

54th session of the Committee against Torture
Consideration of the Second Periodic Report of the Republic of Serbia
on Implementation of Convention against Torture and Other Cruel, Inhuman
or Degrading Treatment or Punishment, Geneva, 29-30th April 2015

OPENING ADDRESS

BY RADOMIR ILIC

STATE SECRETARY IN THE MINISTRY OF JUSTICE AND
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Geneva, 29th April 2015

Dear Mister Chairman,
Distinguished members of the Committee,
Ladies and Gentlemen,

It is my pleasure to present to you on behalf of the Republic of Serbia the Second Periodic Report of the Republic of Serbia on Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

I would first like to introduce you to the members of the official delegation of the Republic of Serbia:

- the Ambassador, **Vladislav Mladenovic**, Permanent Mission of the Republic of Serbia to the United Nations and other International Organisations in Geneva
- **Svetlana Velimirovic**, Deputy Commissioner for Refugees and Migrations;
- **Radmila Dragicevic-Dicic**, Judge, Supreme Court of Cassation;
- **Aleksandra Stepanovic**, Head of the Department for Exercise and Protection of Rights of Persons Deprived of Liberty, Administration for Enforcement of Penal Sanctions, Ministry of Justice;
- **Nebojsa Pantelic, PhD**, Chairman of the Commission for Implementation of Police Treatment Standards in Torture Prevention, Police Internal Control Department, Ministry of Interior;
- **Dragan Vulevic**, Senior Advisor, Department of Administration and Oversight in the Area of Family Protection, Ministry of Labour, Employment, Veteran and Social Policy;
- **Nebojsa Jokic, PhD**, Senior Advisor, Ministry of Health;
- **Svetislav Rabrenovic**, Senior Advisor for war crimes, Office of the War Crimes Prosecutor;
- **Aleksandar Tomic**, Advisor, Permanent Mission of Serbia to the United Nations and other International Organisations in Geneva
- **Gordana Mohorovic**, Senior Advisor, Head of Division for Monitoring of Implementation of International Human Rights Agreements, Office for Human and Minority Rights;
- **Jasna Plavšić**, Independent Advisor, Head of the Group for Anti-Discrimination Policy, Office for Human and Minority Rights;

- **Vladimir Soc**, Independent Advisor, Division for Monitoring of Implementation of International Human Rights Agreements, Office for Human and Minority Rights;

Republic of Serbia is dedicated to strengthening of the democratic society and, primarily, to respect for and observance of human and minority rights.

The Constitution of the Republic of Serbia sets forth that general rules of international law and the ratified international treaties are an integral part of the national legal system and are to be applied directly. Republic of Serbia is a party to eight core international human rights treaties and supports the work of special procedures of the United Nations, which is confirmed by its standing invitation to all thematic procedures from 11th October 2005.

The Republic of Serbia has been cooperating actively with the Organization for Security and Co-operation in Europe and the Council of Europe in the area of protection and promotion of human and minority rights and fundamental freedoms, as well as in the area of promotion of the rule of law. During its current OSCE chairmanship, Serbia has been actively involved in OSCE human dimension. As the member of the Council of Europe, Serbia has ratified many human and minority rights conventions, including the European Convention on Human Rights and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The Republic of Serbia is a candidate country for EU accession. Within the comprehensive reforms involved in this process, special attention is paid to promotion of rule of law and human rights protection. The reform includes changes of legal framework with the aim of adopting the best standards and legacies of the modern society, and also encompasses strengthening of institutional capacities, press freedom and promotion of human rights in every segment of the society.

Mister Chairman,

I wish to point out that, though Kosovo and Metohija is an integral part of the territory of the Republic of Serbia, as a party to the Convention, the Republic of Serbia is unable to monitor

the application of the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in Kosovo and Metohija given that, in line with the UN Security Council Resolution 1244 (1999), the administration of the Province has been mandated entirely to the UN Interim Administration Mission in Kosovo (UNMIK). That is the reason why the present report does not contain detailed information on the application of the Convention on this part of the territory of the Republic of Serbia.

Consequently, I propose that the Committee invites UNMIK to submit information on the application of the Convention in Kosovo and Metohija and thus complement the Report submitted by the Republic of Serbia, as a party to the Convention. In this context, the Government of the Republic of Serbia is willing to submit all information it has and thus contribute to the Committee's work on application of the Convention for the Prevention of Torture and other Inhuman or Degrading Treatment or Punishment.

Mister Chairman,

Judicial reform in the Republic of Serbia started in 2009. First, a package of judicial laws was adopted. In line with those laws, High Judicial Council and State Prosecutorial Council were established as key institutions responsible for election, proposal and dismissal of judges, prosecutors and presidents of the courts and for taking organisational measures to ensure the efficient work of courts and public prosecutor's offices.

Efficient judicial cooperation in criminal matters is one of the key challenges in the efforts to effectively prevent and combat crime. Quality mechanisms for tackling crime entail an efficient regulatory and institutional framework. Strengthening the capacity of judicial bodies for implementation of the laws remains a priority for the Republic of Serbia. The National Judicial Reform Strategy for the period 2013-2018, whose objective is to build and strengthen an independent, transparent and efficient legal system, was adopted in July 2013. We are currently working with representatives of the European Commission on adoption of an Action Plan for future activities in the field of judicial reform and fundamental rights, in the context of European integration.

In March 2009, the Republic of Serbia adopted the Law on Prohibition of Discrimination, a general anti-discrimination law that focuses on a wide range of prohibited forms of discrimination. Strategy for Prevention and Protection from Discrimination was adopted in June 2013, and the related Action Plan was adopted in October 2014.

In 2011, the Republic of Serbia adopted the National Strategy for Preventing and Combating Domestic and Intimate Partner Violence against Women. A General Protocol on Procedures and Cooperation between institutions, bodies and organisations in cases of domestic and intimate partner violence against women was also adopted, as well as a series of specific protocols by competent institutions (for ministries of interior, justice, social policy and health) which established standards and procedures for the work of those institutions. Establishment of institutional mechanisms for cooperation at the local level in cases of violence against women is currently underway.

Mister Chairman,

In December 2013, the Government of the Republic of Serbia adopted the Strategy for Development of the Penal Sanctions Enforcement System until 2020. This testifies to Serbia's dedication to further development of the system in order to protect the society from crime by continuously improving the conditions within which the sanctions are enforced and by applying modern advancements in the treatment of the convicted persons, to ensure their successful reintegration in the social community and to reduce the recidivism rate.

In August 2014, the Government adopted the Action Plan for implementation of the Strategy. The plan outlines the measures and activities to be undertaken by the Administration for Enforcement of Penal Sanctions in order to address the issue of overcrowded capacities in institutions for enforcement of legal sanctions, improve the material conditions in prisons and the position of convicted persons, improve health protection, establish new programmes for treatment, training and professional development of the convicted persons, special programmes for particularly vulnerable categories, more efficient post-penal acceptance, wider enforcement of alternative measures and sanctions, modernisation of training and professional development of the employees and internal oversight over the work of the institutions.

Mister Chairman,

The Republic of Serbia implements the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment in their entirety, given that these have been implemented in the domestic legislation as fundamental principles for treatment of persons deprived of liberty.

The principles of medical ethics relating to the role that medical staff have in the protection of prisoners from torture and other cruel, inhuman or degrading treatment or punishment have also been incorporated in national legislation.

The Administration for Enforcement of Penal Sanctions is obligated to register any case of potential torture and other cruel, inhuman or degrading treatment, to immediately establish the facts, promptly initiate disciplinary proceedings against the employee and file a criminal complaint to the competent prosecutor's office if there are reasonable grounds for suspicion that actions of the employees have elements of a crime.

An internal system of complaints for the convicted persons was introduced by the Law on Enforcement of Penal Sanctions in 2006 and has been continuously promoted ever since. It involves a two-step procedure for protection of the rights of convicted persons within the Administration and court protection. The Republic of Serbia has adopted the new Law on Enforcement of Penal Sanctions which has been in force since September 2014. This law introduced a new type of court control of enforcement of penal sanctions - a judge for enforcement of penal sanctions. The institution of a judge for enforcement of penal sanctions has been introduced in order to ensure a more effective control and protection of the rights of persons deprived of liberty. A judge for enforcement of penal sanctions is designated by each higher court in the Republic of Serbia. This judge is responsible for oversight of correctional institutions under his or her jurisdiction with regards to rights of persons deprived of liberty by visiting the institutions and deciding on the complaints filed by persons deprived of liberty. The proceedings before a judge for enforcement of penal sanctions, beside disciplinary or criminal proceedings that may be taken against an employee for abuse or torture, are initiated by a direct complaint filed by a person deprived of liberty.

External control and oversight of enforcement of penal sanctions are the responsibility of the Commission of the National Parliament for Oversight of Enforcement of Penal Sanctions and the Ombudsman who, in line with the Law Ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment adopted in 2011, serves as the National Preventive Mechanism (NPM) against Torture. Within his NPM activities, the Ombudsman has established cooperation with the Provincial Ombudsman and 14 civil society organisations whose statutes list promotion and protection of human rights and freedoms as their objective. Representatives of these institutions and bodies have the right to talk with prisoners in private, without presence of a correctional officer, or with correctional officers, to visit all facilities of the correctional institution and to have access to documentation needed for the control and oversight, in line with the law. An important mechanism of independent oversight of treatment of persons deprived of liberty is the monitoring of correctional institutions conducted by civil society organisations.

Mister Chairman,

The Republic of Serbia has continuously undertaken measures to promote the regulatory and institutional framework in the area of combating human trafficking, and particularly in the area of protection of the victims of human trafficking .

Assistance to victims of human trafficking in the Republic of Serbia is provided through activities of governmental institutions and civil sector organisations. The government institution Center for the Protection of the Victims of Human Trafficking was established as part of the social care system by a decision of the Government in April 2012. The tasks of identification, coordination and urgent care of and support to victims of human trafficking are integrated in this institution, which is funded from the budget of the Republic of Serbia.

Within the social care system, the victims of human trafficking can receive different types of financial and in-kind support, accommodation and all kinds of psychosocial support.

Adoption of the new National Strategy to Prevent and Suppress the Trafficking in Persons, especially Women and Children, and to Protect the Victims for the 2015-2020 period and the Action Plan for its implementation in the 2015-2016 period is underway.

Mister Chairman,

Due to a high number of people in protracted displacement, who include both refugees from Croatia and Bosnia and Herzegovina, as well as internally displaced persons from Kosovo and Metohija, the Republic of Serbia places special focus on this issue.

There are currently still some 44.000 persons with refugee status in the Republic of Serbia. We have continuously provided full protection and support to all refugees, and have given our best to contribute to the achievement of lasting and sustainable solutions for the refugees. In line with those efforts, due to granting of citizenship and local integration in the Republic of Serbia, the number of persons with the refugee status decreases by around 10.000 each year.

Since 1999, the Republic of Serbia has invested considerable efforts and funds in taking care of and improving the position of more than 220.000 internally displaced persons. Strategic, legal and institutional frameworks for support of internally displaced persons have been established.

As citizens of the Republic of Serbia, internally displaced persons exercise all their rights and obligations in line with the constitution and laws of the Republic of Serbia, in accordance with the UN Guiding Principles on Internal Displacement.

However, even after 16 years, sustainable conditions for the return of internally displaced persons to Kosovo and Metohija have not been provided yet. According to the estimates of the Commissariat for Refugees and Migration and the Office for Kosovo and Metohija, only between 2.000 and 4.000 persons have achieved sustainable return.

Key obstacles to a sustainable return are the dire security situation, attacks on minority communities and returnees, constant pressures, as well as usurpation and arson of property - which go unpunished and without established accountability of the competent institutions. We therefore believe that the Committee should seek additional information from UNMIK in order to gain an insight into the situation in Kosovo and Metohija in accordance with its mandate. In that context, we particularly wish to recall the report by the rapporteur of the Parliamentary

Assembly of the Council of Europe, Dick Marty, which cited instances of inhuman and degrading treatment and forced disappearances perpetrated in the course of the organ trafficking operation.

After the Law on Asylum came into force in 2008, by the end of 2014, 30.710 persons requested asylum in the Republic of Serbia.

Beside accommodation, food and clothing, asylum seekers are given free legal assistance, psychosocial support and translators. Special care is given to unaccompanied underage asylum seekers, to whom the competent social care centers must assign guardians.

The changes and amendments to the Criminal Code introduced a new type of crime: “facilitating abuse of seeking asylum in a foreign state”. In order to reduce the number of false asylum seekers and preserve the current visa-free regime, this criminal offence envisages criminal responsibility of the organisers of the transportation of false asylum seekers and entails a prison sentence lasting between three months and eight years, depending on the seriousness of the criminal act.

Mister Chairman,

The Republic of Serbia has finalised cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) in relation to delivery of the accused persons in July 2011.

With regard to requests for assistance from the ICTY Prosecutor’s Office concerning the collection of documents needed to prepare the ICTY cases and releasing the witnesses from the obligation to keep the state, military or official secrets, Serbia approved all of the 2.160 requests submitted.

No request from ICTY Prosecutor’s Office or the accused’s defense to gain access to archives of the Republic of Serbia’s government bodies has been denied. To date, representatives of the ICTY Prosecutor’s Office have gained insight into the archives of the Republic of Serbia government bodies through over 50 requests for assistance.

Activities that will affect the future work of the Office of the War Crimes Prosecutor include: strengthening the capacities of the Office of the War Crimes Prosecutor; designing the Office's Strategy for Prosecution of War Crimes in the Republic of Serbia; specifying the criteria for the selection of war crime cases and creating a list of priority war crime cases; providing complete access to and research of the archives to the ICTY and the Mechanism for International Criminal Tribunals; cooperation of the Office of the War Crimes Prosecutor with the ICTY/Mechanism for International Criminal Tribunals in concrete cases in order to gain general and specific knowledge relating to concrete cases; establishing a system of trainings for persons involved in the war crime processes in the field of international humanitarian law and criminal investigation in line with the new Criminal Procedure Code.

Mister Chairman,

In conclusion, I wish to emphasise that the Republic of Serbia, being aware of the existing challenges, remains dedicated to the efforts to fulfill international obligations and standards, particularly in the area of protection from torture and other cruel, inhuman or degrading punishment or treatment, which entails active cooperation with international bodies working on these issues.

We view the today's dialogue with the Committee also as a part of that process. I am convinced that we will today discuss all issues that are of particular importance for the Committee. For us, this dialogue will be a useful experience in our efforts to continue promoting and strengthening the system of the human rights protection in the Republic of Serbia.

Thank you, Mister Chairman.