

Committee against Torture

List of issues prior to submission of the third periodic report of Serbia*

Specific information on the implementation of articles 1-16 of the Convention, including with regard to the Committee's previous recommendations

Follow-up questions from the previous reporting cycle

1. With reference to the Committee's previous concluding observations (para. 9)¹ and the State party's follow-up replies,² please indicate whether:

(a) All detained persons undergo an independent medical examination from the outset of deprivation of liberty, out of hearing and sight of police officers unless requested so by the doctor;

(b) The medical record contains: (i) an account of statements made by the person that are relevant to the medical examination; (ii) objective medical findings based on a thorough examination; and (iii) the health-care professional's observations in the light of (i) and (ii), indicating the consistency between any allegations made and the objective medical findings;³ and the results of the examination are made available to the detained person and his or her lawyer; and

(c) Prison governors bring all medical reports containing suspected injuries of torture to the public prosecutor; and doctors can bring such record directly to the public prosecutor on a confidential basis.⁴

2. With reference to the previous concluding observations (para. 19) and the State party's follow-up replies,⁵ please provide updates on:

(a) The steps taken to prevent violence, harassment and intimidation against human rights defenders, journalists,⁶ Lesbian, Gay, Bisexual, Transgender and Intersex persons⁷ and ethnic minorities, in particular the Roma community;⁸

(b) The number of complaints and police reports, investigations, prosecutions, convictions and punishments handed down for crimes committed against human rights defenders, journalists, Lesbian, Gay, Bisexual, Transgender and Intersex persons, broken

* Adopted by the Committee at its sixty-second session (6 November–6 December 2017).

¹ Unless otherwise indicated, paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee, published under symbol CAT/C/SRB/CO/2.

² CAT/C/SRB/CO/2.Add.1, paras. 3-11.

³ CAT/C/SRB/CO/2.Add.1, para. 9.

⁴ CAT/C/SRB/CO/2.Add.1, para. 5.

⁵ CAT/C/SRB/CO/2.Add.1, paras. 12-63.

⁶ CCPR/C/SRB/CO/3, para. 38.

⁷ CCPR/C/SRB/CO/3, para. 12.

⁸ CCPR/C/SRB/CO/3, para. 10.

down by type of offence and investigating authority, and the reparations and rehabilitation provided to victims.⁹ Please update the Committee on the murder cases of the journalists Radislava Dada Vujasinovic, Milan Pantic and Slavko Ćuruvija, and the beating of Davor Pašalić; and

(c) Training provided to law enforcement, judiciary and public officials on hate crimes and the application of legal provisions for hate crimes, indicating the number of cases where such provisions were actually applied.¹⁰

Articles 1 and 4

3. With reference to the previous concluding observations (para. 8), please describe the steps taken to (a) align article 136 and article 137, paragraphs 2 and 3, of the Criminal Code with all elements of the crime of torture, as defined in article 1 of the Convention, (b) ensure that the acts of torture or ill-treatment are punished with penalties commensurate with their grave nature¹¹ and (c) repeal the statute of limitations for the crime of torture and reinstate investigations and proceedings for statute-barred cases of torture.¹²

Article 2

4. Please provide updated information on effective measures adopted to guarantee that all detained persons, including minors, are afforded in practice all fundamental legal safeguards from the outset of their deprivation of liberty, such as being informed orally and in writing of the charges against them and their rights; having prompt access to a lawyer or legal aid; immediate access to an independent medical examination; and to inform a family member or any other persons of their own choice about their deprivation of liberty immediately after apprehension.

5. In relation to the previous concluding observations (para. 21), please provide information on:

(a) The allocation of resources to enable the Ombudsman's Office to function effectively and independently, in particular with regard to its capacity to handle complaints;

(b) Measures taken to ensure that the Ombudsman's Office investigates and acts on complaints without undue pressure or reprisals. Please comment on reported threats and a smear campaign against the Ombudsperson, Sasa Jankovic since January 2015;

(c) The number and types of complaints received by the Ombudsman's Office, and the outcome of complaints of torture and ill-treatment;

(d) The level of implementation of the recommendations made by the Ombudsman's Office, particularly at Sremska Mitrovica Correctional Institution, Pančevo District Prison and the Special Prison Hospital;

(e) Whether a separate department or unit for the national preventive mechanism (NPM) functions has been established within the Ombudsman's Office, in line with the Guidelines on national preventive mechanisms adopted by the United Nations Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) in November 2010;¹³ and

(f) Any other activities and achievements of the Ombudsman's Office with respect to prevention of torture and ill-treatment.

6. Further to the previous concluding observations (para. 16), please provide the following information for the period under review:

(a) Annual data, disaggregated by sex, age, and ethnicity or origin, on the number of victims, complaints, investigations, emergency protection orders, prosecutions,

⁹ CAT/C/SRB/CO/2.Add.1, para. 13.

¹⁰ CAT/C/SRB/CO/2.Add.1, paras. 16 and 49.

¹¹ CCPR/C/SRB/CO/3, para. 26.

¹² CCPR/C/SRB/CO/3, para. 26.

¹³ CAT/OP/12/5, para. 32.

convictions and sentences imposed in cases of gender-based violence including domestic violence;

(b) Measures adopted to (i) eliminate gender-based violence including domestic violence; (ii) effectively implement and assess the impact of relevant laws, national action plans and other protocols, including the new Law on Prevention of Family Violence; (iii) investigate and prosecute all cases of gender-based violence¹⁴ and accordingly punish those found responsible; and (iv) provide adequate protection and support to victims, including information on urgent protection measures, legal and medical assistance, shelters and psychosocial counselling; and

(c) Trainings provided to law enforcement and judiciary officials, social workers and doctors on investigating cases and protecting victims of domestic and gender-based violence.

7. With reference to the previous concluding observations (para. 17), please detail the measures taken to prevent and combat human trafficking. Please provide the information, disaggregated by the age, sex and ethnicity or nationality of the victims, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of human trafficking. Please also provide updates on:

(a) Efforts to identify victims of trafficking, including those among asylum seekers and unaccompanied minors¹⁵ and to promptly refer them to service providers;

(b) The remedies and redress provided to victims of trafficking, including *inter alia* the medical and psychological assistance, the number of shelters and their occupancy rate, social support schemes, vocational training, the procedure for obtaining compensation and the percentage of cases in which compensation was awarded. Please detail the status of State funding for assistance and reintegration services for victims of trafficking;

(c) Trainings for judiciary and law enforcement officials on assisting and protecting victims of trafficking at all stages of criminal proceedings;

(d) Updates on the impact assessment of the National Action Plan for Combating Human Trafficking 2009–2011 and the plan to adopt a new action plan for 2014–2020; and

(e) Any international agreement to prevent and combat human trafficking signed and ratified by State party.

Article 3

8. In light of the previous concluding observations (para. 14), please describe the measures taken to ensure the prompt and fair individualized asylum determination procedure.¹⁶ Please indicate whether the State party has allocated sufficient financial and human resources to the Asylum Office for the speedy process of claims. Please detail the steps taken to ensure that (a) all asylum seekers, including those at Nikola Tesla Airport and transit zones, are afforded procedural safeguards including free legal aid and interpretation services at all stages of the asylum procedure; and (b) vulnerable persons seeking asylum, such as victims of trafficking or torture, unaccompanied minors and persons with disabilities, are identified and referred to appropriate authorities without delay.

9. Please provide information about the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be subject to torture if returned to their country of origin. Please also include information, disaggregated by sex, age and country of origin on the number of persons who have been returned, extradited or expelled. Please indicate the grounds of which they were sent back, including the list of countries to which individuals were returned. Please provide updates on the type

¹⁴ CCPR/C/SRB/CO/3, para. 20.

¹⁵ CCPR/C/SRB/CO/3, para. 30.

¹⁶ CCPR/C/SRB/CO/3, para. 32.

of appeal mechanisms that exist and number of appeals that have been made and the outcome of those appeals.

10. With reference to the previous concluding observations (para. 15), please provide information on the measures taken to:

(a) Ensure that asylum applications by persons from “safe country of origin” and “safe third countries” are individually examined with due consideration of the personal situation and that the presumption of safety may be rebutted;¹⁷

(b) Prevent refoulement, particularly the cases of collective and chain refoulement on southern and eastern borders with former Yugoslav Republic of Macedonia and Bulgaria;

(c) Guarantee the legal and administrative safeguards and remedies in forced return procedures; and

(d) Establish border monitoring mechanisms, in cooperation with international organizations and civil society organizations.

11. Please indicate the number of refoulements, extraditions and expulsions carried out during the reporting period on the basis of the acceptance of diplomatic assurances or the equivalent thereof, as well as any instances in which the State party has offered such diplomatic assurances or guarantees. What are the minimum contents of such assurances, whether given or received, and what measures have been taken in such cases with regard to subsequent monitoring?

12. Please describe the measures taken to prevent ill-treatment or physical abuse committed by law enforcement officials against asylum-seekers and undocumented immigrants, indicating the number of such cases reported during the reporting period and the penalties imposed on perpetrators thereof. Please indicate whether any sanction has been imposed on the army and police officers who abandoned an asylum-seeking family of seven in the woods close to the Bulgarian border in December 2016. Please also provide updates on the situation of the internally displaced persons living in collective centres and irregular settlements throughout the country.

Articles 5, 7 and 8

13. Please inform the Committee of any extradition treaties concluded with other States parties, including the agreements covering war crimes cases, and indicate whether the offences referred to in article 4 of the Convention are included as extraditable offences in such treaties.

14. Please indicate whether the State party has rejected any request for extradition by another State for an individual suspected of having committed an offence of torture, and whether it has started prosecution proceedings against such an individual as a result. If so, please provide information on the status and outcome of such proceedings.

Article 9

15. Please describe the steps taken by the State party to fully cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY), including the handover of charged persons present in the territory of the State party. Please provide information with respect to any particular challenges that the State party may be facing with respect to these requirements.

Article 10

16. With reference to the previous concluding observations (para. 20), please provide information on trainings developed to ensure that all law enforcement officials, prison staff, border guards and other public officials are fully aware of the provisions of the Convention. Please provide information on the methodology used to assess the effectiveness of training and educational programmes in reducing cases of torture and ill-treatment.

¹⁷ CCPR/C/SRB/CO/3, para. 32.

17. Please clarify whether training on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) is provided to medical personnel and other law enforcement and judiciary officials who deal with detainees and asylum seekers and are involved in the investigation and documentation of cases of torture. Please indicate whether the training is regular and compulsory, the overall size of the target group and the percentage of those trained during the period under review.

Article 11

18. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any interrogation rules, instructions, methods and practices or arrangements for custody that may have been introduced since the consideration of the previous periodic report. Please indicate the frequency with which they are reviewed.

19. With reference to the previous concluding observations (para. 12), please provide information on the measures taken to reduce prison overcrowding,¹⁸ including the use of alternatives to imprisonment, both before and after trial, and the construction of new prisons in Pančevo and Kragujevac. Please provide statistical data, disaggregated by sex, age, ethnic origin or nationality, on the number of pretrial detainees, convicted prisoners and persons deprived of their liberty in psychiatric hospitals and other institutions for the mentally or physically disabled, and the occupancy rate of all places of detention. Please also inform the Committee on the measures taken to:

- (a) Improve the material conditions of prison establishments and enhance out-of-cell activities;
- (b) Remove all the “non-standard issue objects” (i.e. bicycle locking cables, wooden floor tiles and baseball bats, etc.) from all police premises where persons may be held or questioned;
- (c) Utilise audio-video equipment for monitoring interrogation rooms;
- (d) Afford all persons deprived of liberty access to medical care, including mental healthcare and to improve the quality of prisoners’ medical records;
- (e) Increase the number of prison staff, including medical doctors and nurses;
- (f) Prevent incidents of death, suicide, attempted suicide and inter-prisoner violence in custody. Please provide statistical data on such incidents, indicating the causes thereof and results of investigations into these incidents and measures taken by state authorities to prevent such phenomena;
- (g) Protect the rights of vulnerable detainees, notably women, children and persons with mental conditions;¹⁹ and
- (h) Ensure the legal safeguards to persons in specialized institutions subjected to involuntary hospitalization; and to adopt and implement clear guidelines governing the use of restraint in health-care facilities.²⁰

Articles 12 and 13

20. In the light of the previous observations (para. 10) and the State party’s follow-up information,²¹ please provide annual statistical data on the number of complaints, investigations, prosecutions, conviction and punishment of torture and ill-treatment, including excessive use of force, committed by law enforcement, security, military or prison officials, including recent examples of such complaints. This information should include the number of such cases reported by doctors following medical examinations of detainees and the outcome of those cases.²² Please also explain the mandate and work of the bodies,

¹⁸ CCPR/C/SRB/3, para. 28.

¹⁹ CRPD/C/SRB/CO/1, paras. 25 and 27.

²⁰ CCPR/C/SRB/CO/3, para. 27.

²¹ CAT/C/SRB/CO/3/Add.1, para. 17.

²² CED/C/SRB/CO/1, para. 15.

including the Department for Internal Control²³ and the Sector of Internal Control of the Police (SUKP), that investigate the allegations of torture, ill-treatment by the police, prison staff, security personnel and military, indicating how the independence of these bodies is guaranteed so that there is no hierarchical or institutional link between the alleged perpetrators and the investigators.²⁴ Please also provide information on any other efforts made to steps taken to promptly and impartially investigate and prosecute cases of torture and ill-treatment and punish perpetrators with penalties proportionate to the grave nature of their acts, and in particular on measures to:

(a) Establish a fully independent body or mechanism to investigate allegations of torture and ill-treatment by law enforcement officials;²⁵

(b) Amend the Criminal Procedure Code to oblige public prosecutors to undertake a prompt, effective and impartial investigations wherever there is reasonable ground to believe that an act of torture or ill-treatment has been committed as the result of the actions or omissions of State officials or persons acting in an official capacity, regardless of the filing of a formal complaint;

(c) Ensure that all suspects in *prima facie* cases of torture and ill-treatment are immediately suspended from duties, indicating the percentage of cases in which suspected public officials were actually suspended;²⁶ and

(d) Protect complainants, victims and their relatives against reprisals, duly inform them of the progress and results of their complaint and guarantee their right to judicial remedy and participation in proceedings.

21. Further to the previous observations (para. 11), please provide updated information on the progress of investigation, prosecution and sanctioning of war crimes and past human rights violations, including the status of (a) the cases involving command responsibility, crimes of sexual violence and the transfer and concealment of bodies in the mass graves of Batajnica, Petrovo Selo, Rudnica and Lake Perućac; and (b) the Ovčara, Lovas, Čuška, Srebrenica and Skočić cases. Please explain how the State party has addressed the lack of human resources and funding of the Belgrade War Crimes Chamber²⁷ and the Office of the War Crimes Prosecutor²⁸ as well as deficiencies in the system of witness protection.²⁹ Please also comment on the delay in the appointment of a new War Crimes Prosecutor³⁰ and the alleged pressure exerted by the Government on the Office of the War Crimes Prosecutor. Please update the Committee of measures taken to strengthen regional cooperation with neighbouring countries related to the prosecution of war crimes.

22. Please provide information on the outcome of the investigations and disciplinary/criminal proceedings related to:

(a) The alleged physical ill-treatment of inmates by prison officers at the Nis Correctional Institution in 2014; Pančevo District Prison in 2015; Sremska Mitrovica Correctional Institution; and Valjevo Juvenile Correctional Institution; and

(b) The alleged ill-treatment of residents in the Pavilion A-Old at the Veternik Residential Facility; and the Special Hospital for Pschiartric Diseases “Dr. Slavoljub Bakalovic.”

Article 14

23. In the light of the previous concluding observations (para. 13), please provide information on:

²³ CAT/C/SRB/CO/2.Add.1, para. 17.

²⁴ CAT/C/SRB/CO/2.Add.1, para. 17.

²⁵ CCPR/C/SRB/CO/3, para. 26.

²⁶ CED/C/SRB/CO/1, para. 15.

²⁷ CCPR/C/SRB/CO/3, para. 22.

²⁸ CCPR/C/SRB/CO/3, para. 22.

²⁹ CED/C/SRB/CO/1, para. 17.

³⁰ CCPR/C/SRB/CO/3, para.23.

(a) All forms of redress and compensation measures, including the means of rehabilitation, ordered by the courts and actually provided to victims of torture including war-related victims, or their families, indicating the number of requests for compensation made, the number granted and the amounts ordered and actually provided;

(b) The steps to repeal the statute of limitations for claim for redress against the State by the victims and to modify the current standard of proof of damage or harm set by the courts that are too high for victims to satisfy;³¹ and

(c) The kind of rehabilitation programmes, including medical and psychological treatment of trauma, as well as the allocation of adequate resources to ensure the effective functioning of such programmes.

Article 15

24. Please inform the Committee on the measures taken to ensure respect, both in law and in practice, for the principle of inadmissibility of evidence obtained through torture. Please provide examples of any cases that have been dismissed by courts due to the introduction of evidence or testimony obtained through torture or ill-treatment.

Article 16

25. Please describe the measures, including the recent amendment to the Family Law, taken to ensure that corporal punishment of children is explicitly prohibited in all settings.³²

26. In the light of the previous concluding observations (para. 18), please provide updates on the measures to:

(a) Afford effective legal safeguards to all persons with mental and psychosocial disabilities who are involuntarily institutionalized;

(b) Facilitate the deinstitutionalization of persons with mental and psychosocial disabilities through alternative measures;

(c) Register all uses of restrictive measures as well as isolation imposed on persons with mental and psychosocial disabilities.³³ Please provide the information, disaggregated by location, age, sex, and reason for the restriction being imposed, on the (i) number of persons subjected to restrictions and (ii) the number of investigations conducted into any use of restraints and results thereof;

(d) Provide adequate care and living conditions to institutionalized children, particularly at the Veternik Institution and the Stannica Home for children and adults with disabilities;³⁴ and

(e) Promptly and impartially investigate all complaints of torture and ill-treatment or excessive use of restrictive measures on persons, including children with mental and psychosocial disabilities in psychiatric institutions and provide reparations to victims.

Other issues

27. Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and in practice and how it has ensured that those measures comply with all its obligations under international law, especially the Convention. Please describe the relevant training given to law enforcement officers; the number and types of persons convicted under such legislation; the legal safeguards and remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are

³¹ CCPR/C/SRB/CO/3, para. 26.

³² CRC/C/SRB/CO/2-3, para. 36.

³³ CCPR/C/SRB/CO/3, para.16; CRPD/C/SRB/CO/1, paras. 27 and 35.

³⁴ CRPD/C/SRB/CO/1, paras. 13 and 31.

complaints of non-observance of international standards; and the outcome of these complaints.

General information on the measures and developments relating to the implementation of the Convention

28. Please provide information on any other relevant legislative, administrative, judicial or other measures taken during the reporting period to implement the provisions of the Convention or the Committee's recommendations, including institutional developments, plans or programmes. Please indicate the resources allocated and statistical data. Please also provide any other information that the State party considers relevant.
