



Republic of Serbia

41st meeting of the Committee against Torture
Consideration of the Initial Report of the Republic of Serbia
on the implementation of the Convention against
Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment
5-6 November 2008, Geneva

INTRODUCTORY REMARKS

by

His Excellency, Mr. Svetozar Čiplić,
Minister of Human and Minority Rights
The Head of the Delegation of the Republic of Serbia

Geneva, 5 November 2008

Mister Chairman,
Distinguished members of the Committee,
Ladies and gentlemen,

Allow me, on behalf of the delegation of the Republic of Serbia to express our pleasure for having this opportunity to present the Initial Report of the Republic of Serbia on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the period from 1992 to 2003.

At the outset, I would like to introduce the members of the delegation of the Republic of Serbia:

- His Excellency, Mr. Marko Karadžić, State Secretary with the Ministry of Human and Minority Rights,
- His Excellency, Mr. Slobodan Vukčević, Ambassador, Permanent Representative of the Republic of Serbia to the United Nations Organisation at Geneva,
- Ms. Sanja Jašarević - Kužić, Assistant Minister of Human and Minority Rights,
- Ms. Zorana ČAMBER, Head of the Cabinet of the Minister of Human and Minority Rights,
- Mr. Nenad Vujić, Director of the Judicial Centre of the Ministry of Justice;
- Mr. Dušan Ignjatović, Director of the National Council for the Co-operation with the International Criminal Tribunal for the Former Yugoslavia,
- Mr. Nebojša Pantelić, President of the Commission of the Ministry of Interior for Monitoring of the Implementation of the European Convention on Prevention of Torture,
- Mr. Damir Joka, Head of the Department for Treatment and Alternative Sanctions of the Directorate for Enforcement of Prison Sanctions of the Ministry of Justice,
- Mr. Dragan Vulević, Head of Department for Administrative Supervisory Procedure of the Ministry of Labour and Social Policy,
- Ms. Marina Ivanović, Councillor, Directorate of Human Rights and Protection of Environment, Ministry of Foreign Affairs,
- Mr. Vladimir Đeklić, Councillor of the Ministry of Justice,
- Ms. Gordana Pođanin, Councillor of the Ministry of Health, and
- Ms. Marija Stajić, Third Secretary at the Permanent Mission of the Republic of Serbia to the United Nations and Other International Organisations at Geneva.

After the democratic changes in the Republic of Serbia in 2000 and the reinstatement of its membership in the United Nations, the then Federal Republic of Yugoslavia, after the admission to the United Nations, as one of the successor states of the former Socialist Federal Republic of Yugoslavia continued its membership in all international instruments in the field of human rights. The Socialist Federal Republic of Yugoslavia signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in April 1989 and ratified it in 1991. In September 2006 the Republic of Serbia also ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On 3 March 2004 the Republic of Serbia ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Upon the submission of the notification of succession on 12 March 2001, the then Federal Republic of Yugoslavia commenced the process of submission of initial reports on the implementation of ratified international treaties and the UN conventions before the competent treaty bodies. The Initial Report of Serbia and Montenegro on the implementation of the International Covenant on Civil and Political Rights was presented to the Committee of Human Rights in July 2004. In May 2005 the Initial Report of Serbia and Montenegro on the implementation of the International Covenant on Economic, Social and Cultural Rights was presented to the Committee on Economic, Social and Cultural Rights. The Initial Report of the Republic of Serbia on the implementation of the Convention on Elimination of All Forms of Discrimination against Women was presented to the Committee on Elimination of Discrimination against Women in May 2007 and the Initial Report on the implementation of the Convention on the Rights of the Child was presented to the Committee on the Rights of the Child in May this year.

In order to get an insight into the implementation of the international legal instruments of the United Nations in the field of human rights in the entire territory of the state party, on the occasion of the presentation of the initial reports so far, the Republic of Serbia requested the competent committees to consider the implementation of the relevant international instruments in the Autonomous Province of Kosovo and Metohija, as a part of the territory of the state party, which has been under the United Nations interim administration of Kosovo (UNMIK) since 1999 pursuant to the UN Security Council Resolution 1244. Hence, in July 2006, the Committee on Human Rights considered the report presented by UNMIK on the implementation of the International Covenant on Civil and Political Rights in the Province. The report of UNMIK on the implementation of the International Covenant on Economic, Social and Cultural Rights shall be considered at the current session of the Committee on Economic, Social and Cultural Rights in November 2008.

Mister Chairman,

The so far process of reporting on the implementation of the international instruments in the field of human rights by the Republic of Serbia has been specific and complex. The initial reports cover long time periods. They were prepared in the course of a dynamic process of reforms and changes of the state structure in 2003 from the Federal Republic of Yugoslavia to the State Union of Serbia and Montenegro. After the State Union of Serbia and Montenegro had ceased to exist in June 2006, the Republic of Serbia, as the only legal successor of the State Union continued the international legal subjectivity of the State Union of Serbia and Montenegro and the membership in all the treaties and the conventions of the United Nations in the field of human rights. Accordingly, on the occasion of consideration of the reports submitted at the time the State Union of Serbia and Montenegro existed, the Republic of Serbia presents parts of the reports relating to it.

As for the period before 2000, it may be said that it was the period marked by cases of violations of human rights, regardless of the accepted international commitments. In respect of the Republic of Serbia this period was marked by conflicts, isolation, disturbed relations with the surrounding countries and the international community, the economic sanctions and the internal instability, which all resulted in rapid economic collapse and impoverishment of the widest population groups. Nevertheless, after the democratic forces had taken over in October 2000, the process of building democratic institutions and putting out of force of the discriminatory laws and those in collision with the international law, has started. The reinstatement of the membership of the country in the international organisations has been resolved, primarily in the United Nations and then in the Organisation for Co-operation and Security in Europe and in the Council of Europe. The Republic of Serbia has been actively co-operating with the mentioned organisations in the field of protection and promotion of human rights. In view of the strategic commitment of the Republic of Serbia towards European integrations, the reform process of the domestic legislation is directed towards the harmonisation with the *acquis communautaire* of the European Union and the adoption of the highest international standards in the field of human rights. In compliance with the undertaken international obligations, the Republic of Serbia has been actively co-operating with the International Criminal Tribunal for the Former Yugoslavia. In compliance with 1244 Resolution of the United Nations Security Council it has been co-operating with the Interim Administration Mission of the United Nations in Kosovo and Metohija. The Republic of Serbia is directly interested in achieving the same regular

reporting by the Interim Administration of the United Nations in Kosovo and Metohija together with its regular reporting to the competent treaty bodies based on its membership in the international instruments of human rights in order that the competent committees consider the implementation of the international instruments in the entire territory of the state party.

Mister Chairman,

In November 2006 the Republic of Serbia adopted a new Constitution. This supreme legal act of the Republic of Serbia guarantees physical and psychological integrity. The Constitution provides that no one may be subjected to torture, inhuman or degrading treatments or sanctions, nor subjected to any medical or scientific experiments without his/her free will consent.

In 2005 the Republic of Serbia adopted the new Criminal Code and the Law on Police, which prescribes the effective actions by the police in a modern way and also the actions with the persons the police comes in contact with, especially with the persons deprived of liberty. In 2006 the new Law on Criminal Procedure was adopted, which shall become effective as from 1 January 2009. Since 1 April 2008 the Law on Asylum has been enforced, which, in the Republic of Serbia, defines for the first time the establishment of a refugee status on the grounds of the Convention on Refugees from 1951.

In September 2005 the Minister of Interior formed the Commission to Monitor the Implementation of the European Convention on Prevention of Torture, Inhuman or Degrading Treatment or Punishment with the aim to detect and prevent all forms of torture within the police forces.

A segment in the police reform of particular significance is the establishment and strengthening of an efficient system of internal control and responsibility of the police, as the basis of the police decriminalization, the efficient combat against corruption within the police forces as a prerequisite of establishment of high professional standards and police ethics. The most important institutional segment of this system is the Internal Control Sector within the police forces, which was established within the Ministry of Interior in May 2006. The second, an also important segment of the internal control within the police forces has been defined by the Rules of Resolution Procedure of Claims, which are filed against the police officials by individuals.

The prevention of torture against the persons deprived of liberty is provided by internal supervision of the institute activities by the authorised persons of the Directorate for Enforcement of Institutional Sanctions, who

supervise lawful and proper conduct in the relevant institutions – through regular, control and extraordinary visits.

The Constitution of the Republic of Serbia establishes the Ombudsman, as an independent and self-acting state body, which protects the rights of citizens and controls the activities of the state administration, the body in charge of legal protection of property rights and interests of the Republic of Serbia, as well as the activities of other bodies and organisations, companies and institutions, which have been entrusted public powers. So far the institution of protector of citizens in the Republic of Serbia has been established at the state level, at the level of the Autonomous Province of Vojvodina and at the local level. At the state level the Ombudsman has been introduced into the legal system of the Republic of Serbia by the Law on Ombudsman. The Republic of Serbia has adopted the concept of national parliamentary ombudsman of general type. The Ombudsman has four deputies of whom one is specialised in the field of protection of the persons deprived of liberty. The activities of the Ombudsman in the territory of the Autonomous Province of Vojvodina since 2003 provide external control of the operations of the correction institutions in the Province. Since in October 2008 the National Parliament of the Republic of Serbia elected the deputy of the Ombudsman specialised in the performance of duties in respect of the protection of rights of the persons deprived of liberty and because the institutions of Ombudsman have already proved themselves in the field of the protection of human rights, there is an agreement among the political subjects in the Republic of Serbia to appoint the Serbian Ombudsman to be a national mechanism to prevent torture in accordance with the Optional Protocol.

The Republic of Serbia highly appreciates and supports the activities of the civil sector related to the supervision of institutions for the placement of the persons deprived of liberty. The Helsinki Human Rights Watch is one of the organisations that regularly visits the prisons in the Republic of Serbia and renders recommendations concerning the improvement of the prisoners. Respecting these efforts, the Republic of Serbia included these recommendations into the Strategy on the Reform of the Enforcement System of Criminal Sanctions adopted in 2005.

Mister Chairman,

I would like to draw the particular attention of this distinguished Committee to the issue relating to the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in one part of the territory of the Republic of Serbia, namely to

its implementation in the Autonomous Province of Kosovo and Metohija, which has been under the international administration of the United Nations since June 1999, pursuant to 1244 Resolution of the United Nations Security Council. Based on the mentioned resolution, Kosovo and Metohija is an integral part of the territory of the Republic of Serbia, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is applicable in the Autonomous Province as well. In spite of this fact, the Republic of Serbia, as the state party, cannot assume responsibility for the implementation of the Convention in Kosovo and Metohija in view of the fact that the administration of the Province has been in full entrusted to the Interim Administration of the United Nations Mission in Kosovo. For that reason the report before of you does not contain detailed information on the implementation of the Convention in this part of the territory of the Republic of Serbia.

I must stress that situation of human rights in general in Kosovo and Metohija is worrying and not satisfactory, in particular in relation to disrespect for human rights of the members of minority communities, of the Serbs and the Roma in the first place. Under the circumstances of widely spread discrimination based on ethnic and religious affiliation, origin and language, the local relations and the treatment of the members of the minority communities is extremely adverse and worrying.

Under such circumstances, and taking into account the conclusions of the relevant treaty bodies of the United Nations after the consideration of the initial reports on the implementation of relevant international instruments presented to the respective committees by the Republic of Serbia so far, the delegation of the Republic of Serbia would like to propose to the Committee to request the relevant information from the UN Interim Administration in Kosovo, namely to find the most adequate way how to consider the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the Autonomous Province of the Republic of Serbia. We are convinced that the Committee, based on the detailed information on the implementation of all relevant articles of the Convention in Kosovo and Metohija, could get a real picture of its implementation in Kosovo and Metohija and make adequate recommendations.

The legal system and the regulations of the Republic of Serbia are in compliance with the international norms and standards in the area of protection of all persons against abuse and the consequences of inhuman or cruel treatments and sanctions. Either on its own or in co-operation with the international organisations, the Republic of Serbia has been constantly working on the establishment of the best efficient institutional mechanisms at

all levels of the state administration in order to implement coherently the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Such measures have been integrated into adequate national programmes and strategies.

In this respect, the Republic of Serbia highly appreciates the co-operation with the Committee against Torture and supports its activities. The Republic of Serbia recognised the competence of CAT under article 20 of the Convention. In accordance with that the members of the Committee visited Serbia in 2002. The Republic of Serbia has recognised the competence of the Committee against Torture to consider the communications of other states as well as to receive and consider communications from or on behalf of individuals subject to its jurisdiction.

To conclude, I would like to emphasize that the Republic of Serbia, being aware of all inherited problems and the existing challenges, remains determined to make further progress in the process of democratization, to fulfil international obligations and accomplish the highest standards, especially in the domain of human rights and protection against torture and establish full co-operation with the competent international bodies in that regard.

We also see our dialogue of today with the distinguished Committee as a part of that process. I am convinced that today in the course of discussion about the Initial Report of the Republic of Serbia in an open and constructive dialogue, we shall get to see all the aspects of the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the Republic of Serbia. We expect that the recommendations to be adopted by the Committee after the consideration of our Initial Report shall contribute to the full implementation of the Convention and further improvement of human rights protection.

Thank you Mister Chairman.