

United Nations
Convention on the Elimination
of All Forms of Discrimination
against Women

CEDAW, /C/SRB/CO/2-3

Distr.: General
25 July 2013

original: English

ADVANCE UNEDITED VERSION

Committee on the Elimination of
Discrimination against Women

**Concluding observations on the combined second and third
periodic reports of Serbia***

1. The Committee considered the combined second and third periodic report of Serbia (CEDAW/C/SRB/2-3) at its 1144th and 1145th meetings on 18 July 2013 (CEDAW/C/SR.1144 and 1145). The Committee's list of issues and questions is contained in CEDAW/C/SRB/Q/2-3 and the responses of the Government of Serbia are contained in CEDAW/C/SRB/Q/2-3/Add. 1.

A. Introduction

2. The Committee appreciates that the State party submitted its combined second and third periodic report in a timely manner. It also appreciates the State party's written replies to the list of issues and questions raised by the Committee's pre-sessional working group, its oral presentation and the responses to the questions posed orally by the Committee. However, it regrets that the report lacked disaggregated data by sex and other relevant factors as well as qualitative data on the situation of women in a number of areas covered by the Convention, in particular with respect to women belonging to disadvantaged groups.

3. The Committee commends the State party for its delegation, which was headed by Ms. Brankica Jankovic, the State Secretary of the Ministry of Labour, Employment and Social Policy and included representatives of different Ministries and offices as well as the member of the National Assembly. The Committee appreciates the dialogue that took place between the delegation and the members of the Committee.

B. Positive Aspects

4. The Committee welcomes the adoption, since the consideration of the last report, of legislative measures aimed at eliminating discrimination against women, including:

(a) The 2009 Law on Prohibition of Discrimination which includes a definition of the principle of equality and prohibits discrimination on various grounds, including gender-based discrimination;

Adopted by the Committee at its fifty-fifth (8-26 July 2013).

(b) The 2009 Law on Gender Equality which contains provisions for equal opportunities and special measures to prevent and eliminate discrimination based on sex and gender as well as a procedure for legal protection of persons exposed to discrimination;

(c) The 2009 Law on Employment and Insurance in Case of Unemployment which also provides for gender equality and protection against discrimination;

(d) The 2009 Law on Professional Rehabilitation and Employment of Disabled Persons which includes provisions on gender equality of persons with disabilities;

(e) The 2009 Law on Fundamentals of Education which contains provisions against discrimination, including discrimination based on gender; and

(f) The 2011 Law on the Election of Members of Parliament and the Law on Local Elections introducing gender quotas.

5. The Committee also welcomes the adoption of the following policies:

(a) The Strategy for the Prevention and Protection against Discrimination of 2013;

(b) The National Strategy for Preventing and Combating Violence against Women in the Family and in Intimate Relationships (2011-2015);

(c) The National Action Plan on Implementation of UN Security Council Resolution 1325 on Women, Peace and Security (2010-2015);

(d) The National Strategy for the Improvement of the Status of Women and Promotion of Gender Equality (2009-2015); and

(e) The National Strategy for Improvement of the Status of Roma in Serbia of 2009 and its Action Plans (2009-2011 and 2013-2014).

6. The Committee notes with satisfaction that the State party ratified or acceded to a number of international and regional instruments, including:

(a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, both in 2009;

(b) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2011; and

(c) The European Convention on Action against Trafficking in Human Beings, in 2009.

C. Principal areas of concern and recommendations

National Assembly

7. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the obligations of the State party under the Convention, the Committee stresses that the Convention is binding on all branches of Government, and it invites the State party to encourage the National Assembly, in line with its procedures, where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the State party's next reporting process under the Convention.

Visibility of the Convention, the Optional Protocol and the Committee's General Recommendations

8. The Committee is concerned that, to date, the Convention has not been directly invoked, applied or referred to in court proceedings, nor have women claimed their rights to non-discrimination and equality by invoking provisions of the Convention or relevant domestic legislation, which indicates a lack of awareness among women and among the judiciary and legal professionals about the rights of women under the Convention.

9. **The Committee recommends that the State party:**

(a) **Continue raising awareness among women about their rights under the Convention and procedures under the Optional Protocol; and**

(b) **Ensure that the Convention, the Optional Protocol thereto, the Committee's General Recommendations, its Views on individual communications and its inquiries and relevant domestic legislation are made an integral part of legal education and training for all judges, prosecutors and lawyers, with a view to enabling them to directly apply the Convention and to interpret national legal provisions in line with the Convention.**

Legal framework for non-discrimination and equality

10. The Committee notes that discrimination based on sex is prohibited by the Constitution, the Law on the Prohibition of Discrimination, and the Law on Gender Equality. The Committee is, however, concerned at:

(a) The failure of the State Party to implement these laws in a timely and effective manner and the lack of awareness about the provisions of such laws among its population, resulting in a low number of cases initiated;

(b) The absence of the concept of intersectional discrimination against women in the State party's anti-discrimination laws; and

(c) The absence of a legal framework on access to free legal aid and assistance which impedes women from claiming their right to non-discrimination and equality.

11. **The Committee calls upon the State party to:**

(a) **Ensure the timely and effective implementation of its anti-discrimination laws and take measures to raise awareness about those laws among the general public and, in particular, among women from disadvantaged groups;**

(b) **Introduce the concept of intersectional discrimination in its legislation; and**

(c) **Take necessary measures to enact as soon as possible the draft law on free legal aid in order to enable women to properly and satisfactorily claim their rights.**

Legal complaints mechanisms

12. The Committee notes that the Deputy Ombudsperson for Gender Equality and the Commissioner for Protection of Equality are responsible for handling complaints about sex based discrimination. The Committee is however concerned about:

(a) The lack of visibility, transparency and accessibility of the Ombudsman's office and the Commissioner for Protection of Equality;

(b) The low number of complaints on sex based discrimination received by the national complaints mechanisms; and

(c) The reports that most complaints about discrimination against women received by the Ombudsman's Office were rejected as unfounded.

13. The Committee urges the State party to ensure that women avail themselves of the legal complaints mechanisms available to them and recommends that the State party:

(a) Take measures to improve the visibility, accessibility and transparency of the Ombudsman's Office and the Commissioner for Protection of Equality;

(b) Take measures to increase women's awareness of their rights and of the functions of the existing complaints mechanisms to enable them to seek redress in cases of sex-based discrimination; and

(c) Ensure that all complaints on alleged sex based discrimination are effectively investigated by both the Ombudsman's office and the Commissioner for Protection of Equality.

National machinery for the advancement of women

14. Notwithstanding the existence of an extensive national machinery, the Committee regrets that institutions and bodies for the advancement of women are understaffed and lack adequate resources and authority to influence government policy and decision-making. The Committee is concerned at the lack of systematic and continuous dialogue between the national machinery at all levels and relevant NGOs, in particular women's organisations and absence of consultations with them in designing and implementing gender equality and women's empowerment policies.

15. The Committee recommends that the State party:

(a) Further strengthen the national machinery by providing them with adequate human, technical and financial resources, increasing their visibility and efficiency as well as by strengthening their capacity, especially at the local level, and ensure sufficient political support to enable them to carry their functions effectively;

(b) Ensure formal and informal dialogue and consultations between the national machinery and the relevant NGOs, in particular women's organisations and put in place a system of cooperation which shall respect the autonomy of women's organisations.

The National Strategy for the Improvement of the Status of Women and Promotion of Gender Equality for 2009-2015

16. The Committee notes the adoption of numerous strategies and action plans including the National Strategy for the Improvement of the Status of Women and Promotion of Gender Equality for 2009-2015 and the National Plan for Action for implementation of the Strategy for 2010-2015. The Committee is, however, concerned at:

(a) The lack of adequate funding from the State party's budget for the implementation of these and other strategies and action plans aimed at eliminating all forms of discrimination against women, in particular against women belonging to ethnic minorities, including Roma women, women with disabilities, older women, women living with HIV, women affected by the war, lesbian women and other disadvantaged women and girls;

(b) The lack of harmonization among various national strategies and their action plans with strategies at the local level and lack of coordination, monitoring and evaluation mechanisms for their effective implementation and regular and interim reporting; and

(c) The lack of gender specific measures in national strategies and actions plan to address the inequality and intersectional discrimination of disadvantaged women, as well as lack of indicators and benchmarks that would measure progress achieved.

17. **The Committee calls upon the State party to:**

(a) **Allocate substantial and sustained resources, both human and financial, to all national strategies, mechanisms and action plans aimed at elimination of discrimination against women, especially disadvantaged women and ensure their effective implementation;**

(b) **Take measures to harmonize its national strategies and action plans, in particular with the ones at the local level, and enhance coordination between sectorial policy-making and implementation and horizontal and vertical coordination between the national and local levels as well as to monitor and regularly evaluate the process of their implementation through reporting on progress achieved;**

(c) **Adopt gender specific measures in current and new national strategies, and action plans to prevent and eliminate inequality and intersectional discrimination of disadvantaged women; and**

(d) **Accelerate the development of indicators and benchmarks as integral part of monitoring and evaluation system, and ensure their regular use to measure progress and address setbacks in the improvement of situation of women.**

Temporary special measures

18. The Committee notes that some temporary special measures have been taken in the area of employment of women, including disadvantaged groups of women such as Roma women and women with disabilities. The Committee is however concerned at:

(a) The absence of a systematic and consistent application of temporary special measures for achieving substantive equality under the areas of the Convention and to specifically address the barriers to equality and non-discrimination by disadvantaged women;

(b) The absence of gender relevant statistics on the application of temporary special measures; and

(c) The absence of special measures targeting women affected by the war and women living with HIV.

19. **The Committee encourages the State party to:**

(a) **Take further steps to expand the use of temporary special measures, in accordance with article 4 (1) of the Convention and in line with the Committee's General Recommendation No. 25 (1992), as part of a necessary strategy in accelerating the achievement of women's substantive equality, in particular for disadvantaged groups of women, including women affected by the war and women living with HIV, in all areas under the Convention;**

(b) **Ensure that adequate resources are allocated to these measures and that the relevant state institutions coordinate their implementation amongst themselves;**

(c) **Inform the public, in particular, women about temporary special measures introduced by the State party aimed at improving the situation of disadvantaged women, evaluate their impact and make findings, including gender relevant statistics, available to the public.**

Stereotypes

20. The Committee notes the information provided by the State party regarding its efforts to eliminate negative gender stereotypes in the media and its willingness to address the exposure of lesbian women and women with disabilities to negative stereotypes as expressed by the State party's delegation. However, the Committee remains concerned about:

(a) The persistence of deep-rooted stereotypes and the recent trend of re-establishing traditional roles and responsibilities of women and men in the family and society, which undermines women's social status, participation in the public life and their professional careers; and

(b) The predominantly negative attitude, including, in certain cases, hate crimes, towards minority women, Roma women, women with disabilities, women living with HIV and lesbian women affecting the enjoyment of many of their rights.

21. **The Committee recommends that the State party:**

(a) **Further strengthen its efforts to overcome stereotypical attitudes regarding the roles and responsibilities of women and men in the family and in society and continue implementing measures to eliminate gender stereotypes by promoting positive images and substantive equality of women; and**

(b) **Implement the Strategy for the Prevention and Protection against Discrimination in particular regarding minority women, Roma women, women with disabilities, women living with HIV and lesbian women and work with the civil society, the media and other stakeholders to improve tolerance and combat social exclusion of these groups of women.**

Violence against women

22. While noting the adoption of the National Strategy for Preventing and Combating Violence against Women in the Family and Intimate Relationships in 2011 and protocols at the level of ministries in 2011, the Committee remains concerned about:

(a) The increasing number of women murdered by their husbands, ex-husbands 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 for domestic violence;

(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; and

(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 to:**

(a) **Review and revise the Criminal Code, the Family Code and other relevant laws with a view of effectively preventing all forms of violence against women and protecting victims;**

(b) **Encourage women to report incidence of domestic and sexual violence by raising awareness about the criminal nature of such acts;**

(c) **Ensure the effective investigation into cases of violence against women and prosecute and punish perpetrators of such crimes with sanctions commensurate to gravity of the crime;**

(d) **Ensure that all women victims of violence have adequate assistance and unhampered access to effective protection from violence, including by ensuring sufficient number of shelters funded by the state budget and improving the cooperation with relevant non-governmental organizations in this respect;**

(e) **Ensure that the relevant authorities are aware of the importance of issuing emergency protection orders for women at risk and maintain such orders until they are no longer at risk;**

(f) **Enhance the system of data collection by ensuring that it is 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; and**

(g) **Expediently ratify the Council of Europe Convention on Preventing and Combating Violence against Women.**

Trafficking and exploitation of prostitution

24. While noting the legislative, institutional and policy measures taken to combat trafficking in persons, including the adoption of the National Strategy to Combat Human Trafficking and the National Action Plan to Combat Human Trafficking (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 insufficient resources allocated to such programmes; and

(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; and**

(c) **Establish effective cooperation with civil society organizations working in the area.**

Participation in political and public life

26. The Committee notes the provisions to promote equal representation of women and men in political and public decision making, but remains concerned about lack of the impact of such measures. The Committee is particularly concerned about:

(a) The limited implementation of provisions of the Law on Gender Equality (article 35) requiring political parties, trade unions and professional associations to promote equal representation of women and men in their respective decision making bodies;

(b) The non-involvement of women's organizations in drafting of the National Action Plan for the implementation of the UN resolution 1325 "Women, Peace and Security" as well as their exclusion from the negotiations regarding Kosovo; and

(c) The low number of women in elected bodies at local levels and women at the highest ranks of the diplomatic service.

27. The Committee recommends the State party to:

(a) Ensure the full and equal participation of women in political and public life including by implementing article 35 of its Law on Gender Equality, and assess its impact, in particular on women from disadvantaged groups, such as Roma women and women with disabilities;

(b) Involve women's organizations in the implementation of its policies concerning peace and security, including in its negotiations concerning Kosovo; and

(c) Increase the number of women in decision-making positions, especially in local administrations and at the highest ranks of the diplomatic service.

Education

28. While noting the new inclusive education under the Law on Fundamentals of the Education System, the Committee remains concerned at:

(a) The low enrolment of Roma girls and boys at the primary and secondary levels of education and their low levels of completion rate, which is more marked among girls;

(b) The persistence of gender stereotypes in curriculum materials and textbooks of secondary education; and

(c) The inadequate inclusion of education on sexual and reproductive health and rights in the school curricula at all levels of education.

29. The Committee recommends that the State party raise awareness of the importance of education as a human right and as the basis for the empowerment of women and girls. To this end, it urges the State party to:

(a) Promote enrolment and attendance of Roma children, particularly girls, into primary and secondary levels of education in regular schools, and eliminate all barriers, including financial barriers, for their access to education;

(b) Review and revise materials and textbooks used for secondary education to eliminate patriarchal gender stereotypes; and

(c) Introduce age-appropriate sexual and reproductive health and rights education, including issues of gender relations and responsible sexual behaviour, in the curriculum for all levels of the education system.

Employment

30. While the State party has taken measures aimed at eliminating sex based discrimination at the work place, the Committee remains concerned about:

(a) The persistent gender wage gap;

(b) Women's disproportionately high unemployment, especially among Roma women, women with disabilities and rural women;

(c) The increasing feminization of certain professions;

(d) The lack of opportunities to reconcile work and family obligations;

(e) The sexual harassment of women in the workplace; and

(f) The lack of disaggregated data on the situation of women in the labour market.

31. **The Committee recommends that the State party:**

(a) **Adopt measures to implement the principle of equal pay for work of equal value in order to narrow and close the gender wage gap;**

(b) **Increase women's access to employment and entrepreneurship, including for Roma women, women with disabilities and women in rural areas;**

(c) **Encourage women's participation in occupational areas where they are traditionally under-represented;**

(d) **Facilitate the reconciliation of professional and private life for women and men, including by expanding the number of childcare facilities and by encouraging men to equally participate in family responsibilities;**

(e) **Strengthen measures to prevent and combat sexual harassment of women in the work place by establishing effective reporting mechanisms and sanctions; and**

(f) **Collect disaggregated data on the situation of women and men in the labour market and on the number and nature of court cases and administrative complaints related to sex-based labour discrimination and sexual harassment in the workplace.**

Health

32. While noting the legislative and policy measures taken by the State party, including the extension of compulsory health insurance to the Roma population, the Committee remains concerned about:

(a) The limited implementation of such laws and policies and the restricted access for Roma women, women with disabilities and victims of rape to health care services;

(b) The difficulties faced by women with disabilities in enjoying their right to reproductive health due to prejudices, the lack of trained personnel and accessible facilities;

(c) The use of abortion as a method of birth control and the limited use of modern forms of contraception, poor quality of counselling services for family planning as well as the risk that, faced with declining fertility rates, the State party may take measures to reduce the present accessibility of abortion; and

(d) The lack of access to second generation anti-retroviral treatment for women living with HIV/AIDS and the insufficient information on the prevention of mother to child transmission of HIV/AIDS and possible treatment.

33. **The Committee urges the State party to:**

(a) **Improve women's access to quality health care and health-related services, in line with General Recommendation No. 24 (1999);**

(b) **Ensure the effective implementation of laws and policies providing compulsory health insurance and free services to all women and girls;**

(c) **Take necessary measures to ensure the full and effective realization of the right of women with disabilities to sexual and reproductive health by eliminating prejudices, training medical personnel and increasing the number of health facilities equipped to address their needs;**

(d) Reduce the use of abortion as a method of contraception by improving information on and access to modern forms of contraception which would be included in the positive list of drugs as well as ensure that abortion remains as accessible as it is at present, both legally and financially, and consider including its costs into the health insurance system;

(e) Take immediate measures to provide access to women and girls living with HIV/AIDS to second generation anti-retroviral drugs and other necessary medications and services, as well as information on methods to prevent mother to child transmission of HIV/AIDS.

Rural women

34. The Committee notes with concern inequalities between the State party's urban and rural women, with respect to the standard of living and employment, including for older women. It is further concerned about de facto discrimination against rural women in access to property due to traditional and social patterns favouring men as holders of property titles.

35. The Committee recommends that the State party ensure that rural women, including older women, have unimpeded access to adequate standards of living and employment. It further recommends that the State party take necessary measures to eradicate stereotypes on the role of women in its rural areas and eliminate practices of discrimination against women in property rights.

Disadvantaged groups of women

36. While noting the adoption of the revised National Strategy on the Situation of Refugees and Internally Displaced Persons in the period 2011-2014, the Committee is concerned about the lack of state monitoring of the conditions of women refugee, asylum seeking 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 persons belonging to the Roma community, under the amendments to the Law on Non Contentious Procedures, remain at the discretion of the Ministry of Interior.

37. The Committee calls upon the State party to establish mechanisms to monitor the situation of refugee, asylum seeking and internally displaced women in order to better protect their rights, including by protecting them against violence and provide relevant data. 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.

Marriage and family relations

38. The Committee notes that the Action Plan (2010-2015) for the Implementation of the National Strategy for the Improvement of the Status of Women and Promotion of Gender Equality includes measures aimed at recognizing, preventing and solving problems of child marriages, forced (arranged) marriages and the practice of "selling brides". It also notes the willingness of the State party to "discuss the Model Law on Same Sex Partnership prepared by the civil society" expressed by the State party delegation. However, the Committee remains concerned that:

(a) No progress has been achieved in preventing early and forced (arranged) marriages among the Roma population and other minority groups;

(b) The amendments to the Criminal Code in 2009 abolished articles on "concluding a void marriage" and on "enabling to enter into unlawful marriage"; and

(c) The state child allowance stops at the fourth child, and collection of child support orders from fathers is inefficient.

39. The Committee urges the State party to:

(a) Take all necessary measures to implement the provision of its Action Plan aimed at preventing early and forced (arranged) marriages among minority groups, in particular Roma, and increase awareness among such communities and social workers on the negative effects of early marriage on women's health and education;

(b) Review its Criminal Code to ensure that concluding a void marriage and enabling to enter into unlawful marriage are prohibited and adequately sanctioned;

(c) Establish mechanisms to provide support to large families and to children whose fathers have failed to fulfil their maintenance obligations; and

(d) Ensure the rapid adoption of the Model Law on Same Sex Partnership.

Amendment to article 20, paragraph 1, of the Convention

40. The Committee encourages the State party to accept the amendment to article 20, paragraph 1, of the Convention concerning the meeting time of the Committee.

Beijing Declaration and Platform for Action

41. The Committee calls upon the State party to utilize the Beijing Declaration and Platform for Action, in its efforts to implement the provisions of the Convention.

Dissemination and implementation

42. The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention on the Elimination of All Forms of Discrimination against Women. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests the timely dissemination of the concluding observations, in the official language(s) of the State party, to the relevant state institutions at all levels (national, regional, local), in particular to the Government, the ministries, the National Assembly and to the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organisations, universities and research institutions, media, etc. It further recommends that its concluding observations be disseminated in an appropriate form at the local community level, to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the CEDAW Convention, its Optional Protocol and jurisprudence, and the Committee's General Recommendations to all stakeholders.

Ratification of other treaties

43. The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by women of

¹ The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women;

their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying the treaties to which it is not yet a party, i.e., the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Follow-up to concluding observations

44. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 17 and 23 (a, c, d and e) above.

Preparation of next report

45. The Committee invites the State party to submit its fourth periodic report in July 2017.

46. The Committee requests the State party to follow the "Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents" (HRI/MC/2006/3 and Corr.1).

the Convention against Torture and other Cruel Inhuman, Degrading Treatment or Punishment; the Convention on the Rights of the Child; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention on the Rights of Persons with Disabilities.