



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Report on follow-up to the concluding observations of the Human Rights Committee\*

#### Addendum

### Evaluation of the information on follow-up to the concluding observations on Serbia

<i>Concluding observations (119th session):</i>	<a href="#">CCPR/C/SRB/CO/3</a> , 23 March 2017
<i>Follow-up paragraphs:</i>	15, 33 and 39
<i>Follow-up reply:</i>	<a href="#">CCPR/C/SRB/CO/3/Add.1</a> , 14 January 2019
<i>Information from non- governmental organizations:</i>	<a href="#">Border Violence Monitoring Network, NGO Praxis, A11 – Initiative for Economic and Social Rights</a>
<i>Committee's evaluation:</i>	Additional information required on paragraphs 15 [B][C], 33[C] and 39[C]

#### Paragraph 15: Roma exclusion

##### The State party should increase its efforts:

- (a) To promote non-discriminatory access to opportunities and services in all fields for members of the Roma community;
- (b) To facilitate and enable registration of children born to parents without identification documents and allow internally displaced Roma who live in informal settlements to register their place of residence and to acquire identification documents, including by reviewing the law on permanent and temporary residence;
- (c) To work with internally displaced Roma communities to develop durable solutions that are suitable to them, including their local integration into Serbian society;
- (d) To take all steps necessary to implement the strategy for the social inclusion of Roma.

##### Summary of State party's reply

Forthcoming amendments to the anti-discrimination law in Serbia will significantly improve the conditions of Roma.

On education, the number of pedagogical assistants will increase from 175 by another 50. The Roma Education Fund approved 500 scholarships for the 2017/18 school year.

\* Adopted by the Committee at its 130th session (12 October–6 November 2020).



Secondary schools included 1,969 Roma students during the 2017/18 school year. One of the results of scholarships for secondary school students was a decrease in the drop-out rate.

The World Bank Committee approved the implementation of the Inclusive Preschool Education project, a system designed to support children.

Regarding social welfare, the social protection system has developed two new services intended for families with children at risk of displacement: family associate, a socioeducational service of a regional type; and occasional fostering, already introduced into the system through existing legal solutions.

On housing, the geographic information system for substandard Roma settlements is now functional. The State party also referred to two projects by the Ministry of Finance and by the Commissariat for Refugees and Migration, starting in 2017, aimed at constructing houses.

On employment, a total of 3,644 Roma (37 percent of whom women) were employed during the period from 1 January to 31 October 2017.

Concerning health care, a call was issued in August 2017 for the hiring of 10 more health-care mediators to the existing 14. An analysis of the institutional framework of the work performed by health-care mediators was initiated through cooperation with the United Nations Children's Fund (UNICEF). The database is operational and the collection of data on the health status of Roma has been reconstructed and improved.

(b) The State party referred to the "Baby, welcome to the world" project, launched in 2016, which has simplified the birth registration procedure. It also referred to the closing conference of the European Support for Roma Inclusion project, held in 2017. Between September 2016 and December 2017, the Ministry of the Interior registered residences from part of the Belvil-Trasa settlement. The relevant social work centres provided personal documents for 411 persons, the majority living in informal settlements. In addition, a total of 148 personal identity cards were issued to Roma citizens between July 2016 and December 2017, through cooperation with the city administration of Pančevo. The Ministry of the Interior is processing requests by Roma in accordance with an accelerated procedure. Once parents are registered in official records, children are as well;

(c) During the 2016/17 school year, primary schools enrolled a total of 711 pupils. Secondary schools enrolled a total of 15 pupils, the monitoring of whom continued throughout the 2017/18 school year. The State party referred to the financial support received from the European Union in 2016 to provide free legal assistance to internally displaced persons in approximately 2,000 court proceedings, and also to increase the number of mobile teams for the social inclusion of Roma. It also referred to the programmes financed by the Office of the United Nations High Commissioner for Refugees (UNHCR) and by other donors, which provided housing for more than 3,600 refugees and internally displaced families. It also reported that funding totalling approximately RSD 300 million was envisaged for 2018 to improve the living conditions of internally displaced persons;

(d) An action plan for the implementation of the Strategy for the Social Inclusion of Roma for the period 2017–2018 was adopted in 2017. A database has been established for monitoring Roma inclusion measures at the local and national levels.

### **Information from non-governmental organizations**

#### *A11 – Initiative for Economic and Social Rights*

(a) Amendments to the anti-discrimination law are being considered by Parliament, but they do not contain any provision supporting the information provided by the State on Roma inclusion. On the contrary, the law, if adopted, will undermine the institutional position of the Commissioner for the Protection of Equality and have a negative effect on the protection of persons from most marginalized groups from discrimination. The State does not refer to the amendments to the Law on Financial Support to Families with Children or to those to the Law on Social Protection, both of which contain provisions that discriminate against the Roma community. Article 25 (1) of the Law on Financial Support introduced additional conditions for parental allowance, including the condition that children must be fully and timely vaccinated and that they must regularly attend elementary school and

obligatory preschool education. Such conditions disproportionately affect vulnerable Roma children. Article 37 of the draft law on the amendments to the Law on Social Protection attaches conditions to financial social assistance that are discriminatory against Roma children. The State party provided no information on the implementation of the new Law on Housing and Building Maintenance. The housing situation of internally displaced Roma, who mostly live in informal settlements and/or informal collective centres, has yet to be resolved. Despite the adoption of numerous strategic and policy measures, a large number of internally displaced persons still face problems in their access to basic human rights. This is particularly the case for internally displaced Roma.

#### *NGO Praxis*

(a) The organization referred to education, health care and social welfare. Violations of the right to education of and discrimination against Roma children are still widespread. Lower quality of education for Roma children, a continuous high rate of school drop-out and segregation in education are systemic problems. The organization also referred to the amendments to the Law on Financial Support to Families with Children, particularly articles 22 (8) and 25 (1). Article 22 (8) prescribes that a father may also be entitled to parental allowance if the mother of the child is a foreign citizen, except if the mother has no citizenship. This provision disproportionately affects mothers who are stateless or at risk of statelessness. Equal access for Roma to health-care services has not been ensured because of discrimination based on ethnicity, poverty and social exclusion;

(b) Some systemic obstacles still prevent birth registration. The organization referred to the provisions of two by-laws and to the “Baby, welcome to the world” project, established in 2016. The instructions provided by the project are not legally binding and its provisions contradict existing legally binding regulations. A survey conducted in 2017 by the organization showed that nothing had changed in practice.

#### **Committee’s evaluation**

[C]: (a), (b) and (c)

The Committee takes note of the information provided on education, social welfare, housing, employment and health care. It requests information on (i) the forthcoming amendments to the anti-discrimination law in Serbia and its impact on the Roma community; (ii) the amendments to the Law on Financial Support to Families with Children, particularly articles 22 (8) and 25 (1), and its impact on the Roma community; (iii) the draft amendments to the Law on Social Protection and its impact on the Roma community; (iv) the impact of the scholarships awarded by the Roma Education Fund and the number of scholarships awarded in 2018/19 and 2019/20; (v) the measures taken in the framework of the Inclusive Preschool Education project and its impact; (vi) the impact of the projects established by the Ministry of Finance and the Commissariat for Refugees and Migration; and (vii) the results of the analysis of the institutional framework of the work of health-care mediators initiated in cooperation with UNICEF.

The Committee also takes note of the information provided by the State party, but requires information on measures taken, since the adoption by the Committee of its concluding observations, to comply with the Committee’s recommendation. It requests information on (i) the “Baby, welcome to the world” project and its impact; (ii) the number of registrations by the Ministry of the Interior, since the adoption by the Committee of its concluding observations, of Roma citizens and of persons living in informal settlements; and (iii) the use of the accelerated procedure provided for by the Law on Citizenship of Serbia to introduce parents and children into official records.

The Committee further takes note of the information provided by the State party, but requires information on measures taken, since the adoption by the Committee of its concluding observations, to comply with the Committee’s recommendation. It requests information on (i) how the financial support of the European Union provided in 2016 was used to improve the situation of the Roma; (ii) the programmes financed by UNHCR funds and those of other donors to provide houses for refugees and internally displaced persons; and (iii) the funding

of RSD 300 million envisaged for 2018 to improve the living conditions of internally displaced persons.

[B]: (d)

The Committee welcomes the adoption of the action plan for the implementation of the Strategy for the Social Inclusion of Roma for the period 2017–2018. It requests updated information on its implementation and impact.

### **Paragraph 33: Refugees and asylum seekers**

**The State party should strictly respect its national and international obligations by:**

**(a) Ensuring that access to formal procedures for asylum applications is available at all border points, notably in international airports and transit zones, and that all persons engaging directly with refugees or migrants are appropriately trained;**

**(b) Ensuring that all asylum applications are assessed promptly on an individual basis with full respect for the principle of non-refoulement and that decisions of denial can be challenged through suspensive proceedings;**

**(c) Refraining from collective expulsion of aliens and ensuring an objective assessment of the level of protection when expelling aliens to “safe third countries”;**

**(d) Ensuring adequate conditions both inside and outside reception centres for all refugees and asylum seekers; and**

**(e) Ensuring that appropriate protocols are in place for identifying the age of unaccompanied minors and ensuring that they receive appropriate guardianship and treatment that takes into account the principle of the best interests of the child.**

### **Summary of State party’s reply**

(a) Foreign nationals may express the intention to seek asylum at airports and at all border crossings; once a certificate on the intent to seek asylum has been issued, they are referred to the relevant asylum centre. All officials working at the asylum office have completed relevant training;

(b) The principle of non-refoulement is respected regarding territories where the life or freedom of asylum seekers could be endangered;

(c) The principle of “safe third country” is applied on the basis of a list of safe third countries established by the Government, taking into account the circumstances of the specific case;

(d) 18 reception and permanent centres have a total capacity of 6,000 people, which may be increased by 10 per cent through the use of facilities intended for shorter stays. The State party provided information on the conditions of the centres, and reported that accommodation was provided without any form of discrimination. Accommodation capacities are being further improved to be compliant with European Asylum Support Office (EASO) standards. The Commissariat will introduce EASO tools for the identification of persons with development impairments, and will develop an implementation monitoring system with the support of the European Commission. The preliminary observations made by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in November 2017 did not indicate any violations of human rights regarding the living conditions in the accommodation of migrants and asylum seekers;

(e) No information was provided.

### **Information from non-governmental organizations**

#### *Border Violence Monitoring Network*

(a) The organization has recorded that 47.6 per cent of victims of pushbacks, refoulement or collective expulsions from Serbia since March 2019 had formally expressed their intention to request asylum;

Reports by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Belgrade Centre for Human Rights, the Asylum Protection Centre and the United States Department of State have demonstrated how the lack of capacity, resources and trained staff in the asylum office have resulted in delays and complications when persons have sought to request asylum. These reports also highlighted the legal gaps in and inconsistent enforcement of existing legislation.

The Belgrade Centre for Human Rights determined that authorities informally return irregular migrants without examining whether they are in need of international protection.

(b) and (c) Denial of applications for asylum cannot be challenged through suspensive proceedings. Moreover, due to the collective nature of expulsions, applications are often not assessed on an individual basis;

The State party should immediately ensure that the principle of non-refoulement is fully adhered to and halt the collective expulsion of aliens.

While acknowledging the new Asylum Act, research conducted by the Belgrade Centre for Human Rights has shown that the new legal measures were ineffectively applied and that 95 per cent of decisions made in 2019 on the principle of the safe third country were rendered in line with the former Asylum Act.

#### **Committee's evaluation**

[C]: (a), (b), (c), (d) and (e)

The Committee takes note of the information provided by the State party, but regrets the lack of information on measures taken, since the adoption by the Committee of its concluding observations, to comply with the Committee's recommendations. The Committee reiterates its recommendation.

The Committee regrets the lack of information on measures taken, since the adoption by the Committee of its recommendation, to ensure that all asylum applications are assessed promptly on an individual basis with full respect for the principle of non-refoulement and that decisions to deny asylum can be challenged through suspensive proceedings. It reiterates its recommendation.

The Committee regrets the lack of information on measures taken, since the adoption by the Committee of its recommendation, to refrain from the collective expulsion of aliens and to ensure an objective assessment of the level of protection when expelling aliens to "safe third countries". It reiterates its recommendation.

The Committee takes note of the information provided by the State party, but regrets the lack of specific information on measures taken since the adoption by the Committee of its concluding observations. It requests information on the measures taken with the support of the European Commission and information on when they were taken. It reiterates its recommendation.

The Committee regrets the lack of information on measures taken to ensure that appropriate protocols are in place to establish the age of unaccompanied minors, and that minors receive appropriate guardianship and treatment that takes into account the principle of the best interests of the child. It reiterates its recommendation.

#### **Paragraph 39: Freedom of expression**

**The State party should:**

**(a) Take immediate steps to provide effective protection to media workers from all forms of intimidation and ensure that all cases are duly investigated and perpetrators of those acts of intimidation prosecuted and appropriately sanctioned;**

**(b) Refrain from prosecuting journalists, human rights defenders and other members of civil society as a means of deterring or discouraging them from freely expressing their opinions;**

(c) **Take steps to ensure the transparency of media ownership and that private media outlets are free and independent, in conformity with the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression; and**

(d) **Review the application of the Public Assembly Act of 26 January 2016 so as to ensure its compatibility with the Covenant.**

#### **Summary of State party's reply**

(a) A Technical Assistance and Information Exchange (TAIEX) mission was organized in March 2017 with the aim of implementing an analysis of relevant provisions of the Criminal Code to better protect journalists. An agreement on cooperation and measures to strengthen the safety of journalists was signed in December 2016. The Public Prosecutor's Office appointed secondary and tertiary contact points for each appeal to a public prosecutor's office with the aim of increasing the effectiveness of cooperation. The State party submitted information on convictions made, charges laid and investigations carried out from 1 January 2016 to 25 December 2017;

(b) The public prosecution office is an independent State body that prosecutes perpetrators of criminal or other punishable acts. Any person, including journalists, human rights defenders or other members of civil society, committing a criminal or other punishable offence prescribed by law, and not in relation to their professional activities, is to be prosecuted and punished by law. There were no cases of public prosecutors initiating criminal prosecution against journalists regarding their professional work;

(c) The media laws adopted in 2014 have been fully harmonized with European and international standards. The Law on Public Information and the Media established the Media Register, into which data on legal and natural persons directly or indirectly having over 5 per cent share of the founding capital are entered, thus contributing to the prevention of the formation of a media monopoly. The Ministry of Culture and Information conducted a survey in 2017 with the aim of monitoring the implementation of the Law on Public Information and the Media;

(d) The Law on Public Assembly introduced changes providing for greater rights to organizers of public gatherings and exempting event organizers from reporting gatherings held in closed spaces, and religious or other traditional events, or instances of spontaneous assembly.

#### **Committee's evaluation**

[C]: (a), (b), (c), (d)

The Committee takes note of the information provided by the State party, but regrets the lack of specific information on measures taken since the adoption by the Committee of its concluding observations to implement the Committee's recommendation. The Committee requests information on (a) the number of investigations conducted, prosecutions concluded and sanctions issued since the adoption by the Committee of its concluding observations; (b) the reason for the small number of sanctions imposed in 2016 and 2017; (c) the agreement on cooperation and measures to strengthen safety of journalists, signed in December 2016, and its impact; and (d) the result of the analysis, conducted upon request by the Ministry of Justice in 2017, of relevant provisions of the Criminal Code to better protect journalists.

The Committee also takes note of the information provided, but regrets the lack of information on measures taken, since the adoption by the Committee of its recommendation, to refrain from prosecuting journalists, human rights defenders and other members of civil society as a means of deterring or discouraging them from freely expressing their opinions.

The Committee further takes note of the information provided by the State party, but regrets the lack of information on measures taken, since the adoption by the Committee of its concluding observations, to ensure the transparency of media ownership and that private media outlets are free and independent. The Committee requests information on the results of the survey conducted in 2017 by the Ministry of Culture and Information on the implementation of the Law on Public Information and the Media and measure taken thereon.

The Committee regrets the lack of detailed information on measures taken to review the application of the Public Assembly Act of 26 January 2016 so as to ensure its compatibility with the Covenant. It reiterates its recommendation.

**Recommended action:** A letter should be sent to the State party informing it of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

**Next periodic report due:** 29 March 2021.

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