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**Committee on the Elimination of Racial Discrimination****Concluding observations on the combined second to fifth periodic reports of Serbia\***

1. The Committee considered the combined second to fifth periodic reports of Serbia (CERD/C/SRB/2-5), submitted in one document, at its 2588<sup>th</sup> and 2589<sup>th</sup> meetings (CERD/C/SR.2588 and 2589), held on 21 and 22 November 2017. At its 2604<sup>th</sup> meeting (CERD/C/SR.2604), held on 1 December 2017, it adopted the present concluding observations.

**A. Introduction**

2. The Committee welcomes the submission, albeit delayed, of the combined second to fifth periodic reports of the State party. The Committee appreciates in particular the extensive statistics provided by the State party.

3. The Committee also expresses its appreciation for the open and constructive dialogue with the State party's delegation and wishes to thank the delegation for the information provided during the consideration of the report.

**B. Positive aspects**

4. The Committee welcomes the establishment in 2014 of the Council for Monitoring the Implementation of the Recommendations of the United Nations Mechanisms for Human Rights.

5. The Committee welcomes the State party's efforts to amend its policies, programmes and administrative measures to ensure better implementation of the Convention, including the development of the following strategies:

(a) Anti-Discrimination Strategy 2013-2018 and the accompanying Action Plan 2014-2018;

(b) National Strategy for Combating Violence and Hooliganism at Sports Events 2013-2018;

(c) National Strategy for Resolving the Problems of Refugees and Internally Displaced Persons 2015-2020;

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\* Adopted by the Committee at its ninety-fourth session (20 November – 8 December 2017).

- (d) Strategy for Social Inclusion of Roma for the period from 2016 to 2025;
  - (e) National Strategy for the Prosecution of War Crimes (2016); and
  - (f) National Judicial Reform Strategy 2013-2018.
6. The Committee also welcomes the ratification of, or accession to, the following instruments by the State party:
- (a) International Convention for the Protection of All Persons from Enforced Disappearances in May 2011; and
  - (b) 1961 Convention on the Reduction of Statelessness, in December 2011.
7. The Committee also notes the renewed attribution, in March 2015, of ‘A’ status to the national human rights institution, the Protector of Citizens (Ombudsman), by the Global Alliance on National Human Rights Institutions.
8. The Committee also welcomes the information provided by the State party about its efforts to cooperate with the International Criminal Tribunal for the Former Yugoslavia.

## **C. Concerns and recommendations**

### **Complaints to the national human rights institution**

9. The Committee notes the State party’s information that the Ombudsman received 153 complaints in 2014 concerning protection of national minorities, and has reviewed numerous complaints. However, the Committee is concerned by the insufficiency of information on complaints regarding racial discrimination submitted to the Ombudsman and on the outcome of their review (art. 2).

**10. The Committee requests that the State party provide in its next periodic report statistics and information on the nature and outcome of racial discrimination-related complaints submitted to the national human rights institution.**

### **Judiciary**

11. The Committee takes note of the State party’s recent efforts to improve the transparency and efficiency of the judiciary. However, observing that all individuals must enjoy effective protection and remedies through competent national courts and other State institutions against any acts of racial discrimination, and that the independence of the judiciary is essential in this respect, the Committee is concerned by reports that conditions required for judicial independence are not always present in the State party (arts. 2 and 5).

**12. The Committee encourages the State party to strengthen and guarantee the independence of the judiciary from political control and interference, so as to ensure proper administration of justice, in particular in cases related to racial discrimination, and to take into account General Recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system.**

### **Racist hate speech and incitement to racial hatred**

13. The Committee welcomes the State party’s information that hate speech is prohibited under several media laws adopted in 2014. However, the Committee is alarmed by reports of a rise in hate speech, including online, against ethnic and ethno-religious minorities; by the continuing incidence of racist speech and behaviour in the context of football events; and by reports that authorities have failed to timely intervene during such incidents. The Committee is concerned by indications that hate speech remains under-reported and by the absence of comprehensive statistics on investigations, prosecutions and convictions for acts of racist hate speech and incitement to racial hatred. While noting that

article 387 of the Criminal Code provides that hate speech is generally criminalised, the Committee is concerned that pursuant to article 344a of the Criminal Code, incitement to hatred at sporting events or public assemblies is criminalised only insofar as it leads to violence or physical conflict (arts. 2 and 4).

14. Referring to its general recommendations No. 7 (1985) relating to the implementation of article 4, No. 15 (1993) on article 4, and No. 35 (2013) on combating racist hate speech, the Committee requests that the State party provide in its next periodic report statistics, disaggregated by ethnicity of the victim, concerning investigations, prosecutions, convictions, sanctions and remedies for acts of racist hate speech and incitement to racial hatred. The Committee further recommends that the State party:

(a) Ensure that its laws criminalise incitement to racial hatred, whether or not it incites violence;

(b) Strengthen measures to ensure that racist hate speech, including in its written, spoken and online forms, is effectively identified, investigated and punished, in line with general recommendation No. 35 (2013) on combating racist hate speech;

(c) Take appropriate measures to combat the proliferation of acts and manifestations of racism on the internet, including by blocking websites devoted to inciting racial discrimination and hatred, and by requiring social media networks and other websites featuring online comments to monitor their sites for and promptly remove hate speech;

(d) Vigorously combat racist behaviour in sports, particularly in football, including by disseminating strong anti-racism messages at sporting events, and by promptly implementing the recommendations contained in paragraphs 56 and 57 of the 2017 report of the European Commission against Racism and Intolerance (ECRI) on Serbia;

(e) Increase efforts to inform and sensitise the public about racist hate speech and relevant complaint mechanisms; and

(f) Ensure that political leaders and educators actively promote inter-ethnic tolerance and understanding; and

(g) Ensure that persons convicted by the International Criminal Tribunal for the Former Yugoslavia are not promoted as heroes in any part of the country.

#### **Racist hate crimes**

15. The Committee welcomes the adoption of Article 54a of the Criminal Code as amended by the Law of Amendment to the Criminal Code (2012), introducing aggravating circumstances for offences motivated, inter alia, by hatred on the grounds of race, nationality or ethnicity. It also notes the State party's information that the Public Prosecutor's Office has requested application of this provision twice for hate crimes based on nationality. Although the Public Prosecutor keeps statistics on complaints made under article 317 of the Criminal Code in relation to offences of instigating, inter alia, racial hatred and intolerance, the information provided to the Committee is not entirely clear, cogent and meaningful to the Committee. (arts. 2, 4 and 6).

16. The Committee recommends that the State party pursue its efforts to enforce article 54a of the Criminal Code, notably by:

(a) Ensuring that all reported incidents, investigations, prosecutions, sanctions and remedies relating to racist hate crimes are recorded;

(b) Ensuring that sanctions commensurate with the gravity of racist hate crimes are imposed on perpetrators, and that victims obtain full redress; and

(c) Designating within law enforcement services contact persons for racist incidents, provide training to them on conducting investigations, and ensuring they engage in regular dialogue with targeted groups in order to ensure adequate reporting of racist hate crimes.

17. The Committee requests that the State party provide detailed statistics, disaggregated by ethnicity, on the number and nature of racist hate crimes reported, prosecutions and convictions, and redress provided to victims. The Committee also requests statistics on the number of such cases which are still pending at the Public Prosecutor's Office and before the courts.

#### **Trafficking in persons**

18. Noting that increased migration is often linked to human trafficking, the Committee welcomes the establishment in 2012 of the Centre for Human Trafficking Victims Protection, and notes the State party's information that in recent years, authorities have filed criminal charges against several hundred individuals for human trafficking. However, the Committee is concerned by the significant incidence of human trafficking in the State party (arts. 2 and 6).

19. The Committee requests the State party to provide in its next periodic report statistics, disaggregated by sex and national or ethnic origin of the victim, on the number of investigations and prosecutions carried out for human trafficking offences, and on the sanctions and remedies applied. The Committee also requests the State party to continue its efforts to prevent, combat and punish human trafficking, and to focus its efforts on members of ethnic minorities and non-citizens, who are particularly vulnerable to trafficking.

#### **Roma and education**

20. The Committee appreciates the State party's detailed statistics, disaggregated by ethnicity, on educational attainment, and notes with interest the delegation's statements concerning scholarships and other support provided to Roma students. The Committee is, however, deeply concerned that the percentage of Roma children enrolled in all levels of education is drastically lower than in the general population. The Committee is further concerned by segregated schools where most children are Roma, or where Roma are placed in Roma-only classes (arts. 2, 5 and 6).

21. In light of its previous recommendation (CERD/C/SRB/CO/1, para. 15), the Committee urges the State party to put an end to de facto public school segregation of Roma children and ensure access to quality education for Roma children, including through anti-racism and human rights training for school staff, awareness-raising efforts targeting parents, and increased employment of Roma teachers. The Committee also recommends that the State party take measures to avoid so-called "white flight" from schools where Roma are enrolled, including by developing effective mechanisms with a view to preventing further de facto segregation in schools. The Committee further recommends that the State party enshrine the desegregation of schooling in its national policies to ensure its sustainability, and provide adequate funding for its implementation, in line with Sustainable Development Goal 4.1 on ensuring that by 2030, all girls and boys complete free, equitable and quality primary and secondary education.

## Housing

22. While noting the State party's statement that the Law on Housing and Building Maintenance (2016) conforms to the highest international human rights standards, and taking note of the Strategy for Social Inclusion of Roma 2016-2025 and related Action Plan, the Committee is very concerned by reports that one-third of registered homeless persons in the State party are Roma, and that 60,000 Roma, Ashkali and Egyptians live in substandard living conditions in hundreds of informal settlements often lacking access to basic services, including drinking water and sanitation. The Committee is also concerned by reports that forced evictions from settlements continue to take place without consultation, due process of law or the possibility of alternative accommodation (arts. 2, 3, 5 and 6).

23. **Recalling its general recommendation No. 19 (1995) on racial segregation and apartheid and No. 27 (2000) on discrimination against Roma and in light of its previous recommendation (CERD/C/SRB/CO/1, para. 14), the Committee urges the State party to eliminate de facto residential segregation, and vigorously pursue efforts to develop social housing programmes for Roma. The Committee also urges the State party to:**

(a) **Ensure that if resettlement from informal settlements is necessary as a last resort, residents are consulted in advance and are provided with sufficient notice and adequate and appropriate alternative housing;**

(b) **Allocate and disburse sufficient funds to provide durable housing solutions for Roma, Ashkali and Egyptians, so as to contribute to their enjoyment of their right to an adequate standard of living; and**

(c) **Provide information in its next periodic report on measures taken to achieve these actions, and their results.**

## Legal aid

24. While noting with interest the information provided by the delegation and in the State party's report concerning legal aid, the Committee is concerned that the draft Law on Free Legal Aid has not been adopted, thus potentially impeding access to redress for acts of racial discrimination (arts. 2, 5, 6 and 7).

25. **The Committee recommends that the State party ensure that individuals with insufficient means to pay for legal representation have the legal right to free access to legal recourse for acts of racial discrimination. The Committee also recommends that the State party provide, free of charge, clear information to members of vulnerable groups, in a language they understand, concerning their rights under the Convention and complaint mechanisms for acts of racial discrimination.**

## Asylum seekers, migrants and refugees

26. The Committee notes the State party's information that asylum seekers have a right to accommodation, health care, free education, social assistance and translation services, and further notes the information provided during the dialogue on permanent and transit accommodation facilities. However, the Committee is concerned by reports that most asylum claims filed in the past two years have not been decided upon and that the safe third country principle was applied to the vast majority of asylum claims filed in 2016 (arts. 5 and 7).

27. **Referring to its general recommendation No. 30 (2004) on discrimination against non-citizens, the Committee recommends that the State party:**

(a) Pursue efforts to ensure that all non-citizens, including migrants and asylum seekers, enjoy their human rights and have access to adequate humanitarian services, including food, shelter and health services;

(b) Take urgent measures to ensure timely and fair processing of asylum claims, including by providing sufficient funding for relevant decision-making bodies, and to ensure consistent respect for the principle of non-refoulement;

(c) Ensure that all children, including migrant children, are enrolled in primary education, and implement inclusion programs in schools to provide the linguistic and other support migrant children need; and

(d) Provide in its next periodic report disaggregated statistics relating to the number and outcome of asylum claims filed.

## **D. Other recommendations**

### **Ratification of other instruments**

28. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The Committee also recommends that the State party ratify ILO Convention No. 189 concerning Domestic Workers.

### **Follow-up to the Durban Declaration and Programme of Action**

29. In the light of its general recommendation No. 33 (2009), the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (2001), taking into account the outcome document of the Durban Review Conference (April 2009), and that it report accordingly.

### **International Decade for People of African Descent**

30. In the light of General Assembly resolution 68/237, the Committee requests that the State party include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

### **Consultations with civil society**

31. The Committee recommends that the State party continue to consult and engage in dialogue with civil society organizations concerned with human rights protection, in particular those working to combat racial discrimination, in the preparation of the next periodic report and in follow-up to the present concluding observations.

### **Amendment to article 8 of the Convention**

32. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

**Common core document**

33. The Committee notes that the State party's common core document was submitted in 2010. The Committee invites the State party to update its core document in conformity with the harmonised guidelines on reporting under the international human rights treaties, in particular for reporting under international human rights treaties. (HRI/GEN/2/Rev.6, chap. I). It urges the State party to observe the limit of 42,400 words for such documents (General Assembly resolution 68/268).

**Follow-up to the present concluding observations**

34. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 16 and 17 above.

**Paragraphs of particular importance**

35. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 10, 19, 23 and 27 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement these.

**Dissemination of information**

36. The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

**Preparation of the next periodic report**

37. The Committee recommends that the State party submit its combined sixth to ninth periodic reports, as a single document, by 27 April 2020, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

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