that Serbia put in practice the new Law and protect asylum seekers and other foreigners in need of humanitarian protection.[128] In the framework of its follow-up to concluding observations, CAT commended the opening of the Asylum Centre in Banja Koviljaca[129] where, according to the State response, asylum seekers were provided with basic living conditions.[130]

81. CRC recommended that Serbia establish an identification mechanism for children, including asylum-seeking, refugee children and unaccompanied children, who may have been involved in armed conflict abroad; and provide them with assistance for their physical and psychological recovery and social reintegration.[131]

82. UNCT noted that since it adopted the Law on Asylum and took over refugee status determination from UNHCR in 2008, the Government had yet to recognize a single refugee under the new Law. UNCT and UNHCR noted the following key areas of concern: access to the territory and effective protection against refoulement, current shortcomings in the processing of asylum applications and ensuring fair and efficient asylum procedures. They also expressed concern about the lack of a legal framework for recognized refugees.[132]

83. UNHCR recommended that Serbia formally establish and improve the capacity and efficiency of the Asylum Office through increased staffing and training; ensure access to the asylum system for persons who are not accommodated in the asylum centres; stop rejecting asylum claims solely on the grounds of an applicant's travel through a "safe third country" and instead consider asylum applications on their merits; and improve the possibility for judicial review by the Asylum Commission at the second instance.[133]

N. Internally displaced persons

84. CERD was concerned about the vulnerability of returnees and internally displaced persons, and recommended that Serbia increase the safeguards against statelessness.[134]

85. After a follow-up visit in 2009, the Representative of the Secretary-General on the human rights of internally displaced persons recommended that Serbia, in close cooperation with UNHCR, carry out a needs-based registration drive to find out, for operational purposes, how many of the more than 200,000 internally displaced persons have yet to find a durable solution and retain specific assistance needs.[135]

86. The same Representative noted that the number of returns to and within Kosovo had been disappointingly low. The vast majority of potential returnees were internally displaced persons (IDPs) of Serb ethnicity, but there were also some Kosovo Albanians still hoping to return to Northern Kosovo. Entrenched patterns of discrimination, lack of access to employment and livelihoods and too few schools for minorities were at that time the chief obstacles to sustainable returns.[136]

87. According to the Representative, internally displaced Roma, Ashkali and Egyptians continued to be in a very vulnerable position both in and outside Kosovo. He was concerned that a lack of personal identification and other documents prevented those IDP groups from enjoying their rights on an equal basis.[137]

88. The Representative was concerned that the situation of Roma IDPs exposed to toxic lead waste in Northern Mitrovica/Mitrovicë had still not been resolved and that children in particular were still exposed to grave risks to their health and physical integrity.[138]

89. The Representative called on the Government of Serbia to find ways to engage with the Kosovo authorities at a technical level to resolve displacement-related challenges. The restitution of housing, land and property left behind by IDPs or at least the provision of appropriate compensation remained a challenge. The restitution mechanisms set up by the international community had shielded the restitution process to some extent from the serious deficiencies of the Kosovo justice system and administrative apparatus.[139]

O. Right to development and environmental issues

90. UNCT noted that environmental "hot spots" with exposure to hazards existed in areas of mines and smelting works. Occupational work and mitigating exposures had been on the Government agenda, though more attention was required.[140]

Notes

[1] Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found at the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Serbia from the previous cycle (A/HRC/WG.6/3/SRB/2 and Corr.1).

[2] The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography

OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to CRPD
CPED	International Convention for the Protection of All Persons from Enforced Disappearance

[3] Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: CPED, art. 30.

[4] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[5] 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

[6] International Labour Organization Conventions No. 169 concerning Indigenous and Tribal Peoples in Independent Countries and No. 189 concerning Decent Work for Domestic Workers.

[7] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.

[8] International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

[9] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III).

[10] Concluding observations of the Committee against Torture (CAT/C/SRB/CO/1), para. 24; concluding observations of the Committee on the Rights of the Child (CRC/C/OPSC/SRB/CO/1), para. 47; and concluding observations of the Committee on the Elimination of Discrimination (CERD/C/SRB/CO/1), para. 23.

[11] CERD/C/SRB/CO/1, para. 19.

[12] CRC/C/OPSC/SRB/CO/1, para. 47.

[13] CERD/C/SRB/CO/1, para. 27.

[14] Concluding observations of the Committee on the Rights of the Child (CRC/C/OPAC/SRB/CO/1), para. 15.

[15] UNCT submission, p. 1.

[16] CERD/C/SRB/CO/1, para. 5; CAT/C/SRB/CO/1, para. 3 (a); and concluding observations of the Human Rights Committee (CCPR/C/SRB/CO/2), para. 4 (a).

[17] CERD/C/SRB/CO/1, para. 6; and CAT/C/SRB/CO/1, para. 3 (c).

[18] UNCT submission, p. 1.

[19] CRC/C/OPSC/SRB/CO/1, paras. 34-35, see also para. 4 (b).

[20] CRC/C/OPAC/SRB/CO/1, para. 21.
[21] According to article 5 of the rules of procedure for the International Coordination Committee (ICC) Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are: A: Voting Member (fully in compliance with each of the Paris Principles), B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (not in compliance with the Paris Principles).
[22] For the list of national human rights institutions with accreditation status granted by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/20/10, annex.
[23] CERD/C/SRB/CO/1, para. 8. See also CCPR/C/SRB/CO/2, paras. 4 (b) and (c) and 22; and CAT/C/SRB/CO/1, para. 7.
[24] CERD/C/SRB/CO/1, para. 11. See also CAT/C/SRB/CO/1, para. 7.
[25] CAT/C/SRB/CO/1, paras. 6-7.
[26] Ibid., para. 7.
[27] CRC/C/OPSC/SRB/CO/1, paras. 19-20.
[28] CCPR/C/SRB/CO/2, para. 7.
[29] CERD/C/SRB/CO/1, para. 9.
[30] CCPR/C/SRB/CO/2, para. 22.
[31] CRC/C/OPSC/SRB/CO/1, para. 4 (c) and (d).
[32] Ibid., para. 13; and CRC/C/OPAC/SRB/CO/1, para. 7.
[33] The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child
CRPD	Committee on the Rights of Persons with Disabilities
CED	Committee on Enforced Disappearance

[34] CAT/C/SRB/CO/1, para. 26.
[35] UNCT submission, p. 3.
[36] CCPR/C/SRB/CO/2, para. 6.
[37] A/53/18, paras. 190-214 (concluding observations on the eleventh to fourteenth periodic reports of Yugoslavia, CERD/C/299/Add.17).
[38] E/C.12/1/Add.108 (concluding observations on the initial report of Serbia and Montenegro, E/1990/5/Add.61).
[39] CCPR/CO/81/SEMO (concluding observations on the initial report of Serbia and Montenegro, CCPR/C/SEMO/2003/1).
[40] A/54/44, paras. 35–52 (concluding observations on the initial report of Yugoslavia, CAT/C/16/Add.7).
[41] CERD/C/SRB/CO/1, para. 29.
[42] CCPR/C/SRB/CO/2, para. 25.
[43] CAT/C/SRB/CO/1, para. 28.
[44] CAT/C/SRB/CO/1/Add.1.
[45] CAT/C/SRB/CO/1/Add.2.
[46] CCPR/C/100/D/1556/2007.
[47] CAT/C/42/D/261/2005.
[48] CCPR/C/100/D/1556/2007, para. 10.
[49] CAT/C/42/D/261/2005, para. 12.
[50] OHCHR, *Report 2011*, p. 176.
[51] CCPR/C/SRB/CO/2, para. 8.
[52] UNCT submission, p. 3.
[53] CERD/C/SRB/CO/1, para. 13.
[54] Ibid., para. 21. See also CCPR/C/SRB/CO/2, para. 22.
[55] CRC/C/OPSC/SRB/CO/1, para. 10.
[56] CAT/C/SRB/CO/1, para. 5.

[57] CCPR/C/SRB/CO/2, para. 11.
[58] CAT/C/SRB/CO/1, para. 10.
[59] Ibid., para. 6.
[60] Ibid.
[61] Ibid., para. 18.
[62] CCPR/C/SRB/CO/2, para. 14.
[63] CAT/C/SRB/CO/1, para. 15.
[64] CCPR/C/SRB/CO/2, para. 15. See also CAT/C/SRB/CO/1, para. 15.
[65] UNCT submission, p. 4.
[66] CAT/C/SRB/CO/1, para. 16.
[67] CAT/C/SRB/CO/1/Add.1, paras. 80-82.
[68] CRC/C/OPSC/SRB/CO/1, paras. 29-30.
[69] CCPR/C/SRB/CO/2, para. 9.
[70] CAT/C/SRB/CO/1, para. 19.
[71] CCPR/C/SRB/CO/2, para. 9.
[72] CAT/C/SRB/CO/1, para. 19.
[73] UNCT submission, p. 4.
[74] CRC/C/OPSC/SRB/CO/1, paras. 41-42.
[75] Ibid., paras. 31-32, see also para. 42.
[76] CAT/C/SRB/CO/1, para. 20.
[77] Ibid., para. 13.
[78] CAT/C/SRB/CO/1/Add.1, para. 68.
[79] Ibid., paras. 62-63.
[80] CCPR/C/SRB/CO/2, para. 21.
[81] CAT/C/SRB/CO/1, para. 21.
[82] CCPR/C/SRB/CO/2, para. 16.
[83] CRC/C/OPSC/SRB/CO/1, paras. 25-26.
[84] Ibid., paras. 43-44.
[85] Ibid., para. 28.
[86] CCPR/C/SRB/CO/2, para. 17.
[87] UNCT submission, p. 2.
[88] CAT/C/SRB/CO/1, para. 8.
[89] Ibid.
[90] CCPR/C/SRB/CO/2, para. 18.
[91] CERD/C/SRB/CO/1, para. 20.
[92] CCPR/C/SRB/CO/2, para. 10.
[93] Ibid.
[94] CERD/C/SRB/CO/1, para. 22.
[95] CAT/C/SRB/CO/1, para. 11, and CCPR/C/SRB/CO/2, para. 13. See also the letter dated 23 May 2011 from CAT to the Permanent Mission of Serbia in Geneva, p. 2, available from http://www2.ohchr.org/english/bodies/cat/docs/followup/Serbia_23052011.pdf.
[96] Letter dated 23 May 2011 from CAT to the Permanent Mission of Serbia in Geneva, p. 2 (note 95 above). See also CAT/C/SRB/CO/1/Add.1, paras. 54-55.
[97] CCPR/C/SRB/CO/2, para. 12.
[98] CERD/C/SRB/CO/1, para. 19.
[99] CCPR/C/SRB/CO/2, para. 19.
[100] Ibid., para. 20.
[101] CERD/C/SRB/CO/1, para. 18.
[102] CCPR/C/SRB/CO/2, para. 20; and CERD/C/SRB/CO/1, para. 18.
[103] A/HRC/13/40/Add.3, para. 32.
[104] Ibid., para. 34.
[105] CERD/C/SRB/CO/1, para. 18.
[106] CCPR/C/SRB/CO/2, para. 21.
[107] A/HRC/19/44, p. 131.
[108] "High Commissioner for Human Rights urges Serbia to allow lesbian and gay parade, confront prejudice against minorities", public statement of 4 October 2012. Available from

www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/A380BBF7A7C6F9DFC1257A8D004207D6?OpenDocument.

[109] CCPR/C/SRB/CO/2, para. 8.
[110] Ibid., para. 23.
[111] Ibid., para. 8.
[112] UNCT submission, p. 7.
[113] CERD/C/SRB/CO/1, para. 14.
[114] UNCT submission, p. 8.
[115] A/HRC/19/44, p. 141.
[116] UNCT submission, p. 8.
[117] CERD/C/SRB/CO/1, para. 15.
[118] UNCT submission, p. 9.
[119] Ibid.
[120] Ibid.
[121] CERD/C/SRB/CO/1, para. 17.
[122] Ibid., para. 16.
[123] CCPR/C/SRB/CO/2, para. 22, see also para. 19.
[124] UNCT submission, p. 3.
[125] UNHCR submission, p. 3.
[126] UNCT submission, p. 10.
[127] CAT/C/SRB/CO/1, para. 17.
[128] Ibid., para. 9; see also para. 3 (f).
[129] Letter dated 23 May 2011 from CAT to the Permanent Mission of Serbia in Geneva, p. 2 (note 95 above). See also CAT/C/SRB/CO/1/Add.1, para. 26.
[130] CAT/C/SRB/CO/1/Add.1, para. 27.
[131] CRC/C/OPAC/SRB/CO/1, para. 25.
[132] UNCT submission, p. 11 and UNHCR submission, pp. 5-6.
[133] UNHCR submission, p. 7.
[134] CERD/C/SRB/CO/1, para. 19.
[135] A/HRC/13/21/Add.1, para. 71.
[136] Ibid, para. 72.
[137] Ibid, para. 76.
[138] Ibid, para. 77.
[139] Ibid., paras. 74-75.
[140] UNCT submission, p. 12.