

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN 38<sup>TH</sup> SESSION (NEW YORK, 14 MAY - 1 JUNE 2007) SERBIA (1<sup>ST</sup> PERIODIC REPORT)

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### Information Submitted to the Committee

On 16 May 2007, Serbia submitted its initial periodic report<sup>1</sup> under the *Convention on the Elimination of All Forms of Discrimination against Women* (the Convention), as well as written responses<sup>2</sup> to the list of issues and questions<sup>3</sup> raised by the Committee on the Elimination of Discrimination against Women (the Committee). Ms Vesna Ilic Prelic, State Secretary, led the Serbian delegation.

The Convention was signed by the former Socialist Federal Republic of Yugoslavia (SFRY) in 1980, and was ratified in 1981. In 2001, the then Federal Republic of Yugoslavia (FRY), as one of the successor states to SFRY, maintained its membership in all international human rights instruments and commenced the preparation of applicable initial reports. There were no reservations or declarations to the Convention, nor to the Optional Protocol.<sup>4</sup> In 2003, the FRY became Serbia and Montenegro, a loose federation of the two republics with a federal level parliament.

In May 2006, the initial report of Serbia and Montenegro was submitted to the Committee. On 3 June 2006, Montenegro formally declared its independence, and on 30 June 2006, Serbia notified the Secretary General

<sup>1</sup> <http://www.un.org/womenwatch/daw/cedaw/cedaw38/reports/serbiaE.pdf>.

<sup>2</sup> [http://www.un.org/womenwatch/daw/cedaw/cedaw38/responses/responses\\_serbia\\_CEDAW.pdf](http://www.un.org/womenwatch/daw/cedaw/cedaw38/responses/responses_serbia_CEDAW.pdf).

<sup>3</sup> <http://daccessdds.un.org/doc/UNDOC/GEN/N07/236/66/PDF/N0723666.pdf?OpenElement>.

<sup>4</sup> <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>.

that all treaty obligations undertaken by Serbia and Montenegro would be continued by Serbia. For this reason, the delegation presented only the section of the report that related to present-day Serbia.<sup>5</sup>

Serbia's report provides information from the period of 1992 to 2003, presenting the report in two sections, pre- and post- 2000. Prior to 2000, there was widespread violation of human rights resulting from disturbed relations with neighbouring countries and the international community, economic sanctions, internal instability, and rapid economic decline. In 2000, the building of a democratic society began with the changing of discriminatory laws, and the submission of reports on the implementation of ratified international treaties and UN conventions. The delegation focused their presentation before the Committee on the time period from 2003 to the present because the status of women's human rights in Serbia has changed since 2003, and progress has been made.

Although the delegation emphasised that they could not take any responsibility for the Autonomous Province of Kosovo and Metohija (the Province)<sup>6</sup>, they did underscore the grave human rights situation there. They also suggested that the Committee request that UNMIK provide relevant information to consider the implementation of the Convention in the Province.

A shadow report submitted to the Committee by a coalition of non-governmental groups (NGOs) analyses the implementation of each article of the Convention in Serbia, and makes clear recommendations to the Committee.<sup>7</sup> The shadow report emphasises that the State report reflects the current situation in the State of Serbia including a disrespect of international institutions and local non-governmental organisations, a denial of Serbia's responsibility for the war and its consequences, and discriminatory behaviour towards Roma<sup>8</sup> in Serbia. The shadow report calls for effective implementation and monitoring, with the proper evaluation mechanisms, of the rights enshrined in the Convention.

Serbia is party to a number of international instruments including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.<sup>9</sup>

## Themes and Issues<sup>10</sup>

### The New Constitution, and Draft National Action Plan

The delegation explained to the Committee that Serbia had adopted a new Constitution in November 2006 which guaranteed the equality of men and women. Upon a request by the Committee to be more specific, the delegation explained that the new Constitution requires both direct implementation of all ratified international agreements, and also conformity of domestic laws with international agreements. The delegation also

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<sup>5</sup> The Committee did not discuss the part of the report that relates to Montenegro.

<sup>6</sup> The Autonomous Province of Kosovo and Metohija (the Province) has been under the administration of the United Nations (UNMIK) since June 1999. See Security Council resolution 1244 (1999), available at <http://daccessdds.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>.

<sup>7</sup> *Voice of Difference from Serbia, Alternative Report to the CEDAW Committee*, submitted on behalf of the following groups: Voice of Difference- Group for Promotion of Women's Political Rights, Autonomous Women's Center, ASTRA, Incest Trauma Center, Women in Black, available at <http://www.womenngo.org.yu/images/serbia%20alternative%20report.pdf>.

<sup>8</sup> A member of a people with dark skin and hair who speak Romany and who traditionally live by seasonal work and fortunetelling; they are believed to have originated in northern India but now are living on all continents (mostly in Europe, North Africa, and North America).

<sup>9</sup> See <http://www.ohchr.org/english/law/index.htm>.

<sup>10</sup> For a more detailed description of the dialogue between the Committee and the State, please see the press release of the proceedings, available at <http://www.un.org/News/Press/docs/2007/wom1625.doc.htm>.

mentioned the draft National Action Plan for 2007- 2010, based on the Beijing Platform, and prepared by the Gender Equality Council in cooperation with 33 NGOs and numerous gender experts, noting that this was another step forward in achieving gender equality. Ms. Prelic, the head of the delegation, also emphasised that the political powers in Serbia were strongly committed to democratisation and European integration and to the achievement of high standards of international rights. Committee Member Ms. Schöpp-Schilling and Committee Chair Ms. Šimonović expressed concern that both the report and delegation seemed more concerned with European standards and the Beijing Platform standards, respectively, than implementing the standards and rights required by the Convention.

### **Gender Equality Law, and Gender Equality Council**

The Committee enquired about the status of the anticipated draft Gender Equality Law which was awaiting parliamentary approval. The delegation responded that there had been a temporary interruption as the new government had only been appointed very recently. The delegation explained that the draft law outlines a system where individuals can exercise their rights and provides a clear definition of gender discrimination in accordance with the Convention. The Gender Equality Law is intended to harmonize domestic legislation with international standards, regulate equal opportunity for women, and define institutional obligations at all levels.

The Gender Equality Council (Council) is an expert and advisory body of the Serbian government. The Council conducts analysis and evaluation on the status of gender equality. Gender sensitive legislation and raising public awareness are among its priorities. The Committee expressed disappointment that the Council has only expert and advisory authority, and no executive powers, such as the right to intervene. The delegation confirmed that the current limitations of the Council handicap the implementation of the Convention, but the Council does, nonetheless, direct the ministries, which regulate affairs and implement policies, to promote gender equality.

### **Minority Women's Rights**

The Committee was notably concerned with the status of minority women in Serbia. Committee member Ms. Tavares da Silva noted that the report was virtually silent on the situation of women in minority groups and questioned if women in minorities deserved specific attention. Committee member Ms. Simms requested further information concerning what she believed to be the most vulnerable minority group in Serbia, the Roma. The head of the delegation Ms. Prelic acknowledged that minority groups in Serbia are vulnerable like they are in the rest of the world. The Roma have been officially recognized as a minority group by Serbia since 2004 and, as such, are given special privileges. The lack of education of Roma women is a large and serious problem with insufficient state measures. Raising awareness within both the Roma and non-Roma communities is important. With the help of foreign donors, efforts are being made, specifically, in the area of employment of Roma women in municipal government. Ms. Prelic cautioned that it would take time to change traditional attitudes of discrimination.

### **Violence against Women**

The Serbian delegation assured the Committee that much has been achieved in reducing violence against women. Legal reforms have been made to make domestic violence punishable. All judicial proceedings involving rape are now closed to the public and streamlined as much as possible. Victims are asked to testify only once. The media is prohibited from publicising the victims' names as well as other identifying details.

Committee member Ms. Halperin-Kaddari expressed concern regarding whether there are now "regressive" criminal penalties because sexual harassment is now classified as a labour law violation rather than a criminal law violation. The head of the delegation expressed surprise at the suggestion that the new laws were more

lenient, and emphasised that they are in fact far broader in the protection of women. The delegation noted that data shows that, under the new legislation, an increasing number of women are reporting violations.

### **Trafficking in Women**

The Committee members requested further information regarding procedures to prosecute human traffickers. They referred to alternative reports submitted to the Committee that indicated a high level of trafficking and a legal system that rarely prosecutes traffickers. The delegation responded that Serbia had signed the United Nations Convention against Transnational Organized Crime and the Optional Protocol.<sup>11</sup> Human trafficking, including human smuggling and illegal border crossing was prohibited by domestic criminal law in 2003. In 2006, Serbia adopted a comprehensive strategy that included the training of prosecutors, police officers, the judiciary, and NGOs in identifying both perpetrators and victims.

### **Women in Government**

The Committee requested information on measures, including temporary special measures, being implemented to increase the number of women holding government positions. Particular emphasis was placed on the importance of decision-making positions and the need for statistics regarding the number of women at all levels of government. The delegation reported that the election laws require that 30% of all candidates on candidate election lists be female. After the 2007 elections, women composed 20.4% of all members of the National Republic Assembly, including four Ministers, which is an increase from 12% female composition in the previous Assembly. In the judiciary, 70% of all judges are women. The president of the highest court, the Supreme Court, is a woman. However, women compose only 11% of all ambassadors in the Serbian Foreign Service.

### **Health**

The Committee questioned the delegation on several different areas of healthcare policy, and in particular in relation to HIV/AIDS and the prevalence of abortion as a method of birth control. The delegation responded that the war had vast negative consequences in the area of healthcare but there have been considerable advances in the post-conflict period. The new Constitution, which was adopted with the aim of ensuring healthcare protection, is in conformity with the Convention. The delegation acknowledged that there was inadequate treatment for HIV/AIDS during the reporting period; however, in 2002, the Ministry of Health received an increase in funds and has initiated a national strategy of protection that includes free HIV/AIDS tests. The delegation reported that of the 46,000 abortions performed in 2005, only 15% of those were medically unjustified. It is unclear if the delegation was suggesting that 15% represented a decreased reliance on abortion as a method of contraception.

### **Conclusions and Next Steps**

The Serbian delegation reported to the Committee in an open manner. Through the presentation of concrete facts, they highlighted what had been achieved, acknowledged limitations, and recognized areas that needed improvement. Because the reporting period was during a time of transition in Serbia, the delegation chose to focus on presenting an accurate picture of the current situation in the country. They assured the Committee that while the Serbian government was concentrating on European integration, obligations under the Convention would not be neglected.

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<sup>11</sup> [http://www.unodc.org/unodc/en/crime\\_cicp\\_signatures.html](http://www.unodc.org/unodc/en/crime_cicp_signatures.html).

The Serbian delegation appeared optimistic in the implementation of future measures to promote and strengthen gender equality. Upon return to Serbia, they intend to discuss the meeting with both the government and NGOs to promote further constructive dialogue as recommended by the Committee.

In its Concluding Comments,<sup>12</sup> the Committee expressed appreciation for the Serbian government's initial report while regretting that the report was overdue and did not comply fully with the reporting guidelines, specifically, by not referring to the Committee's general recommendations, nor containing adequate data disaggregated by sex. The Committee emphasised the need for the government to remove all discriminatory aspects of legislation in Serbia, and bring all legislation in-line with the Convention. The Committee repeatedly urged the government to ensure that the rights of women in minorities, particularly Roma women, are part of the process of promoting gender equality. Finally, the Committee requested that the government widely disseminate the Committee's Concluding Comments in Serbia, and respond to the concerns expressed in them in its next periodic report.

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<sup>12</sup> <http://www.un.org/womenwatch/daw/cedaw/cedaw38/cc/Serbia.pdf>.

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