

72nd session of the Committee against Torture
Review of the Third Periodic Report of the Republic of Serbia
on the application of the Convention against Torture and Other Cruel, Inhuman
or Degrading Treatment or Punishment
Geneva, 23-24 November 2021

INTRODUCTORY PRESENTATION

OF GORDANA ČOMIĆ

MINISTER FOR HUMAN AND MINORITY RIGHTS
AND SOCIAL DIALOGUE

Geneva, 23 November 2021

Mr. Chairman,
Distinguished members of the Committee,
Ladies and gentlemen,

On behalf of the delegation of the Republic of Serbia, please allow me to express my satisfaction with the opportunity to present the third periodic report of the Republic of Serbia on the application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment today.

At the beginning, I would like to introduce the members of the official delegation of the Republic of Serbia, which consists of:

- Ambassador, **Dejan Zlatanović**, Permanent Mission of the Republic of Serbia to the United Nations Office and other international organizations in Geneva;
- **Mina Rolović Jokić**, State Secretary at the Ministry of Human and Minority Rights and Social Dialogue;
- **Aleksandra Rašković**, Chief of Staff to the Minister for Human and Minority Rights and Social Dialogue;
- **Ivana Joksimović**, Acting Assistant Minister for Human and Minority Rights and Social Dialogue - Sector for Human Rights;
- **Aleksandar Radosavljević**, Acting Assistant Minister for Human and Minority Rights and Social Dialogue - Sector for Social Dialogue;
- **Dejan Kovačević**, Deputy Police Director, Ministry of Interior;
- **Radmila Dragičević-Dičić**, Judge of the Supreme Court of Cassation;
- **Jasmina Kiurski**, Deputy Republic Public Prosecutor;
- **Svetlana Velimirović**, Deputy Commissioner for Refugees and Migration;
- **Aleksandra Stepanović**, Head of the Department for Exercising and Protecting the Rights of Persons Deprived of Liberty within the Administration for the Enforcement of Penal Sanctions, Ministry of Justice;
- **Milivoj Nedimović**, President of the Commission for the Implementation of Police Treatment Standards, Ministry of the Interior;

- **Vladan Lazović**, First Counsellor at the Permanent Mission of the Republic of Serbia to the United Nations Office and other international organizations in Geneva;
- **Vladimir Šoć**, Independent Advisor at the Ministry of Human and Minority Rights and Social Dialogue;
- **Vladimir Vukićević**, Human Rights Consultant at the Ministry of Justice;
- **Gorica Bekan**, Assistant Prosecutor at the Office of the War Crimes Prosecutor;

The Republic of Serbia is committed to strengthening a democratic society, which includes, above all, respect for human and minority rights.

According to the Constitution of the Republic of Serbia, generally accepted rules of international law and ratified international treaties form an integral part of the domestic legal order and are directly applicable. The Republic of Serbia is a member of eight basic international treaties in the field of human rights protection and supports the work of United Nations special procedures, which is confirmed by its open invitation to all thematic procedures from 11 October 2005 onward.

In the field of protecting and developing human and minority rights and fundamental freedoms, as well as promoting the rule of law, the Republic of Serbia actively cooperates with the Organization for Security and Cooperation in Europe and the Council of Europe. As a member of the OSCE, the Republic of Serbia is actively involved in the OSCE human dimension, whereby as a member of the Council of Europe, it has ratified a number of conventions in the field of human and minority rights, including the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

The Republic of Serbia has the status of candidate for membership in the European Union. As part of the comprehensive reform that is taking place in this context, special attention is being paid to promoting the rule of law and protecting human rights. The reform refers to changes in the legislative framework in the direction of adopting the best standards and achievements of modern society, but also to the areas of strengthening institutional capacities, media freedom and promotion of human rights in every segment of society.

Mr. Chairman,

I would particularly like to point out the fact that, although Kosovo and Metohija is an integral part of the territory of the Republic of Serbia, as a contracting state, the Republic of Serbia does not have the possibility to monitor the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in Kosovo and Metohija, given that, pursuant to United Nations Security Council Resolution 1244 (1999), the management of the Province is entirely entrusted to the United Nations Interim Administration Mission in Kosovo (UNMIK). That is the reason why the report in front of you doesn't include detailed information on the application of the Convention in this part of the Republic of Serbia's territory.

In this regard, I propose that the Committee invites UNMIK to provide information on the implementation of the Convention in Kosovo and Metohija and thus complete the Report of the Republic of Serbia as a contracting state. In this context, the Government of the Republic of Serbia is ready to provide all information in its possession and thus contribute to the work of the Committee in considering the application of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Mr. Chairman,

The Republic of Serbia fully applies the 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 of the United Nations, as they are implemented in domestic legislation as basic principles in the treatment of persons deprived of their liberty.

Effective judicial cooperation in criminal matters is one of the key challenges in efforts taken to prevent and combat criminal activities as effectively as possible. Quality mechanisms for combating these phenomena imply an effective normative and institutional framework. Strengthening the capacity of judicial bodies for law enforcement remains a priority for the Republic of Serbia.

I would like to highlight that the most significant issue within the reporting period was the amendment of the Criminal Code that came into force on 1 December 2019, according to which a prison sentence for the criminal offense of Ill-treatment and Torture under Article 137, paragraph 3 of the Criminal Code was increased to 2 to 10 years of imprisonment (previously 1 to 8 years), if the act was committed by an official in the performance of his/her duties.

This amendment enabled the mandatory conduct of investigations by prosecutors, while the earlier range of sentences provided for the conduct of investigative actions. This removed the Committee's earlier objections regarding the non-existence of an obligation to investigate such acts, thus increasing a prosecutor's obligation and effectiveness in acting.

Over the course of May this year, the Minister of Justice passed a decision establishing a Working Group for the analysis of the criminal justice system's effectiveness and drafting of the working text of the Law on Amendments to the Criminal Code. At a meeting held on 8 November 2021, members of the Working Group decided, among other things, that the provisions of Articles 136 (Extortion of Confession) and 137 (Ill-treatment and Torture) of the current Criminal Code shall be the subject of analysis and possible amendments in accordance with international legal standards.

In October 2019, the implementation of the Law on Free Legal Aid began, providing the right to free legal aid to persons who enjoy legal protection from torture, inhuman or degrading treatment or punishment or trafficking in human beings.

Over the course of July last year, the National Strategy on the Realisation of the Rights of Victims and Witnesses of Crime for the period 2020-2025 was adopted, providing for the creation of a national network of victim and witness support services during court proceedings. Its adoption was motivated by the need to plan and regulate reform processes aimed at improving the position of victims and witnesses in accordance with European Union standards in a comprehensive and systematic manner, taking into account the need to preserve and improve the achieved level of standards in the normative framework and its application.

Recognising previous efforts to improve the position of certain categories of victims through the adoption of special laws and strategic documents, the adoption of this Strategy is the result of a strategic commitment to provide all victims and witnesses of crimes with an adequate level of procedural rights and systematic, professional and available assistance and support, as well as a special level of protection for particularly vulnerable categories of victims.

The process of harmonising national legal systems with EU standards in the field of procedural guarantees is one of the biggest challenges not only for candidate countries, but also for Member States, having in mind the dynamics of changes and improvements of EU legislation in this area.

Principles of medical ethics relating to the role of medical staff in protecting prisoners from torture and other cruel, inhuman or degrading treatment or punishment are also incorporated into domestic law.

The Administration for the Enforcement of Penal Sanctions is obliged to register every possible case of torture and other cruel, inhuman or degrading treatment, to immediately establish facts, initiate disciplinary proceedings against an employee without delay and file a criminal complaint with the competent prosecutor's office if there are grounds for suspicion that there are elements of a criminal offense in the conduct of an employee.

The Proposal of the Development Strategy for Execution of Criminal Sanctions until 2027 has been prepared along with an accompanying Action Plan; their adoption is expected by the end of the year.

By analysing the implementation of the Development Strategy and Action Plan for Execution of Criminal Sanctions, as well as the Strategy for Reducing Overcrowding in Institutions for Enforcement of Criminal Sanctions until 2020, the Administration for the Enforcement of Penal Sanctions has determined that results have been achieved in the areas of human rights protection, health care, as well as in introducing new treatment and training programmes for persons deprived of liberty, increasing the number of employees and improving professional capacities.

Accommodation capacities in prisons have been increased from 10,300 to 11,450 places, whereby the current number of persons deprived of liberty is 10,410.

The adoption of the Rulebook on Amendments to the Rulebook on Internal Organisation and Systematisation of Work Positions within the Administration for the Enforcement of Penal Sanctions, which entered into force in May 2021, provided conditions for increasing the number of employees in all services within institutions.

The Administration for the Enforcement of Penal Sanctions, with the support of the Council of Europe and the OSCE Mission, has developed Guidelines on the Conduct of Employees in the Event of Allegations of Ill-Treatment and a Handbook for Prison Health Workers.

Successful preventive measures have protected a large number of persons deprived of liberty from COVID 19 infection, whereby the health care provided was of the same quality as in civil health clinics.

Since March 2021, the Administration for the Enforcement of Penal Sanctions has been conducting a survey of persons deprived of liberty who underwent voluntary vaccination; each and every applicant was vaccinated. Until 1 October 2021, 6,671 persons deprived of liberty were vaccinated.

In the reporting period, the Ministry of Interior issued several by-laws aimed at improving the position of persons subject to police powers (including the Methodology for conducting investigations into cases of ill-treatment by the police, the the Rulebook on police powers, the Rulebook on the manner and conditions of applying police powers towards minors, the Rulebook on conditions that must be met by detention facilities, Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings)

Through budget funds and project assistance provided by the Kingdom of Norway, material conditions within the Ministry of Interior were improved through the adaptation and construction of 81 detention rooms, with a capacity of 157 people within 24 police administrations.

According to the recommendations of the NPM, the procedure of equipping premises for interrogating persons with audio and video surveillance in all police administrations in the Republic of Serbia has begun .

The capacities of the Center for the Protection of Victims of Trafficking in Human Beings have been strengthened, while a shelter for urgent accommodation of women victims of trafficking in human beings has been opened.

In cooperation with the FRONTEX agency, the Ministry of Interior is actively working on combating irregular migration on the borders of the Republic of Serbia towards R. Bulgaria and R. N. Macedonia.

Mr. Chairman,

The Strategy for Preventing and Combating Gender-Based Violence against Women and Domestic Violence for the period 2021-2025 was adopted over the course of April 2021.

In relation to the submitted report, I would like to stress that the Strategy for Prevention and Protection of Children from Violence for 2020-2023 was adopted in May 2020, as was the accompanying AP for 2020 and 2021.

The Strategy for Improving the Position of Persons with Disabilities in RS for 2020-2024 was adopted in 2020. A two-year AP was adopted in 2021.

Furthermore, on 14. October 2021, the Government of the Republic of Serbia adopted a new National War Crimes Prosecution Strategy for the period 2021-2026 with an accompanying action plan.

Preparations have begun for work on the revision of the Prosecutorial Strategy for the Investigation and Prosecution of War Crimes.

In the period from 20 November 2018 to 1 November 2021, the Office of the War Crimes Prosecutor filed twenty (20) indictments against twenty-one (21) persons. Among the indictments are those related to high-ranking perpetrators and events with hundreds of victims.

The personnel capacities of the Office of the War Crimes Prosecutor have been strengthened in accordance with valid strategic documents. In relation to the reporting period, the Office of War Crimes Prosecutor has four new Deputy Prosecutors. Currently, the OWCP has twelve (12) deputy prosecutors.

Mr. Chairman,

With the outbreak of the Covid-19 virus in Serbia and the introduction of measures by the Government, there was a sharp increase in the number of accommodated persons due to restrictions on movement, which led to overcrowding within centres. The key challenge was to ensure a minimum of accommodation standards in the shortest possible time. Within a week, by engaging reserve capacities for accommodation, the population rate was brought to the level of 95%, while additional capacities were provided for a shorter stay in the form of tents in 4 centres. By engaging mobile sanitation facilities, standards regarding access to water and sanitation facilities were provided within the same deadline.

In order to prevent the spread of disease, the Commissariat for Refugees and Migration implements intensive preventive measures. Prescribed instructions intended for both employed persons and accommodated persons that are harmonised with the national algorithm for prevention and treatment in case of infection are being applied. The result of good cooperation and coordination is especially emphasized through the fact that during the emergency situation, no cases of COVID-19 infection was registered in any asylum or reception centre.

In order to prevent and protect accommodated persons from exploitation and abuse, in particular children and other vulnerable categories, the Commissariat for Refugees and Migration of the Republic of Serbia, with the support of UNICEF, developed a Review of measures to preserve the welfare of users, including a Risk Register to map possible risks of exploitation and abuse of beneficiaries, as well as a module that trained trainers can organise for all relevant stakeholders.

Mr. Chairman,

In conclusion, I would like to emphasise that the Republic of Serbia, aware of existing challenges, remains consistent in its efforts to meet international obligations and standards, especially in the area of protection from torture and other cruel, inhuman or degrading treatment or punishment, which includes active cooperation with international bodies dealing with these issues.

We also see today's dialogue with the Committee as part of that process. I am convinced that we will have the opportunity to consider all of the issues of particular interest to the Committee today. For us, the dialogue will present itself as a useful experience in our efforts to continue improving and strengthening the human rights protection system in the Republic of Serbia.

Thank you, Mr. Chairman.