

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 29th Session

SERBIA

I. BACKGROUND INFORMATION

Since 2001, Serbia has been a party to the *1951 Convention Relating to the Status of Refugees* and its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*), as well as to the *1954 Convention on the Status of Stateless Persons*. In December 2011, Serbia acceded to the *1961 Convention on the Reduction of Statelessness*.

Serbia still hosts 29,457 refugees from Croatia and Bosnia as well as 203,000 IDPs from Kosovo (of which 71,779 remain with serious displacement-related needs).

Certain minority groups within the displaced population are particularly vulnerable to human rights violations. These minorities include Roma, Ashkali, and Egyptian (RAE) communities. Many RAE live in informal settlements in deplorable conditions, often below the level of human dignity, without basic infrastructure. In addition, some live without legally recognized residence status or personal documents.

Public and governmental reaction to the refugee flow of 2015-2016 has been so far mostly positive and hospitable. However, most refugees, who transited Serbia on the Balkan route, did not wish to stay in Serbia because they lacked faith in the asylum procedure and effectiveness on integration opportunities.

National system for child protection in Serbia provides for appointment of the temporary guardian to every unaccompanied and separated children (UASC) as soon as identified and within 24 hours. However, the national system is stretched to the limit and lacks additional capacity to deal with the ever increasing number of UASC identified within the current migration framework.

UNHCR welcomes the Government's achievements in the following areas:

1. Prevention and Reduction of Statelessness

UNHCR welcomes the efforts of the Republic of Serbia in the area of prevention and reduction of statelessness by working jointly with UNHCR and the Ombudsman in finding systemic solutions to the problems of access to late birth registration for the RAE and RAE IDPs, registration of residence and access to personal documentation, resulting in the significant decrease of the number of Roma at risk of statelessness in the country.

2. Durable Solutions for Protracted Displacement in Serbia

UNHCR welcomes the constructive and active approach of Serbian authorities in the regional process to end the 1991-1995 displacement chapter in the Western Balkans. Since the Ministerial Conference held in March 2010 in Belgrade, Serbia, a number of issues preventing refugees from achieving durable solutions have been or are being resolved through intensified cooperation among four countries of the region. In addition, Serbia, Croatia, Bosnia and Herzegovina, and Montenegro jointly prepared and implemented a *Regional Housing Programme* aimed at provision of durable housing solutions for some 74,000 vulnerable persons displaced in 1991-1995 conflicts. This programme drew

significant attention and support of the international donor community at the donors' conference held in Sarajevo in April 2012. Successful implementation of the national component of this programme in Serbia should enable some 45,000 vulnerable refugees to find a durable solution. Envisaged to be completed in a five-year period, the implementation of the Programme started in late 2013 and is ongoing.

3. State reaction to large scale movement of refugees and migrants in 2015 and 2016
UNHCR welcomes the fact that Serbia has opened its borders during the large scale movement of refugees and migrants in 2015 and 2016 and currently hosts approximately 8,000 persons that remain in its territory as a result of the closure of Western Balkan route.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendations no. 132.8: "Carry out necessary measures, including legislative amendments, to ensure that all persons born in Serbia have access to birth registration regardless of the status of their parents (Mexico);" **and no. 132.93:** "Take appropriate measure to ensure that the basic civil and political rights of Roma are being assured and that birth registration is available and accessible for all children without discrimination (Brazil)."

Through four years of joint co-operation of UNHCR, the Government of Serbia and the Ombudsman of the Republic of Serbia, the country has adopted new legislation,¹ simplifying subsequent birth registration and procedures related to registration of residence. These two acts, supported by a number of by-laws and training sessions for relevant civil servants harmonizing practice in the area of birth registration and registration of residence, has created systemic solutions for the prevention of recurrence of statelessness. The joint efforts have resulted in a significant decrease of the number of stateless persons in Serbia from approximately 30.000 in 2015 to 2.400 in 2017, of which only approximately 400 remain lacking birth registration.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Prevention of child trafficking and sexual exploitation

Linked to 2nd cycle UPR recommendation no. 132.50: "Take measures to prevent child trafficking and sexual exploitation through education programmes and development of support services of assistance, rehabilitation and protection (Belgium)."

There is a lack of adequate response by the social welfare system to the needs of asylum-seeking, refugee and migrant children in particular UASC. According to Government's estimates, there are approximately 800 UACS in Serbia at the moment, who remained in the country after the closure of the Western Balkan route. Most of them originate from Afghanistan, are between 15 and 17 years of age and are in transit towards EU countries.

After the closure of the Western Balkan route, possibilities for onward movement remain very limited (50 persons per week are still admitted to Hungary). Refugees, asylum-seekers and migrants are accommodated in 17 government-run facilities. In addition to asylum and

¹ Law on Amending the Law on Non-Contentious Procedures Official Gazette of the Republic of Serbia no. 55/2014 and Law on Permanent and Temporary Residence Official Gazette of the Republic of Serbia no. 97/2008.

transit centers, UASC are also occasionally (often temporarily) accommodated in centers for unaccompanied minors within institutes for children in conflict with the law located in Belgrade and Nis, as well as shelters within the residential social institution for children with developmental disabilities ("Kolevka") in Subotica. The total capacity of these 3 centers taken cumulatively is below 50 (for UASC).

Even at higher risk are UASC who remain outside of the national system, mostly due to their wish to continue their journey towards EU countries (approximately 150 according to the last profiling exercise conducted in central Belgrade area in the beginning of February 2016). There were allegations of survival sex and different forms of sexual abuse against these UASC that UNHCR and NGO partners so far were not able to directly confirm, as sharing such intimate experiences requires a relationship of trust, which demands time and highly professional continued work with a child. However, the mere fact that those boys are outside of the system, alone and unprotected, raises serious concerns.

After appointment of the temporary guardian upon identification of UASC, unaccompanied children are being referred to asylum or transit centres. In asylum and reception centres they are left on their own without attendance and care, exposed to high risks of trafficking in persons, smuggling, sexual and other forms of abuse. Guardianship is often ineffective as one guardian may be in some cases appointed for more than 50 children. Centres for UASC lack capacity and as a result they are placed in the same institutions as children in conflict with the law, which exposes refugee and migrant children to increased security risks (UNHCR is aware of several incidents of violence against refugee and migrant children committed by other inhabitants of the centre). In addition, there is no age assessment procedures (apart from forensic methods used solely in court cases).

The Serbian social welfare system is weak and lacks both human and material resources to adequately respond to the needs of refugee and asylum-seeking children. Access to education for children who are at the territory of Serbia for prolonged time also represents a challenge and authorities need further support in order to ensure the full realization of their right to education.

Recommendations:

UNHCR recommends that the Government of Serbia:

- a) Strengthen its national system for child protection by ensuring effective guardianship, the implementation of the best interest assessment and best interest determination's processes as well as of provision of alternative care measures, in order to be able to adequately respond to the needs of asylum-seeking and refugee children particularly those who are at risk, such as unaccompanied and separated children; and
- b) Ensure access to alternative care solutions on an individualized manner, including combination of foster families, supported living arrangements, and improved residential care, and provide the necessary funding for it while seeking assistance of the international community.

Issue 2: Durable solutions for refugees and IDPs

Linked to 2nd cycle UPR recommendation no. 132.101: "Continue its efforts for addressing the challenges of refugees and IDPs in the country (Azerbaijan)."

There are 71,779 IDPs who remain in a vulnerable situation faced with displacement-related needs and lack of durable solutions. Among them, 14.49 per cent are considered to be extremely vulnerable Roma IDPs, as the vast majority live in informal settlements in deplorable conditions, often below the level of human dignity, facing obstacles in enjoying rights and durable solutions. While a vast majority of IDPs have opted for reintegration post displacement, the pace of reintegration remains very slow. In particular, the number of IDPs

who have returned to Kosovo remains very low mainly due to lack of security, obstacles in accessing property and lack of sustainable durable solutions.

Recommendations:

UNHCR recommends the Government of Serbia:

- a) Increase funding for and step up efforts to speed up the process of implementing sustainable durable solutions, especially for the voluntary return and reintegration of IDPs; and
- b) Enhance access of the vulnerable Roma IDPs to durable solutions and create projects targeting their specific needs.

Additional protection challenges

Issue 3: Fair and efficient asylum system

Serbia is a party to the *1951 Convention*, and its Constitution recognizes right to asylum. In furtherance of this right, the *Law on Asylum* was adopted in November 2007,² and Serbia assumed full responsibility for refugee status determination (RSD) upon its entry into force on 1 April 2008.

While the legislative framework and the national reception system are in place, Serbia's national asylum system, in particular, the Asylum Office (the first instance adjudication body), as currently set up, cannot process the significant increase of asylum applications. In addition, the recognition rate is very low since the Government assumed its responsibility for the asylum procedure in 2008.

The Serbian asylum system is in a development phase, still burdened with numerous shortcomings including, the automatic application of the safe third country concept, the asylum adjudication body being integrated in the border police, and the lack of independent and effective review mechanism at the second instance.

In 2015 and 2016, well over 1,000,000 people arrived in Serbia along the so-called "Balkan Land Route". The vast majority of them transited through the territory of the Republic of Serbia, and over 95 per cent originated from countries such as Syria, Afghanistan, Iraq, amongst others. In total, some 583 applied for asylum and 89 interviews were conducted by the asylum adjudicating body (Asylum Office) in 2015. In 2016, 574 persons applied for asylum and 160 interviews were conducted. In the period between 2015 and 2016 cumulatively, 35 persons were granted refugee status and other 37 subsidiary protection, while 43 persons received negative decisions. From January to March 2016, the Serbian authorities registered 96,117 new arrivals out of which only 262 individuals applied for asylum. Onward movement to desired destinations/countries continues.

There is an urgent need for short-term measures to improve and expedite the processing of applications, including by establishing a protection-sensitive screening mechanism within the RSD process in order to identify persons with specific needs. In addition, Serbia requires adequate and well-trained staff to sustain the increasing number of applications and to ensure fair and effective decision making in line with relevant international standards.

Best European and global practices suggest that the Asylum Office, currently placed within the Border Police Directorate, should be detached from the border police and included in the civilian part of the Ministry of the Interior. Furthermore, the Asylum Office should closely coordinate with border authorities in order to ensure unhindered and effective access to asylum procedures. UNHCR is also concerned that members of the Asylum Commission – a

² Official Gazette of the Republic of Serbia no. 109/07.

second instance body in the asylum procedure – are appointed by the Government from the pool of officials from line ministries in a non-transparent selection process, which jeopardize its independence, the quality of knowledge in the area of asylum and refugee protection standards and the application of national legislation.

Serbia lacks a law on free legal aid and relies on UNHCR's assistance to fill this gap. In this respect, it is necessary that Serbia urgently adopts an inclusive law on free legal aid ensuring access of free legal aid to asylum-seekers and refugees.

Recommendations:

UNHCR recommends that the Government of Serbia:

- a) Secure the civil structure of the Asylum Office and place it outside the Border Police Directorate; and
- b) Allow for fair and efficient judicial review of negative asylum decisions.

Issue 4: Improve reception capacities for asylum-seekers

Since February 2016, as a result of the border restrictions introduced along the Western Balkan route and its domino effect, certain categories of persons who might be in need of international protection were gradually prevented from entering the territory of Serbia. At the beginning of March 2016, transit was stopped. However, persons have continued to arrive at a rate of circa 150-200 persons per day. As a result, as of 19 January 2017, there were between 6000 and 9000 persons in Serbia either seeking asylum or endeavouring to continue on to northern Europe. Some 6000 of them were in government facilities of various types, while were in informal shelters, in particular in Belgrade.

Accommodation capacity also needs to be further increased and improving conditions and managing of the existing asylum centres in line with European standards (such as EU Directive on Reception) could help further this objective. The asylum reform (expected to commence in 2017 within the Serbia-EU accession process) should align existing asylum legislation with relevant EU and international standards.

Recommendations:

UNHCR recommends that the Government of Serbia:

- a) Further increase accommodation capacity and improve reception facilities.
- b) Align existing asylum legislation with relevant EU and international standards, including with regard to treatment and special care for unaccompanied and separated children.

UNHCR
June 2017

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

SERBIA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regard to Serbia.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation³	Recommendin g State(s)	Position⁴
Refugees, asylum-seekers and internally displaced persons		
132.101. Continue its efforts for addressing the challenges of refugees and IDPs in the country	Azerbaijan	Supported
132.102. Continue pursuing appropriate, sensitized policies such as the National Strategy on Resolving the Issue of Refugees and Internally Displaced Persons for the period 2011-2014 to address the situation of such persons in a durable, sustainable manner	Slovakia	Supported
Trafficking in persons		
131.22. Strengthen the judicial mechanisms designed to prosecute and punish perpetrators of trafficking in persons, especially in women and children, reinforcing reparation measures and reintegration services for victims	Uruguay	Supported
131.23. Develop a clear definition regarding the sale of children in the Penal Code and ensure its full enforcement with serious punishment for perpetrators	Thailand	Supported
131.25. Reinforce measures to prevent child sex tourism and to combat child pornography on the Internet	Republic of Moldova	Supported
132.49. Implement the Protocol on fight against trafficking in human beings of the Ministry of Justice as well as adopt the new national strategy to prevent and combat trafficking in human being and to protect victims	Portugal	Supported
132.50. Take measures to prevent child trafficking and sexual exploitation through education programmes and	Belgium	Supported

³ All recommendations made to Serbia during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Serbia" (22 March 2013), A/HRC/23/15, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/RSSession15.aspx>.

⁴ Serbia's views and replies can be found in: *Addendum* (28 May 2013), A/HRC/23/15/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/RSSession15.aspx>.

development of support services of assistance, rehabilitation and protection		
132.52. Adopt comprehensive measures to ensure access to justice, provision of compensation and assistance to facilitate reintegration into local communities for victims of trafficking, particularly women and children	Thailand	Supported
Discrimination and related intolerance		
131.12. Address the phenomenon of discrimination and negative attitude based on nationality, ethnicity or religion by criminalizing the so-called hate speech	Poland	Supported
131.13. Expand its intervention with the aim of better addressing racial prejudices, xenophobia, hate speeches and other forms of discrimination, in particular against Roma, women, persons with disabilities and the LGBT population	Italy	Supported
132.13. Take all necessary measures for the exhaustive and efficient implementation of the anti-discrimination law	Switzerland	Supported
32.14. Strictly apply the new Law on Discrimination and adopt a comprehensive legislation on hate crimes	Brazil	Supported
132.79. Continue its efforts to fight against hate crimes, hate speech and incitement to hatred, including in political discourse, to prosecute members of racist or xenophobic extremist groups, and to combat racial prejudice and racial discrimination in the media	Tunisia	Supported
Sexual and gender-based violence		
132.33. Enhance its efforts to eradicate violence against women and to improve the status of women in society	Japan	Supported
132.35. Redouble efforts to combat all forms of violence against women and adopt policies on education and awareness-raising in this area	Spain	Supported
132.37. Give further attention to the assistance available to victims of violence against women, especially in the field of psycho-social support	Slovenia	Supported
132.47. Give full and effective implementation to the national campaign to reduce violence against children and women in order to further reduce the occurrence of rape and domestic violence, sexual harassment, child abuse including in educational institutions and child marriage	Australia	Supported
SOGI		
131.14. Ensure adequate protection for all citizens, including members of the LGBT community, by, inter alia, allowing them to assemble to publicly promote their human rights and	United States of America	Supported

identifying and prosecuting those who commit violence against those who participate in peaceful assemblies		
131.16. Enhance efforts to enable the lesbian, gay, bisexual and transgender (LGBT) community to exercise their fundamental freedoms of expression, association and peaceful assembly	Norway	Supported
131.17. Respond effectively to discrimination and violence against LGBT persons and ensure their safety during public events such as the Belgrade Pride Parade	Austria	Supported
132.17. Continue its efforts in fighting discrimination based on ethnicity, gender and sexual orientation	Estonia	Supported
Detention		
132.72. Continue to make efforts to improve the treatment of detainees in prisons	Japan	Supported
132.73. Continue to carry out necessary reforms to end prison overcrowding, including the launching of a new plan for the renovation and new construction of prisons with conditions comparable to those of the European Union average providing them with the material and human resources appropriate for its proper functioning	Spain	Supported
Birth registration		
132.8. Carry out necessary measures, including legislative amendments, to ensure that all persons born in Serbia have access to birth registration regardless of the status of their parents	Mexico	Supported
132.93. Take appropriate measure to ensure that the basic civil and political rights of Roma are being assured and that birth registration is available and accessible for all children without discrimination	Brazil	Supported
Integration and access to rights		
132.16. Continue to implement measures to promote full and effective equality in the social, economic and political spheres	Cuba	Supported
132.24. Further its endeavours with a view of positively affecting the participation of women in the field of economy, education and health	Azerbaijan	Supported
132.25. Eliminate racial segregation in schools so that all children, regardless of their ethnic origin, have access to education	Costa Rica	Supported
132.71. Further strengthen the rule of law and institutions to enforce social cohesion, tolerance and equality in order to	Viet Nam	Supported

exhaustively guarantee human rights for its people, in particular those of vulnerable groups such as women, children, displaced and disabled persons		
132.85. Continue its effort to ensure the access of all citizens to safe drinking water and sanitation	Egypt	Supported
132.99. Guarantee teaching of minority languages at all elementary levels and enhance knowledge and tolerance in the Serbian society concerning languages and cultures of others	Libya	Supported
Groups with specific needs		
132.92. Take steps to more effectively integrate Roma into Serbian society	Canada	Supported
132.94. Increase measures to guarantee non-discrimination, to improve the conditions of Roma regarding the realization of good education, adequate housing, and to make available all basic services to them	Libya	Supported
132.95. Enforce legal safeguards to ensure fair and equal access to housing, education, employment and government services for Romani individuals and protection against arbitrary, forcible evictions and displacement from their homes or temporary residences	United States of America	Supported
132.96. Enhance measures regarding the integration of Roma citizens through the social and educational systems of the State, inter alia, by facilitating registration in the birth registry allowing them to register using a provisional address	Austria	Supported
Migrant workers		
132.100. Protect the rights of immigrants and take active measures to protect the rights of foreign workers, and promote harmony among all ethnic groups	China	Supported

II. Treaty Bodies

Committee on the Elimination of Discrimination against Women

Concluding Observations, (30 July 2013), CEDAW/C/SRB/CO/2-3

Violence against women

22. While noting the adoption of a national strategy for prevention and elimination of violence against women in the family and intimate partner relationships in 2011, together with protocols at the level of ministries, the Committee remains concerned about:

- (a) The increasing number of women murdered by their husbands, exhusbands or partners and women victims of other forms of violence, including psychological, physical, economic and sexual violence;

- (b) The significant disparity between the number of police interventions, the number of criminal charges filed and the number of persons convicted of domestic violence against women;
- (c) The significant obstacles faced by women, in particular Roma women and women with disabilities, seeking protection from violence;
- (d) The lack of emergency protection orders;
- (e) The lack of disaggregated data on all forms of violence against women.

23. Recalling its general recommendation No. 19 (1992), on violence against women, the Committee urges the State party:

- (a) To review and revise the Criminal Code, the Family Code and other relevant laws with a view to effectively preventing all forms of violence against women and protecting victims;**
- (b) To encourage women to report incidents of domestic and sexual violence by raising awareness of the criminal nature of such acts;**
- (c) To ensure effective investigation of cases of violence against women and to prosecute and punish perpetrators of such crimes with sanctions commensurate with the gravity of the crime;**
- (d) To ensure that all women victims of violence have adequate assistance and unhampered access to effective protection from violence, including by ensuring a sufficient number of shelters funded by the State and improving cooperation with relevant non-governmental organizations in this respect;**
- (e) To ensure that the relevant authorities are aware of the importance of issuing emergency protection orders for women at risk and of maintaining such orders until the women are no longer at risk;**
- (f) To enhance the system of data collection by ensuring that the data are disaggregated by type of violence and by relationship between perpetrator and victim, supporting research in this field and ensuring that such information and data are available to the public;**
- (g) To expeditiously ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.**

Trafficking and exploitation of prostitution

24. While noting the legislative, institutional and policy measures taken to combat trafficking in persons, including the adoption of a national strategy and national action plan to combat human trafficking for 2009-2011, the Committee remains concerned about:

- (a) The significant delays in the adoption of a new action plan to combat trafficking in human beings;
- (b) The lack of rehabilitation and reintegration programmes for women victims of trafficking and the insufficient resources allocated to such programmes;
- (c) The lack of cooperation with civil society organizations working on trafficking.

25. The Committee recommends that the State party:

- (a) **Adopt a new plan of action against trafficking in human beings without further delay;**
- (b) **Allocate sufficient resources to rehabilitation and reintegration programmes for women victims of trafficking;**
- (c) **Establish effective cooperation with civil society organizations working in the area.**

Disadvantaged groups of women

36. While noting the adoption of a revised national strategy on the situation of refugees and internally displaced persons for the period 2011-2014, the Committee is concerned about the lack of State monitoring of the conditions of women refugees, women asylum seekers and internally displaced women and the lack of sex-disaggregated data, in particular with regard to violence against women. It is also concerned that the birth registration procedures for undocumented persons, in particular those belonging to the Roma community, under the amendments to the Law on Non-Contentious Procedures remain at the discretion of the Ministry of the Interior.

37. The Committee calls upon the State party to establish mechanisms to monitor the situation of women refugees, women asylum seekers and internally displaced women in order to better protect their rights, including by protecting them against violence, and to provide relevant data thereon. It also recommends that the State party ensure that court decisions on birth registration and citizenship of undocumented persons are effectively implemented and cannot be reversed by any executive body.

Committee on Economic, Social and Cultural Rights

Concluding Observations, (10 July 2014), E/C.12/SRB/CO/2

Collection and processing of data

7. The Committee is concerned about the lack of systematic collection and processing of disaggregated data which would allow for an accurate assessment of the fulfilment of economic, social and cultural rights in the State party.

The Committee recommends that the State party:

- (a) **Set up a system to collect statistical data on the major factors affecting the implementation of the economic, social and cultural rights set forth in the Covenant, duly disaggregated by year, sex, age, urban/rural population, ethnic origin, disadvantaged and marginalized groups and other relevant criteria, and include such statistical data in its next periodic report;**
- (b) **Undertake regular and systematic assessments, against a clear set of indicators, of the level of enjoyment of all economic, social and cultural rights by various segments of the population, taking into account the conceptual and methodological framework for human rights indicators that was developed by the Office of the United Nations High Commissioner for Human Rights;**
- (c) **Apply human rights indicators, in particular for economic, social and cultural rights, as part of its national development and integration strategies.**

Discrimination

11. The Committee is concerned that members of national and ethnic minorities, persons with disabilities, refugees and internally displaced persons, including Roma, and other marginalized groups continue to face discrimination with regard to access to economic, social and cultural rights. The Committee is also concerned that the anti-discrimination legislation is not systematically applied, as evidenced by the low numbers of concluded cases related to discrimination (art. 2, para. 2).

The Committee urges the State party to:

- (a) **Intensify its efforts to promote equality and combat discrimination against members of ethnic minorities, persons with disabilities, refugees and internally displaced persons, including Roma, lesbian, gay, bisexual and transgender persons and other marginalized persons and groups with regard to access to employment, social security, housing, health and education;**
- (b) **Systematically apply the Law on Prohibition of Discrimination and other relevant legislation, as well as the Strategy for Prevention and Protection against Discrimination 2013–2018, in order to prevent and punish all acts of discrimination, taking due account of all prohibited grounds of discrimination as contained in article 2, paragraph 2, of the Covenant and elaborated in the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

Roma

12. The Committee is concerned about the prevailing discrimination against Roma as evidenced, inter alia, by disproportionately high unemployment, limited access to social security, accommodation in informal settlements, and inadequate health care and education. The Committee therefore regrets the shortcomings in the implementation of the Strategy for Improvement of the Status of Roma 2012–2014, as conceded by the State party, and the insufficient implementation of the nationally agreed priorities regarding Roma at the local level (art. 2).

The Committee urges the State party to take further measures in order to overcome the prevailing discrimination against Roma in the enjoyment of economic, social and cultural rights, including the revision of the Strategy for Improvement of the Status of Roma, by better reflecting the specific situation of Roma and ensuring that the nationally agreed priorities on Roma are duly communicated to the local authorities to be effectively implemented.

Personal documentation

13. While noting the recent amendments to facilitate birth and residence registration, the Committee is concerned that a number of refugees, returnees and internally displaced persons remain without personal identity documents, which limits their enjoyment of economic, social and cultural rights. The Committee is also concerned that many internally displaced Roma living in informal settlements without a registered residence did not have their permanent address re-registered from their last place of permanent residence (arts. 2, 9, 11, 12, 13 and 14).

The Committee recommends that the State party ensure effective access by refugees, returnees and internally displaced persons, in particular Roma without a registered residence who live in informal settlements, to procedures for birth and residence registration in order to facilitate access to personal documents, including birth certificates, identity cards and work booklets. In the meantime, those affected should have access to economic, social and cultural rights.

Asylum seekers, refugees and internally displaced persons

14. While noting the functioning of the Asylum Office, the Committee is concerned at the lack of a fair and efficient asylum procedure, as only a very few asylum seekers in Serbia have been recognized as refugees even though the majority of them come from refugee producing countries. Noting further the functioning of the Serbian Commissioner for Refugees and Migration, the Committee is concerned that refugees and internally displaced persons do not have access to comprehensive integration programmes. The Committee is also concerned at the limited capacities of social welfare services in places where asylum centres are located and the insufficient reception capacities for asylum seekers (arts. 2, 9 and 11).

The Committee recommends that the State party:

- (a) Enact necessary by-laws and adopt other measures, including training for migration officers, as well as safeguards for the independence of the Asylum Office, to ensure the full implementation of the Law on Asylum of 2007 and to guarantee a fair and efficient asylum procedure, in particular protection against refoulement;
- (b) Establish a functional local integration mechanism for refugees recognized under the Law on Asylum, as well as for internally displaced persons, in areas such as education, social assistance, language and vocational trainings and housing, and adopt and implement in that regard a national strategy for resolving problems of refugees and internally displaced persons beyond 2014, together with an action plan which should include clear time frames, as well as an adequate budget;
- (c) Increase the capacities of social welfare services in places where asylum centres are located, in order to better respond to the needs of asylum seekers and recognized refugees;
- (d) Improve the existing reception capacities for asylum seekers in order to be able to respond to fluctuations in the number of asylum applications and the actual length of the asylum procedure.

Pensions for refugees and internally displaced persons

23. The Committee is concerned that large numbers of refugees from Croatia and internally displaced persons from Kosovo continue to be deprived of their right to pensions which have been overdue and unpaid for years (art. 9).

The Committee strongly urges the State party to pursue bilateral negotiations regarding the payment of pensions to refugees from Croatia residing in Serbia and to arrange for documentation substitution for the payment of pensions to internally displaced persons from Kosovo who could not present their work booklets.

Trafficking in persons

25. While noting the measures taken against trafficking in persons, the Committee is deeply concerned about the increase in trafficking in persons, both internal and crossborder, in particular women and children, and the low numbers of persons prosecuted and convicted for the crime of trafficking in persons. The Committee is also concerned at the lack of medical, legal and social assistance, including shelter, for the victims of trafficking (art. 10).

The Committee recommends that the State party:

- (a) Take further measures to ensure the early identification of victims and the adequate training of law enforcement officers and the judiciary, with a view to effective investigation and prosecution of the perpetrators of trafficking as well as of those who exploit the victims of such acts;
- (b) Strengthen the collection of data on the victims, perpetrators, investigations and sanctions, including on sanctions for law enforcement officials implicated in trafficking;
- (c) Provide adequate medical, legal and social assistance, including shelter, to the victims of trafficking, and ensure their access to judicial remedies.

Poverty

29. The Committee remains concerned about the limited effectiveness of the current strategies to address extreme poverty in the State party, in particular among refugees, returnees, internally displaced persons, members of minorities, older persons and persons with disabilities, and about the prevalence of regional disparities in the enjoyment of all economic, social and cultural rights without discrimination (arts. 2 and 11).

The Committee urges the State party to expand its Poverty Reduction Strategy to address the extreme poverty faced in particular by members of marginalized groups, to take all necessary remedial measures to address the regional disparities that affect the equal enjoyment of economic, social and cultural rights, and to allocate sufficient funds for the implementation of those strategies, taking into account the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural Rights of 2001.

Forced evictions

30. The Committee is concerned about the recent incidents of forced eviction and resettlement of internally displaced persons and other disadvantaged groups, including Roma, Ashkhali and Egyptians, from irregular settlements in Belgrade and other parts of the country. The Committee is particularly concerned about reports that some of the concerned families with children were not consulted beforehand and were left without adequate alternative housing, compensation and protection (art. 11).

The Committee urges the State party to take urgent measures to consult affected communities throughout all stages of evictions, to ensure due process guarantees and compensation and to provide in particular for adequate alternative accommodation in locations suitable for social housing construction, taking into account the Committee's general comments No. 4 (1991) and 7 (1997) on the right to adequate housing and on forced evictions.

Right to education

34. The Committee notes that asylum seekers and persons granted asylum can access primary and secondary education free of charge; however, it is concerned that asylum seeking children accommodated in the asylum centres in the State party are not being enrolled in local schools (arts. 13 and 14).

The Committee recommends that the State party enable access to primary education and facilitate access to secondary education, in line with the Law on Asylum, to all child asylum seekers pending consideration of their refugee claim.

35. The Committee is concerned about the prevalence of violence and discrimination in schools and the lack of enrolment of children with disabilities in mainstream schools. The Committee is also concerned about the placement of Roma children in special schools or

classes and the high drop-out rates of Roma children from primary education, as well as low school attendance (arts. 13 and 14).

The Committee recommends that the State party continue legal and policy reforms to allow every child to achieve the right to education, and to that end:

- (a) **Intensify the implementation of measures to prevent violence and discrimination in schools, including through peer programmes and enhanced intraschool relations;**
- (b) **Ensure inclusive education for all children with disabilities in mainstream schools;**
- (c) **Guarantee the enrolment of Roma children in regular classes of primary schools instead of schools or classes for children with special needs;**
- (d) **Reduce the high drop-out rates of Roma children from primary education, take effective measures to keep Roma attending school and increase school attendance at the secondary level through affirmative action, such as the granting of scholarships and the provision of schoolbooks.**

Committee against Torture

Concluding Observations, (3 June 2015), [CAT/C/SRB/CO/2](#)

Redress

13. The Committee is concerned at information that the courts frequently apply legislation in such a way that claims for redress against the State will be statute-barred within five years of the event that led to injury or three years from the day of the plaintiff's knowledge of the damage. The Committee also notes with concern information that victims often fail to satisfy the high standard of proof of damage or harm set by the courts, even when diagnosed with post-traumatic stress disorder, and that when compensation is granted after lengthy proceedings, it is often very low. The Committee remains concerned at the lack of a specific programme to provide rehabilitation to victims of torture and ill-treatment (art. 14).

The Committee, recalling its general comment No. 3 (2013) on the implementation of article 14 by States parties, urges the State party to remove the various barriers set up in, and through the application of, the current legislation that impinge upon the exercise of the right of victims of torture and ill-treatment to a judicial remedy. To that end, the State party should refrain immediately from applying statutes of limitation to the claims made by victims of torture or ill-treatment against the State, as well as inadequate judicial procedures for proving or quantifying damages. The State party should also compile data on the number of victims of torture and ill-treatment, including war-related victims, forcibly mobilized refugees and victims among asylum seekers, and fully assess their needs, including the right to rehabilitation, by ensuring that specialized, holistic rehabilitation

Access to a prompt asylum determination procedure

14. The Committee notes with serious concern the information provided by the delegation that of 16,490 persons expressing an intention to seek asylum in 2014, only 18 cases were assessed and six persons were granted refugee or subsidiary protection. It is concerned that the human resources of the Asylum Office are insufficient to respond adequately to the growing number of asylum seekers, resulting in the failure to promptly register asylum seekers and to enable those at the asylum reception centres to submit an asylum application. The Committee also takes into account reports that many potential asylum

seekers incur penalties for their illegal stay, imposed in misdemeanour court proceedings during which asylum seekers do not enjoy free legal aid or effective information provided through interpretation services about the possibility of seeking asylum or the risk of being expelled. The Committee also notes that asylum seekers detained at Nikola Tesla Airport do not enjoy those rights either and are not provided with a detention order or an expulsion order that they could challenge (arts. 2, 3 and 16).

The State party should continue and intensify its efforts to facilitate access to a prompt and fair individualized asylum determination procedure in order to avoid the risk of refoulement. To this end, the State party should:

- (a) **Ensure that the Asylum Office is supported with personnel and financial and technical resources sufficient to be able to register asylum seekers in a timely manner, promptly issue their identity cards, conduct individualized interviews with the support of interpretation services and issue refugee status decisions within a reasonable time. The State should address these deficiencies in the new draft law on asylum, including the lack of time-bound obligations;**
- (b) **Establish and ensure the implementation of a standardized and accessible asylum and referral procedure in international airports and transit zones;**
- (c) **Guarantee access to independent, qualified and free-of-charge legal assistance and interpretation services for asylum seekers throughout the asylum procedure, as well as in misdemeanour proceedings and when they are detained at the airport, in order to enable them to challenge the lawfulness of their deportation and detention orders.**

Non-refoulement

15. Noting the Supreme Court's decision that expulsion to a "safe third country" should be contingent on the asylum officer's obligation to assess the situation on a case-by-case basis, the Committee is concerned at reports that, in practice, the safe third country rule is almost automatically applied. Moreover, the Committee is concerned about the State party's implementation of its forced return procedures and at reports of ill-treatment, including beatings and extortion of money, of undocumented migrants by law enforcement officials. It is also concerned at information that persons expelled from Hungary into Serbia are subjected to forced return to the former Yugoslav Republic of Macedonia, in application of the readmission agreements, without effective procedural guarantees to gain access to legal remedies against the decision, free legal aid or information provided through interpretation services. The Committee is concerned that those individuals are at a heightened risk of refoulement, including chain refoulement (arts. 2, 3 and 16).

The Committee calls on the State party to ensure that the asylum determination procedure provides for a substantive review of applications that respects the principle of non-refoulement, irrespective of whether the country of destination is considered safe. The State party should also ensure full protection from refoulement by establishing the necessary legal and administrative safeguards and remedies in forced return procedures and thereby guarantee at all times that no person in need of international protection will be returned to a country where he or she is in danger of being subjected to acts of torture or cruel, inhuman or degrading treatment, conditions or punishment or to chain refoulement. The State party should also establish formalized border monitoring mechanisms, in cooperation with the Office of the United Nations High Commissioner for Refugees and civil society organizations, and take strong action to combat ill-treatment and extortion of undocumented immigrants by the police, including by sending a clear and unambiguous message that such acts are unacceptable, and by prosecuting and punishing the perpetrators.

Gender-based and domestic violence

16. The Committee regrets the lack of disaggregated data on the number of reported incidents of all forms of violence against women, and on the number of investigations and prosecutions carried out in respect of those incidents. It is also concerned about the low penalties imposed in cases of gender-based and domestic violence, the majority of which have ended in suspended sentences. The Committee also notes with concern the lack of emergency protection orders in place, the growing number of feminicides and child victims of domestic violence, and the insufficient State support and assistance provided to victims of gender-based violence during and after criminal proceedings (arts. 2, 12-14 and 16).

The State party should redouble its efforts to combat gender-based and domestic violence, inter alia, by:

- (a) Investigating, promptly, effectively and impartially, all incidents of violence and prosecuting and punishing perpetrators in accordance with the gravity of their acts;**
- (b) Ensuring the effective implementation of the State party's general and special protocols for conduct in cases of violence against women in the family and in intimate relationships and adopting new protocols for proceedings in other cases of gender-based violence;**
- (c) Ensuring that victims of gender-based violence benefit from urgent and effective protection measures and have access to sufficient and adequately funded shelters, medical and legal aid, psychosocial counselling and social support schemes;**
- (d) Establishing a centralized system of data collection covering all forms of domestic and gender-based violence in order to facilitate risk assessments, improve protection and evaluate the extent of the phenomenon and the impact of the measures taken.**

Trafficking in persons

17. While welcoming the legislative and other measures to address trafficking in persons (see para. 6 (b) above), the Committee is concerned at reports that some victims are punished for acts committed as a result of being trafficked and are not afforded sufficient protection against repeated victimization and intimidation in lengthy criminal and civil proceedings. The Committee also takes into consideration reports that funding is insufficient to provide for services for victims of trafficking and that there is a lack of mechanisms for coordination and referral between the welfare centre for victims of human trafficking and non-governmental organizations working in this area (arts. 2, 12–14 and 16).

The State party should:

- (a) Continue its efforts to enforce the anti-trafficking legislation by investigating, promptly, effectively and impartially, all incidents of trafficking and punishing trafficking offenders with appropriate penalties;**
- (b) Increase activities to raise awareness among the judiciary and law enforcement officials about the need to enhance the protection of victims of trafficking in criminal proceedings by making sure that victims are not penalized for acts committed as a result of being trafficked, by reducing the duration of trials and by avoiding witness intimidation and secondary victimization;**

- (c) Facilitate access to compensation for victims of trafficking, regardless of the outcome of criminal proceedings or the identity of the perpetrators;
- (d) Provide sufficient State funding for assistance and reintegration services for victims of trafficking and improve the mechanisms for the identification of victims and for coordination and referral between service providers and officials;
- (e) Undertake an impact assessment of the National Action Plan for Combating Human Trafficking 2009–2011 and adopt a new action plan without delay.

III. Special Procedures Mandate Holders

Report of the Special Rapporteur on the human rights of internally displaced persons

Addendum: Follow-up mission to Serbia, including Kosovo (5 June 2014)
[A/HRC/26/33/Add.2](#)

X. Conclusions and recommendations

60. With a particular emphasis on durable solutions, the Special Rapporteur makes the following conclusions and recommendations to the Government of Serbia and the authorities in Kosovo, respectively.

61. The Special Rapporteur recommends to the competent authorities of Serbia to:

- (a) Continue to provide political will and leadership to attain durable solutions for all IDPs in Serbia;
- (b) Emphasize the humanitarian character of durable solutions and the need for protection after displacement;
- (c) Carry out a profiling and registration exercise in respect of IDPs, in the context of durable solutions based on a needs assessment that the Government has prepared;
- (d) Implement local integration pragmatically, while having regard for return and settlement elsewhere, where possible, in accordance with the participation and choices of IDPs;
- (e) Obtain support for the durable housing project to facilitate the implementation of durable solutions;
- (f) Effectively implement the Law on Permanent and Temporary Residence on a holistic basis;
- (g) Continue to effectively coordinate relevant government line ministries, in line with the objective of implementing durable solutions;
- (h) Promote special protection for the Roma, Ashkali and Egyptian IDP communities over a sustained period of time to enable them to participate in public affairs, improve their living conditions and livelihoods, and achieve durable solutions;
- (i) Continue to pay special attention to the protection of Roma to address their acute vulnerability related to documentation, which involves birth registration,

residence, housing, social services, child education, employment, and political, social and economic inclusion, among other matters;

- (j) **Take special measures for the protection of internally displaced women generally and for the implementation of durable solutions for them;**
- (k) **Establish an effective governmental protection working group mechanism to implement durable solutions, which would include the Commissariat for Refugees and Migration, the Office for Human and Minority Rights, relevant government line ministries, bilateral and multilateral partners, and representatives of IDPs.**

62. The Special Rapporteur recommends to the competent authorities in Kosovo to:

- (a) **Provide special protection, security and safety for returning IDPs in their places of origin as well as in places of integration or resettlement, as the case may be;**
- (b) **Address effectively the issue of property in the context of resolving disputes involving the properties of IDPs, providing effective remedies in relation to such properties, and preventing illegal occupation of the properties of IDPs;**
- (c) **Continue to provide political will and leadership to attain durable solutions for all IDPs in Kosovo;**
- (d) **Emphasize the humanitarian character of durable solutions and the need for protection after displacement;**
- (e) **Implement constitutional provisions on IDPs by passing legislation and policy for protecting and assisting IDPs;**
- (f) **Include IDPs in the Government Strategy for 2014–2019 as well as in chapters 23 and 24 of the European Union–Kosovo framework discussion;**
- (g) **Obtain support for the durable housing project to facilitate the implementation of durable solutions;**
- (h) **Create a mechanism for coordinating central government and municipal authorities and for the effective implementation of government policy by relevant line ministries, in order to improve the protection of all IDPs and in the context of durable solutions for the protection of all IDPs;**
- (i) **Conduct a needs assessment and profiling/documentation exercise for all IDPs;**
- (j) **Promote special protection for Roma, Ashkali and Egyptian IDPs over a sustained period of time in order to enable them to participate in public affairs, improve their living conditions and livelihoods, and achieve durable solutions;**
- (k) **Pay special attention to the protection of Roma, Ashkali and Egyptian IDPs to address their acute vulnerability related to documentation, which involves birth registration, residence, housing, social services, child education, employment, and political, social and economic inclusion, among other matters;**
- (l) **Take special measures for the protection of internally displaced women generally and for the implementation of durable solutions for them;**

(m) Implement legislation, policies and decisions made by the government authorities, the courts, adjudicative panels and other relevant bodies generally and in relation to IDPs.

63. The Special Rapporteur recommends to the international community to:

- (a) Effectively coordinate with UNHCR — the lead agency for the protection of IDPs in Serbia — and other relevant United Nations agencies that play an effective role in supporting solutions for IDPs as part of the United Nations strategy aimed at addressing the situation of IDPs;
- (b) Make continuous efforts to strengthen the judicial system of Kosovo, including the implementation of decisions;
- (c) Support the durable housing project aimed at facilitating durable solutions for IDPs in Serbia and Kosovo;
- (d) Support the Government of Serbia and the authorities in Kosovo in implementing all of the recommendations of the present report.

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Mission to Serbia and Kosovo (26 February 2016) [A/HRC/31/54/Add.2](#)

Vulnerable groups

101. The Special Rapporteur also recommends that the Government of Serbia:

- (a) Eliminate and address de facto housing discrimination against Roma, Ashkali and Egyptians, and all internally displaced persons, including by ordering the immediate cessation of evictions in informal settlements by local authorities and the abandonment of any other measures leading to segregation and substandard housing conditions; for example, mobile housing units should be replaced by housing options that are in compliance with international human rights standards;
- (b) Facilitate the process of deinstitutionalization of persons with disabilities, at a pace that ensures that no person deinstitutionalized is rendered homeless, inadequately housed or without support, and has adequate care to live independently;
- (c) Intensify and accelerate efforts to support local integration and access to adequate housing of the tens of thousands of people from Kosovo, unless or until their return becomes possible;
- (d) Ensure an effective, human rights-based response to the arrival of migrants and refugees, including by providing access to emergency shelters or reception centres and related services of a quality that will ensure respect for human dignity, regardless of nationality or status. All measures to receive people fleeing conflict and violence should be taken on the basis of international human rights law and international humanitarian law.

Recommendations addressed to the authorities in Kosovo

104. The Special Rapporteur recommends that the authorities in Kosovo:

- (a) Consider incorporating the International Covenant on Economic, Social and Cultural Rights into the list of international human rights instruments included in the Constitution;
- (b) Carry out a comprehensive housing needs assessment, bearing in mind population groups that may be invisible, such as women, young people and the elderly, and persons living in poverty. Other population groups, in particular Roma, Ashkhali and Egyptians, and all internally displaced persons, especially Kosovo Serbs, and their specific vulnerabilities should also be considered in the assessment;
- (c) Take steps to ensure that the new law on social housing complies with international human rights standards with regard to the right to adequate housing and non-discrimination; incorporates specific measures to ensure protection of women's right to housing, as well as access to adequate housing for low-income people, such as young or elderly persons; offers guidance on the regularization of informal settlements and provides security of tenure to inhabitants, as well as access to all services; and envisages the creation of a mechanism facilitating access to justice and remedies;
- (d) Encourage and support municipalities that have not adopted their three-year housing strategies, as required by law and in accordance with housing needs assessments, to do so; all municipalities should prioritize the development of affordable housing in available land in their urban plans, zoning and spatial arrangements, in particular over other uses of land, such as for commercial purposes;
- (e) Take all necessary measures to ensure full compliance with the provisions in the human rights package at all levels of government, in order to eliminate de facto discrimination experienced by women and girls in Kosovo; and ensure that specific policies are geared towards guaranteeing the right to adequate housing, without discrimination on any grounds;
- (f) Coordinate with the Government of Serbia and relevant authorities to ensure that all pre-conflict cadastral records are transferred back to the appropriate authorities in Kosovo.