

# **Serbia**

## **Mid-term Implementation Assessment**



**UPR-INFO.ORG**  
PROMOTING AND STRENGTHENING THE UNIVERSAL PERIODIC REVIEW



## Introduction

### 1. Purpose of the follow-up programme

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also more specifically to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC).

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are willing to follow and implement their commitments: civil society should monitor the implementation of the recommendations that States should implement.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be affected.

The methodology used by *UPR Info* to collect data and to calculate index is described at the end of this document.

Geneva, 21 November 2011

## Follow-up Outcomes

### 1. Sources and results

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All data are available at the following address:

<http://followup.upr-info.org/index/country/serbia>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports and the unedited comments as well can be found at that very internet address.

19 NGOs were contacted. Both the Permanent Mission to the UN in Geneva and the State were contacted. The domestic NHRI was contacted as well.

4 NGOs responded to our enquiry. The State under Review did not respond to our enquiry. The domestic NHRI did not respond to our enquiry either.

*IRI*: 32 recommendations are not implemented, 16 recommendations are partially implemented, and 12 recommendations are fully implemented. No answer was received for 19 out of 79 recommendations.

### 2. Index

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Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	International instruments	no response	no response
2	Migrants, International instruments, Treaty bodies, Torture and other CID treatment, Rights of the	no response	no response
3	Child,	page 6	not impl.
4	Minorities	page 6	partially impl.
5	NHRI	page 6	not impl.
6	Women's rights, Trafficking, Rights of the Child,	page 7	partially impl.
7	General	no response	no response
8	International instruments, Disabilities,	page 9	fully impl.
9	International instruments, Enforced disappearances,	page 9	fully impl.
10	Poverty, Minorities,	page 9	partially impl.



rec. n°	Issue	page	IRI
11	Minorities	page 10	fully impl.
12	Freedom of the press	page 10	not impl.
13	Justice, International instruments,	page 11	fully impl.
14	Freedom of the press	page 10	not impl.
15	Racial discrimination, Minorities,	page 11	not impl.
16	Sexual rights, Human rights defenders,	page 11	not impl.
17	Human rights defenders	page 12	not impl.
18	International instruments, Disabilities,	page 9	fully impl.
19	Minorities	page 12	partially impl.
20	Racial discrimination	page 13	not impl.
21	Impunity, Racial discrimination, Minorities,	page 11	not impl.
22	Women's rights, Rights of the Child,	page 13	not impl.
23	Minorities	page 13	not impl.
24	Justice	page 7	not impl.
25	Justice	page 14	partially impl.
26	Human rights defenders	page 12	not impl.
27	Torture and other CID treatment, Civil society,	page 15	not impl.
28	Torture and other CID treatment, International instruments,	no response	no response
29	Minorities	page 13	not impl.
30	Minorities	page 15	partially impl.
31	Rights of the Child, Right to education, Disabilities,	page 16	partially impl.
32	Justice	no response	no response
33	Justice, International instruments,	page 11	fully impl.
34	Human rights defenders	page 12	not impl.
35	Special procedures, Human rights defenders,	no response	no response
36	Women's rights	page 13	not impl.
37	Technical assistance, Minorities, Internally displaced persons,	page 16	partially impl.
38	Internally displaced persons, Asylum-seekers - refugees,	no response	no response
39	Rights of the Child, NHRI,	page 18	partially impl.
40	Other	page 13	not impl.
41	Freedom of the press	page 10	not impl.
42	Justice	page 18	partially impl.
43	Freedom of opinion and expression	page 19	not impl.
44	Human rights defenders	page 12	not impl.
45	Right to housing, Disabilities, Women's rights, Rights of the Child, Human rights education and	page 19	not impl.
46	training,	page 14	not impl.
47	Freedom of religion and belief	no response	no response
48	Treaty bodies, Racial discrimination,	no response	no response
49	Other	page 13	not impl.
50	Impunity, Justice,	page 14	partially impl.
51	Migrants, International instruments,	page 20	not impl.
52	International instruments, Disabilities,	page 20	fully impl.



rec. n°	Issue	page	IRI
53	National plan of action, Human rights defenders, Freedom of the press,	page 21	not impl.
54	Sexual rights	no response	no response
55	Justice	no response	no response
56	Special procedures, Human rights defenders,	no response	no response
57	Trafficking, Rights of the Child,	page 7	partially impl.
58	Corruption	page 21	not impl.
59	Rights of the Child, International instruments,	page 16	not impl.
60	Minorities	page 7	partially impl.
61	NHRI, Minorities,	no response	not impl.
62	Freedom of religion and belief	no response	no response
63	Human rights education and training	no response	no response
64	Women's rights, Treaty bodies, Torture and other CID treatment, Racial discrimination, CP rights - general,	page 12	no response
65	Other	no response	partially impl.
66	Minorities	no response	no response
67	Minorities	page 22	no response
68	Other	no response	fully impl.
69	Corruption	page 19	no response
70	Freedom of opinion and expression	page 12	not impl.
71	Human rights defenders	page 14	not impl.
72	Justice	page 11	partially impl.
73	Justice, International instruments,	page 16	fully impl.
74	Minorities	page 11	partially impl.
75	Justice, International instruments,	no response	fully impl.
76	Human rights defenders, Freedom of opinion and expression,	page 21	not impl.
77	General	page 11	no response
78	Justice, International instruments,	page 22	fully impl.
79	Freedom of the press	no response	fully impl.

### 3. Feedbacks on recommendations

Recommendation n<sup>3</sup>: *Prohibit corporal punishment, including in the family, in line with the recent recommendation of the Committee on the Rights of the Child.* (Recommended by Austria)

IRI: *not implemented*

Helsinki Committee for Human Rights in Serbia (HCHRS) response:

Numerous educational institutions as well as other organizations are implementing a wealth of projects and programs, the work of competent institutions and services which are supposed to be systematically engaged on preventing violence among children is not coordinated. In late 2008, Serbia's Government has adopted the National Strategy for the Prevention and Protection of Children against Violence, whereas the Action Plan for the implementation of the Strategy was adopted in June 2010. The aim of the strategy is to develop a safe environment so as to realize the right of each child to be protected against all forms of violence and to establish a national system of prevention and protection of children against abuse, neglect and exploitation. Corporal punishment as a measure of disciplining children is widespread across Serbia; given that 73% of children aged 2 to 14 have been subject to at least one form of psychological or corporal punishment by their parents or other members of the family. The Strategy states that children are reluctant to speak to their parents and appropriate services because they feel that the police, social care centers and schools are not adjusted to their needs.

Recommendation n<sup>4</sup>: *Strengthen measures to ensure registration of all Roma in Serbia.* (Recommended by Austria)

IRI: *partially implemented*

HCHRS response:

Serbia presided over the Decade of Roma Inclusion initiative from July 2008 until the end of June 2009 and during this period the Government adopted the Strategy for Improving the Roma Status. The Strategy covers thirteen areas, three of which are considered priorities - education, housing, employment and health. All operative documents form part of the Action Plan for Strategy Implementation for the Period 2009-2011. However, insufficient funds were allocated for the Action Plan. The Committee for Improving the Roma Status and Implementing the Decade of Roma Inclusion was also constituted in March 2008. However, the Committee has yet to release a report or statement, and it has not frequently met.

Recommendation n<sup>5</sup>: *Extend the monitoring authorities of the Office of the Ombudsman to Government and the Public Prosecutor's Office to ensure the possibility of redressing human rights violations.* (Recommended by Azerbaijan)

IRI: *not implemented*

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Recommendation n°24: *Enhance the efficiency of the judiciary and secure access to concrete remedies for victims of human rights violations.* (Recommended by Czech Republic)

IRI: *not implemented*

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Recommendation n°61: *Take all necessary measures to enhance the effectiveness of the Office of the Ombudsman and include, inter alia, effective monitoring and promotion of the rights of persons belonging to national minorities.* (Recommended by Romania)

IRI: *not implemented*

HCHRS response:

The Protector of Citizens cannot act upon citizens' complaints and grievances against the actions of the Serbian Government, courts, prosecutor's offices, President of the Republic, National Assembly and Constitutional Court. In its annual report for 2010, the Office of the Protector of Citizens has stated that there is a great discrepancy between the constitutional and other legal solutions and practice. The more careful scrutiny of the report shows that there are still problems relating to the realization of civil rights (from media freedom to the position of national minorities and marginalized groups). According to the annual report of the Protector of Citizens, the judiciary (the issues relating to the right to a fair trial and judicial reform). There are also shortcomings in the protection of citizens' privacy, media freedom, social and economic rights, national minority rights and the like.

Recommendation n°6: *Take effective measures to combat trafficking in women and children in cooperation with countries in the trafficking network.* (Recommended by Bangladesh)

IRI: *partially implemented*

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Recommendation n°57: *Implement a comprehensive national strategy to prevent trafficking and sexual exploitation of children.* (Recommended by Poland)

IRI: *partially implemented*

ASTRA response:

**General recommendations**

- Revise the Strategy to Combat Trafficking in Human Beings in the Republic of Serbia in a participative and transparent process in such a way as to specify timeframe of the validity of the Strategy, to dedicate one section to the protection and programs for the victims of child trafficking and specify in detail the responsibility of all antitrafficking actors.
- Based on the revised Strategy to Combat Trafficking in Human Beings in the Republic of Serbia, adopt regular annual national action plans in this area and develop mechanism for the monitoring and evaluation of their implementation.
- Establish the institute of the National Rapporteur on human trafficking.
- Plan and allocate a budgetary line in the budget of the Republic of Serbia for the protection of victims, the prosecution of perpetrators and the prevention of human trafficking.



- Ratify International Convention on the Protection of Rights of All Migrant Workers and the Members of Their Families.

### **Legislation**

- Pass as soon as possible legislative measures that would regulate the issue of shelter for trafficking victims, in particular with regard to the accommodation of children – victims who are foreign nationals.
- Amend Article 388 of the Criminal Code of Serbia in order to explicitly provide that the consent of a trafficking victim to the exploitation, actual or intended, shall be of no relevance where any of the means specified in this Article has been used.
- In Article 388 CCS it should be stressed that victim's acceptance to exploitation is irrelevant to criminalizing the offence aggravated by client's responsibility as is clearly stated about other forms of the offence (in case of the basic form envisaged by par. 1, or when the offence has been committed against a juvenile, by a person who is involved in human trafficking or by a group of several persons or organized criminal group).

[...]

- Adopt legislative measures that would prevent traffickers to use the services of commercial carriers for transporting trafficking victims.
- Article 388 CCS (trafficking in human beings) should be amended so that to prescribe the acts of concealing, damaging or destroying another person's identity documents as constituent elements of the human trafficking offence.

[...]

- Article 389 CCS should provide protection to all juveniles, in accordance with the standards set out in the UN Convention on the Rights of the Child, which defines a child as any person younger than 18 years of age.

[...]

- Amend Article 184 CCS - Mediation in conducting prostitution in Paragraph 2 which address the issue of facilitating prostitution of juveniles so that all underage persons found in prostitution could be treated and assisted as trafficking victims since voluntary prostitution of children does not exist.
- Consider the possibility to enable by a legal act the approval of residence to trafficking victims out of humanitarian (which is possible only pursuant to a bylaw, i.e. the Instruction for the Enforcement of the Law on Aliens) and charity reasons.
- Amend the Law on Employment and on Unemployment Insurance in order to ensure the adoption and implementation of affirmative action measures that would enable trafficking victims easier access to the labor market.

[...]

### **Protection of Trafficking Victims**

- Define indicators for the identification of children and adult victims in all phases of human trafficking and design new methods that would facilitate self-identification of (potential) victims.
- Adopt a document on minimum standards in the provision of assistance to trafficking victims in all phases of assistance provision and on procedures for the operation of relevant actors that would be based on the principles of respect for victim's will, her/ his best interest and non-discrimination. Based on those standards





and procedures, all anti-trafficking actors should sign a memorandum of understanding.

- Consider the transformation and reorganization of the Agency for Coordination of Protection of Trafficking Victims and examine the need for restoration of the Mobile Team with an aim to improve its work and provide more adequate response to victims' needs.
- Develop and establish special programs for child trafficking victims that will include of phases of care, from identification to reintegration and that would be based on UNICEF Guidelines for Protection of the Rights of Children Victims Trafficking In Southeastern Europe and empower professionals to apply these measures and new legislation in the field of the rights of the child.

[...]

- Design a procedure for regulating personal documents for domestic nationals in cases when they do not have permanent residence, with full respect of privacy and protection of victim's identity.

- Amend the existing Law on the Protection Program for Persons Participating in the Criminal Proceedings, adopt appropriate measures aimed at protecting the integrity of trafficking victims and train members of the Witness Protection Unit for work with trafficking victims.

[...]

Recommendation n°8: *Consider ratifying the Convention on the Rights of Persons with Disabilities.* (Recommended by *Brazil*)

IRI: *fully implemented*

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Recommendation n°18: *Consider ratifying the Convention on the Rights of Persons with Disabilities as soon as possible.* (Recommended by *Chile*)

IRI: *fully implemented*

MDRI- Mental Disability Rights Initiative of Serbia response:

The recommendations have been fully implemented. Republic of Serbia ratified the UN Convention on the Rights of Persons with Disabilities together with the Optional Protocol on 31 July 2009 [...].

HCHRS response:

[...] Serbia signed the Declaration on 27th December 2007 and ratified it on 31st July 2009.

Recommendation n°9: *Consider ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.* (Recommended by *Brazil*)

IRI: *fully implemented*

HCHRS response:

[...] Serbia ratified the Convention on 18th May 2011.

Recommendation n°10: *Consider poverty reduction strategies that benefit minority groups.* (Recommended by *Brazil*)

IRI: *partially implemented*



HCHRS response:

Last year, Osman Balic, Coordinator of the Roma Decade League, stated that the crisis hit the most vulnerable first and those were Roma. Of the total number of working-age Roma, only 20 per cent are employed and more than 60 per cent of Roma families live below the poverty line. There are some strategies aimed to reduce poverty among Roma specifically but not for other minorities.

Recommendation n°11: *Adopt specific and comprehensive anti-discrimination laws to protect the rights of persons belonging to minorities, including the Roma, including access to health care and education.* (Recommended by Canada)

IRI: *fully implemented*

HCHRS response:

In Serbia, the Anti-Discrimination Law was adopted in 2009, while the first commissioner for the protection of equality was elected in 2010. There were several reasons that influenced the adoption of this law, including the fact that discrimination in Serbia established itself as nonproblematic behaviour, both among individuals and in the media, public institutions and the legislative branch of power.

Recommendation n°12: *Create a climate in which journalists are able to report on sensitive issues without fear or harassment and reprisal.* (Recommended by Canada)

IRI: *not implemented*

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Recommendation n°14: *Adopt necessary measures to secure full respect for freedom of the media.* (Recommended by Canada)

IRI: *not implemented*

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Recommendation n°41: *Ensure investigation of all cases of alleged violence against journalists.* (Recommended by Ireland)

IRI: *not implemented*

HCHRS response:

2010 was the most difficult year in the decade in terms of the material situation, number of court decisions brought against journalists, physical and verbal threats, as well as pressure from politicians and business leaders on their editorial policies. In fear of losing their jobs, journalists are increasingly resorting to self-censorship. According to the October 2010 press freedom report by the Reporters Without Borders (RSF), Serbia fell 23 places during the previous 12 months and now ranks 85th on the list of 178 countries. The media study, a document that should provide a basis for the adoption of the strategy, seems misplaced, while the Ministry of Culture keeps extending the deadlines. The fact that last year several journalists had to be under direct police protection speaks enough about their position and endangerment, as well as about the insufficient resoluteness of the authorities to thwart such practice that journalists are increasingly threatened, while the perpetrators are not punished.

Recommendation n°13: *Track down and arrest the key remaining fugitives accused of war crimes by the Tribunal, namely, former Bosnian Serb General Ratko Mladic and former Croatian Serb political leader Goran Hadzic.* (Recommended by Canada)

IRI: *fully implemented*

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Recommendation n°33: *Continue to make every effort to ensure full cooperation with the International Criminal Tribunal for the Former Yugoslavia.* (Recommended by France)

IRI: *fully implemented*

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Recommendation n°73: *Track down and arrest the key remaining fugitives accused of war crimes by the Tribunal.* (Recommended by Switzerland)

IRI: *fully implemented*

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Recommendation n°75: *Continue to make every effort to ensure full cooperation with the International Criminal Tribunal for the Former Yugoslavia.* (Recommended by Switzerland)

IRI: *fully implemented*

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Recommendation n°78: *Fulfil its obligations to the International Criminal Tribunal for the Former Yugoslavia and other related bodies.* (Recommended by United Kingdom)

IRI: *fully implemented*

HCHRS response:

Mladic and Hadzic have been arrested this year and quickly transported to ICTY.

Recommendation n°15: *Ensure that racially motivated attacks committed against minorities are systematically investigated, prosecuted and punished according to law.* (Recommended by Canada)

IRI: *not implemented*

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Recommendation n°21: *Combat the climate of impunity and ensure that racially motivated attacks committed against minorities are systematically investigated, prosecuted and punished according to law* (Recommended by Croatia)

IRI: *not implemented*

HCHRS response:

Attacks on the members of minority groups (whether racial or other) usually become big media event after which police, prosecutors and politicians jump at the opportunity to condemn these attacks promising full investigations. However, these investigations are rarely completed or last for a long time and if arrests were made, the perpetrators are rarely punished and more often than not are released.

Recommendation n°16: *Develop and implement a comprehensive strategy to protect human rights defenders, including those working on behalf of the rights of lesbian, gay, bisexual and transgender persons and ensure the effective investigation of alleged attacks against human rights defenders.* (Recommended by Canada)

IRI: *not implemented*

HCHRS response:

A considerable number of political parties look at the non-governmental sector with a covert or clearly expressed suspicion, as if they are a necessary evil, or even their competitor on the political market. The media very often put forward the requests through the statements of "Serbian patriots" that non-patriotic NGOs should not be financed any more. They go so far that they not only ask for their prohibition, since because "human rights are only an excuse for acting in favour of Albanian, Bosniak Muslim and Croatian extremists and their American mentors", but also suggest that those NGOs (Fund for Humanitarian Law and Helsinki Committee for Human Rights in Serbia) should be held responsible for "high treason". Attacks on the human rights defenders are usually treated the same as the attacks on minority groups. (See recommendation n°15.)

Recommendation n°17: *Promote the work of human rights defenders.*  
(Recommended by *Canada*)

IRI: *not implemented*

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Recommendation n°26: *Take all necessary measures to ensure the safety of human rights defenders.* (Recommended by *Czech Republic*)

IRI: *not implemented*

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Recommendation n°34: *Take all necessary measures to ensure the safety of human rights defenders and ensure that they have a favourable working environment.*  
(Recommended by *France*)

IRI: *not implemented*

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Recommendation n°44: *Ensure the effective investigation of alleged attacks against human rights defenders.* (Recommended by *Ireland*)

IRI: *not implemented*

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Recommendation n°71: *Promote the work of human rights defenders.*  
(Recommended by *Sweden*)

IRI: *not implemented*

HCHRS response:

See recommendation n°16

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The current authorities work on the marginalization of NGOs [...] accusing them of destabilizing society and hindering the implementation of government policy.

Recommendation n°19: *Adopt all necessary measures so that minorities can effectively enjoy all their rights.* (Recommended by *Chile*)

IRI: *partially implemented*

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Recommendation n°65: *Begin the implementation of specific and comprehensive anti-discrimination laws.* (Recommended by *Slovakia*)

IRI: *partially implemented*



HCHRS response:

See recommendation n°11

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However the Anti-Discrimination Law is not entirely enforced and discrimination is still rampant in Serbia. The best example is the ban on the Pride Parade only two days before it was supposed to happen this year.

Recommendation n°20: *Combat, within the framework of the law of the State, neo-Nazi groups and others promoting racial hatred and violence.* (Recommended by Chile)

IRI: *not implemented*

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Recommendation n°23: *Continue current positive steps to promote equality and non-discrimination in the national minorities in the country.* (Recommended by Cuba)

IRI: *not implemented*

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Recommendation n°29: *Adopt specific and comprehensive anti-discrimination laws to protect the rights of persons belonging to minorities, including the Roma, including access to health care and education.* (Recommended by Finland)

IRI: *not implemented*

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Recommendation n°40: *Adopt specific and comprehensive anti-discrimination laws.* (Recommended by Hungary)

IRI: *not implemented*

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Recommendation n°49: *Adopt specific and comprehensive anti-discrimination laws.* (Recommended by Mexico)

IRI: *not implemented*

HCHRS response:

See recommendations n°11 and n°19

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In 2009 the state prosecutor submitted to the Constitutional Court a request to ban several right-wing organisations and football supporter groups. However of around 20 groups included in the request only Nacionalni Stroj was banned. This organisation is the most Nazi oriented organization in Serbia. As for the law, members of these organisations that have not been banned are still committing hate crimes without consequence and are openly engaging in hate speech and calls for violence (again, the example of the Pride Parade 2011).

Recommendation n°22: *Continue its positive efforts to promote and protect children rights and to attain full empowerment of women.* (Recommended by Cuba)

IRI: *not implemented*

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Recommendation n°36: *Increase its efforts at enhancing the role of women in high-level decision-making.* (Recommended by Ghana)

IRI: *not implemented*



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Recommendation n°46: *Take all appropriate measures, in the fields of legislation, implementation and awareness-raising, to tackle domestic violence against women and children. (Recommended by Italy)*

IRI: *not implemented*

HCHRS response:

See recommendation n°3

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Serbia has the main mechanisms for the observance of gender equality, but the opinion prevails that it does not do enough to ensure their implementation. In March 2011, the Report on the Implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women in Serbia was presented. In the Report, it is emphasized that in Serbia "the stereotypes about the traditional role of women in society are still present". The non-governmental organizations, such as the Women in Black, Autonomous Women's Center, Women at Work and others, point to a high femicide rate in Serbia, the non-observance of women's labour rights, as well as poor media reporting. The observance of the rule on women's participation in executive positions is also evidenced by the scandal accompanying this year's visit of the Serbian parliamentary delegation to Strasbourg. According to the Gender Equality Law, adopted in the Republic of Serbia in December 2009, "When selecting or appointing the delegations to represent the Republic of Serbia, the composition of the delegations shall include at least 30 per cent of persons of under-represented gender, in conformity with international standards" (Article 38, Participation in International Cooperation). Commissioner for Equality Nevena Petrusic said that "in accordance with the domestic law, and its observance is a priority, the seven-member delegation should have at least two women. In their commentaries, the politicians announced that one women would also be included in the domestic delegation until the next session of the CE Parliamentary Assembly, Nevena Petrusic pointed out that the CE standards would be met, but that the domestic law would be violated. As a form of gender-based violence, domestic violence mostly affects women. The problem here is the non-implementation of the provisions of the Family Law.

Recommendation n°25: *Strengthen the rule of law as enshrined in the Constitution, and ensure the independence of the judiciary. (Recommended by Czech Republic)*

IRI: *partially implemented*

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Recommendation n°50: *Strengthen measures for the development of effective mechanisms to help combat impunity, including strengthening of the judiciary. (Recommended by Mexico)*

IRI: *partially implemented*

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Recommendation n°72: *Continue to develop a legal system in line with international standards, in order to strengthen the rule of law. (Recommended by Switzerland)*

IRI: *partially implemented*



HCHRS response:

The judicial reform that was done in 2010 and 2011 was lacking in several different ways and has provoked huge controversy in Serbia. Both the judges and the prosecutors were unhappy with how it was carried out and the fact that a lot of them were not re-elected to their positions. EU agreed with them and strongly suggested that the entire re-election process should be reviewed. After postponing it for as long as possible, this process started in summer of 2011.

Recommendation n°27: *Designate an independent national preventive mechanism in consultation with civil society, take all required measures to effectively prevent torture.* (Recommended by Denmark)

IRI: *not implemented*

Mental Disability Rights Initiative of Serbia (MDRIS) response:

The recommendation has been partially implemented. By ratification of the Optional Protocol to the Convention Against Torture, Serbia was in obligation to designate the national preventive mechanism (NIP) by September 2007 at the latest. It took until 28 July 2011 that the amendment to the Law on ratification of the Optional Protocol to the Convention against Torture is adopted, which designated the Ombudsman as body that is in charge of implementing tasks of the national preventive mechanism. In implementing tasks, the Ombudsman will cooperate with the ombudsmen of autonomous provinces and associations whose statute envisaged goal of association is enhancement and protection of human rights and freedoms, in accordance with law.

Decisions regarding the operative issues including funding of NIP are yet to be made, which will be a determinative factor to the actual scope of the work of the NIP and, consequently a determinative factor of its potential to monitor effectively and prevent practices of ill-treatment. As for the civil society's role in monitoring, in early 2010 the human rights organizations requesting permission for independent monitoring visits to residential institutions for persons with disabilities were effectively denied the access. After persistent advocacy on behalf of civil society, in June 2011 authorities have allowed independent human rights monitoring of institutional care.

HCHRS response:

See recommendations n°16 and n°17

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The police torture is still present in Serbia. This is reflected in the fact that when members of civil society visit prisons majority of the prisoners claim that they have been beaten by the police. The only cases which are acted upon are those that come to the attention of media which is a very small minority, therefore most policemen do not suffer any consequences for their treatment of prisoners.

Recommendation n°30: *Effectively integrate the Roma into society.* (Recommended by Finland)

IRI: *partially implemented*

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Recommendation n°37: *Strengthen the role of its national mechanisms for the promotion and protection of the rights of minorities, refugees and internally displaced persons, with appropriate assistance from the international community.* (Recommended by Ghana)

IRI: *partially implemented*

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Recommendation n°60: *Continue to improve the socio-economic situation of the Roma minority.* (Recommended by Poland)

IRI: *partially implemented*

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Recommendation n°74: *Intensify efforts to ensure better integration of minorities.* (Recommended by Switzerland)

IRI: *partially implemented*

HCHRS response:

See recommendations n°4, n°10, n°11, n°19 and n°20.

Recommendation n°31: *Take concrete measures to address the high rate of unemployment among persons with disabilities and the special needs of children with disabilities at schools.* (Recommended by Finland)

IRI: *partially implemented*

Mental Disability Rights Initiative of Serbia (MDRI) response:

The recommendation has been partially implemented. In employment sector, the new lex specialis was adopted - Law on the Professional Rehabilitation and Employment of Persons with Disabilities and came into force in 2010. The law introduces mandatory employment quotas for employing persons with disabilities for both private and public employers, commensurate with the total number of employees. It proscribes the right to professional rehabilitation and introduces special forms of employment for those persons who cannot be hired in the open market.

However, while the law (with accompanying rulebooks) indicated goodwill of the government to address the high unemployment rate among persons with disabilities, it failed to adequately address the issue of equal employment opportunities of persons with different types of disabilities. Persons with mental or intellectual disabilities who frequently have their legal capacity stripped away by a court order still find themselves unable to work in the open market regardless of their skills or employers' preferences. Instead of work opportunity, the law offers only one solution for this population - professional rehabilitation in sheltered workshops. Furthermore, by introducing a procedure of evaluation of working capacity, the lawmaker (perhaps unintentionally), further limits opportunities of persons with disabilities. Through this procedure, the commission headed by a medical expert assesses the work skills of a person and suggests to the national employment service issuing of a binding opinion on the conditions under which a person may be employed.

The practice of employment of persons with disabilities shows a variety of drawbacks of the law which is intended to improve the position of persons with disabilities in labor market. There have been comments arising from different actors that





employers are frequently more prone to paying penalties for failing to employ legally required number of persons with disabilities; that the positive measures prescribed by the state (such as evaluation of work capacity) are in reality placing many persons in a more disadvantaged position when compared to the status quo, and that besides already existing legal obstacles for hiring persons with mental and intellectual disabilities (legal capacity deprivation), the law further marginalizes this population by mandating sheltered environments for their rehabilitation.

In education sector the Law on the Basis of the Educational System was adopted and came into force in 2010 with specific provisions mandating enrollment of children in schools and prohibiting discrimination of any kind and with a specific reference to disability. Furthermore, the law (with accompanying rulebooks) specifies individual measures a child may receive, development of individual educational plans and work and composition of the intersectoral commissions for assessment of need for additional support. It focuses on a child and devotes a significant role in development of educational plans to a parent. The practice however falls short of the inclusiveness as prescribed by the law. It may well be argued that the government did not employ sufficient practical measures to address the educational needs of children with disabilities. A manual was published for schools on inclusive education and members of all 160 intersectoral commissions were trained. Only five staff from each primary educational institution were trained on the new legal obligations and it is frequently heard and seen that professional staff in schools do not have adequate skills or willingness to teach children with disabilities. Educational measures also lack in relation to the general population given that the inclusive education is frequently portrayed within a negative context in media. But, the crucial problem as seen by particular civil society actors is the lack of control that the government employs in implementing the law. Schools have wide discretion on following the provisions, while no mechanism of monitoring the implementation is put in place and no sanctions for non-compliance are employed - despite them being legally defined.

HCHRS response:

In 2009, Serbia adopted the Law on the Foundations of the Education System which enables children with developmental handicaps to participate in the regular education system. Despite the declarative policy of the Ministry of Education on the implementation of inclusive education, as well as a number of measures taken to implement the Law, resistance to implementing the Law is strongest among teachers themselves. Surveys have shown that 85% of children with developmental difficulties are not included in the education system.

The National Employment Service has announced that 5,290 persons with disabilities have been employed in the last year and a half. This figure is encouraging given that before the entry into force of the Law on Professional Rehabilitation and Employment of Persons with Disabilities the corresponding figure had been 200-250 a year. However there are still 20-25.000 people with disabilities looking for work. Considerable interest among companies in employing persons with disabilities was registered in June 2010, following the start of implementation of Articles 24 and 29 of the Law. Under these articles, an employer is under an obligation to employ persons with disabilities or he or she will have to pay a fine for each such person not



employed in accordance with a quota stipulated by the Law. Nevertheless, numerous problems and, above all, lack of properly trained persons with disabilities, have forced many employers to opt for paying fines. It should be borne in mind that government institutions themselves have not set an example for other employers to follow suit as far as employment of persons with disabilities is concerned.

**Recommendation n°39:** *Take all necessary measures to enhance the effectiveness of the Office of the Ombudsman and include, inter alia, effective monitoring and promotion of child rights.* (Recommended by Greece)

IRI: *partially implemented*

MDRI response:

The recommendation has been implemented. Department for the rights of the child in the Ombudsman's Office has the basic prerequisites for its work - the Deputy Ombudsman for the rights of the child, minimum number of experts, offices and material resources, including requested budget. This allows fulfilling Ombudsman's duty according to the Law - to investigate cases, analyze current legal framework and initiate legal changes. Ombudsman's expert group has also recently finalized the Draft Law on the Rights of the Child, a comprehensive child act, which will be submitted to the Parliament in 2012, after wide public debate. However, with the existing number of experts it is hard to accomplish promotional activities (which are extremely important part of Ombudsman's work in the child rights area) and monitoring activities. For those activities, which include reaching the children as much as possible (especially children belonging to vulnerable groups), visiting children facilities (schools, residential institutions, penitentiary institutions, drop-in centres and shelters, etc), monitoring visits, researches etc., more employees are needed. Consequently, the budget will be increased.

Public authorities comply with Ombudsman's recommendations in the field of child rights in most of the cases. However, respective authorized bodies failed to consider Ombudsman's amendments on two occasions and amendments to laws in the area of social protection and education remained unconsidered. It is of extreme importance that all Ombudsman's legal proposals and opinions are given due weight and importance and are fully considered by respective parliamentary or governmental bodies.

HCHRS response:

See recommendations n°3 and n°5.

**Recommendation n°42:** *Strengthen the rule of law as enshrined in the Constitution, and ensure the independence of the judiciary.* (Recommended by Ireland)

IRI: *partially implemented*

HCHRS response:

See recommendation n°25

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What especially raises concerns are the verdicts of the competent courts in the proceedings initiated as a result of physical violence against journalists which

continued to pronounce verdicts being very close to, or even below the legal minimum.

Recommendation n°43: *Adopt necessary measures to secure full respect for freedom of expression.* (Recommended by Ireland)

IRI: *not implemented*

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Recommendation n°70: *Adopt necessary measures to secure full respect for freedom of expression.* (Recommended by Sweden)

IRI: *not implemented*

HCHRS response:

See recommendation n°12

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In 2010, the freedom of expression, one of the most important democratic freedoms, was a frequent topic in the journalist circles, since it is still seriously endangered due to a slow change in judiciary practice and government unreadiness to react in an adequate way. It must be noted, however, that some media exceeded the limits of freedom of expression, or even abused it. The Fifteenth Legal Monitoring of the Serbian Media Scene, prepared by ANEM in cooperation with the expert team of the Zivkovic&Samardzic Legal Office, presents a number of concrete cases showing that the freedom of media and the public's right to know everything that is in the public interest, especially in the province, are still restricted by personal interests, or judgements by the authorities and certain interest groups about what and how much the public should know. What especially raises concerns are the verdicts of the competent courts in the proceedings initiated as a result of physical violence against journalists which, as mentioned in the above report, continued to pronounce verdicts being very close to, or even below the legal minimum, thus contributing to the legal uncertainty and self-censorship of media professionals.

Recommendation n°45: *Protect, inter alia, the rights of disabled persons, including living conditions in residential and mental health institutions, and promote their social integration.* (Recommended by Italy)

IRI: *not implemented*

MDRI response:

The recommendation has not been implemented. The Law on Social Protection has been adopted and entered into force in 2011 introducing a general framework for establishment and funding of services in community and by both public and private providers. The Law normatively gives preference to community care over institutional care, yet it does not prescribe specific and strict measures which would translate this preference into reality. A law on protection of persons with mental disabilities is still not adopted despite a commitment expressed several years back.

While government has invested significant funding from both budget and foreign sources into residential institutions where persons with disabilities reside, there is no significant visible impact of these resources on rights protection of residents. To illustrate, in the previous 3 years, the government invested some 385 mill RSD (appx.



EUR 3,8 mill) only from its own sources in adaptation, refurbishment, building and equipment within institutional system and in 2010 the funding to the system was 4 to 5 times that of previous years. At the same time, statistical information on the number of adult persons with disabilities who left institutional care is unknown, yet any known success examples are funded by foreign donors and not traceable to measures undertaken by the state authorities. Furthermore, the latest available information from independent visits to institutions speaks to the fact that many rights violations still occur in both children's and adults' institutions. Overcrowding, lack of adequate activities, overmedication, treatment without informed consent, and lack of privacy are only some of the main issues that continue to be problematic in institutions both psychiatric hospitals and social care homes. In addition, it is important to note that despite the new law on education mandating primary education for very child regardless of his or her disability, large majority of children with disabilities who reside in institutions are excluded from any education.

It is critical to note that investing into living conditions in residential institutions is contradictory to the promotion of the residents' social integration. Numerous expert reports rightly argue that investment into institutional care for persons with disabilities is not only contrary to the standards prescribed by the UN Convention on the Rights of Persons with Disabilities, but also undermines social inclusion and makes it increasingly difficult to transform or close such institutions in future. The investment into institutions in Serbia and lack of results both in terms of respect for rights and in terms of integration of this population into society only confirms this position.

HCHRS response:

See recommendation n°31

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During the preparation of the Poverty Reduction Strategy paper for Serbia case studies were published showing that nearly 60% of persons with disabilities live at or below the poverty line and that more than half receive social welfare benefits of some kind or another. An analysis of the reach of the institutional framework for social protection of persons with disabilities shows an absence of extra-institutional forms of protection for these persons. Also, the inadequate network of institutions providing special education and vocational rehabilitation indicates an overall inadequacy of measures of social protection, that is, the fact that the sphere of social care of persons with disabilities is still a marginal social concern.

Recommendation n°51: *Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.* (Recommended by Mexico)

IRI: *not implemented*

HCHRS response:

Not yet ratified [...]

Recommendation n°52: *Consider ratifying the Optional Protocol to the Convention on the Rights of Persons with Disabilities.* (Recommended by Mexico)

IRI: *fully implemented*



MDRI response:

The recommendations have been fully implemented. Republic of Serbia ratified the UN Convention on the Rights of Persons with Disabilities together with the Optional Protocol on 31 July 2009 [...].

HCHRS response:

[...] Serbia ratified this protocol on 31st July 2009.

Recommendation n°53: *Adopt a national plan of action to enhance the protection of human rights defenders and independent journalists.* (Recommended by Netherlands)

IRI: *not implemented*

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Recommendation n°76: *Promote the work of human rights defenders and take all necessary measures to ensure freedom of expression.* (Recommended by Switzerland)

IRI: *not implemented*

HCHRS response:

See recommendations n°16 and n°17; See recommendations n°12, n°42 and n°43.

Recommendation n°58: *Strengthen its anti-corruption policy.* (Recommended by Poland)

IRI: *not implemented*

HCHRS response:

Corruption is still rampant in Serbia but the government is always talking about taking very strict stance in its fight against it. However more often than not this fight stops with these statements and arrests are rarely made. Anti-corruption Agency is often impeded in its work. According to Conny Abel, Transparency International Regional Coordinator for South Eastern Europe, apart from the Hague and Kosovo issues, the greatest problem and challenge faced by Serbia on its path to European integration will be posed by corruption. Although under the law the Commission for the Protection of Bidders' Rights should be an independent body, its practice has proved to be different over the past year and a half. In her view, public procurement is at the top of the list of anti-corruption priorities for the European Union and Transparency International because the largest amount of government money is spent just there. It is estimated that almost one-fourth of government money is unnecessarily spent due to the inadequate conduct of the relevant procedures. As identified by Verica Barac, the major corruption generators are: "Political parties, that is, the nexus between tycoons, party leaderships and criminals. They have built a corruptional infrastructure and the authorities in Serbia, which are completely irresponsible, function through it. In the meantime, they established serious control over the media, so that there is no public pressure. All this provides a very good opportunity for the unhindered functioning of systemic corruption, that is, the authorities which are based on it. Our authorities are completely uncontrolled". William Infante, United Nations Resident Coordinator in Serbia, testifies about a strong nexus between the party circles and



big business: "We know that political parties in Serbia enjoy support from big business. What is important, however, is that Serbia is making an effort to put an end to it. For example, there is a proposal for the law on financing political parties, which will hopefully be adopted next year. Understandably, it will not solve the problem because the adoption of the law itself cannot solve it. Consequently, whether we will leave the circle of political arbitrariness and political patronage, based on the party usurpation of institutions, will depend on whether the Law on Financing Political Parties will actually be implemented

Recommendation n°68: *Reinstate civilian control of decision-making in relation to applications for conscientious objection to military service, to extend the time during which applications can be made, to remove the exclusion of all those who have ever held a firearms license from being recognized as conscientious objectors, and to equalize the length of alternative and military service.* (Recommended by Slovenia)

IRI: *fully implemented*

HCHRS response:

Army was professionalized.

Recommendation n°79: *Ensure that the Commissioner for Information of Public Importance be given greater access to information so that he may fully determine whether such information should be withheld from access to the public.* (Recommended by United Kingdom)

IRI: *fully implemented*

HCHRS response:

The Commissioner for Information of Public Importance and Personal Data Protection and the Republican Ombudsman represent an institution that enjoys significant credibility in society. Over the past few years, the media visibility, reputation and skills of the people working in this body have produced good results. Although this institution also faced considerable problems (which have not yet been completely eliminated), it is evident that their profiling in society has become distinguishable. Sabic points out that "we have been making continuous progress in the field of free information access for a few years already". The Commissioner for Information of Public Importance and Personal Data Protection (in further text: Commissioner) represents one of the most efficient government services. Since the establishment of this institution in 2006, the number of citizens, companies, media and the like appealing to it in order to gain access to certain information of public importance, has been increasing by 10-20 per cent each year. According to the 2010 data provided by the Commissioner's Office, more than 45,000 citizens, citizens' associations, political parties, media, as well as government organizations referred to the Law on Free Access to Information of Public Importance. In 2010, the Commissioner himself received more than 2,000 complaints in 2010 of which 93 per cent were founded. It is also interesting to note that 95 per cent of citizens, organizations and other associations appealed to the Commissioner after the so-called "silence of the administration". While presenting the last year's annual report on free access to information, Sabic said that many complaints received by the Commissioner concerned the legal reform and general re-election of judges and



prosecutors conducted within it. In his view, that was the result of the non-transparency of the re-election process, thus casting a pall over the entire reform process.



## Methodology

### A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted both the delegate who represented the State at the UPR and the Permanent Mission to the UN in Geneva or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we consider positive feedbacks from the latter.

### A. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, communication is split up among recommendations we think it belongs to. Since such a task opens the way of misinterpretation, we strongly encourage using the Excel sheet.

If the stakeholder does not clearly mention neither the recommendation was “fully implemented” nor “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

While we do not mention recommendations which were not addressed, they can be accessed on the follow-up webpage.





## B. Implementation Recommendation Index (IRI)

*UPR Info* developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show both disputed and agreed recommendations.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is noted as 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review says the recommendation has been fully implemented and a stakeholder says it has been partially implemented, score is 0.75.

Then the score is transformed into an implementation level, according to the table hereafter:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

## Contact

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