

Follow-up table to the country visit of the Special Rapporteur on freedom of religion or belief to the Republic of Serbia including visit to Kosovo (30 April to 8 May 2009)

| Recommendations of the Special Rapporteur’s mission report (A/HRC/13/40/Add.3) | Follow-up information from UN documents (e.g. Special Procedures, UPR, Treaty Bodies) | Follow-up information from the Government of the Republic of Serbia. |
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| <p>32. In this context, the Special Rapporteur would recommend a reform and proper implementation of the current law on churches and religious communities in order to restore the confidence amongst various communities. It seems vital that the Ministry of Religion is more transparent in its decision-making and strictly abides by the duties of neutrality and impartiality. As outlined in her report to the Commission on Human Rights (E/CN.4/2005/61, para. 58), registration should not be a precondition for practising one’s religion, but only for the acquisition of a legal personality and related benefits. In the latter case, registration procedures should not be cumbersome and remain uncomplicated so that the procedure itself does not become a stumbling block for registration, for example with regard to the required number of signatures of founders. Registration should not depend on reviews of the substantive content of the belief, the structure or the clergy. In addition, no religious group should be empowered to decide about the registration of another religious group.</p> | <p>CCPR/C/SRB/CO/2 Concluding observations of the Human Rights Committee on Serbia, 14 March–1 April 2011 20. Despite article 44 of the State party’s Constitution, which states that all churches and religious communities are equal, the Committee is concerned at the differentiation made in the Act on Churches and Religious Communities, regarding “traditional” and other religions, in particular when it comes to the official registration of a Church or religious community and the acquisition of legal personality (arts. 18 and 26).</p> <p>CERD/C/SRB/CO/1 Concluding observations of the Committee on the Elimination of Racial Discrimination on Serbia 18. The Committee expresses its concern about reports of obstacles experienced by religious authorities of certain minority groups seeking their registration as legal entities under the Law on Churches and Religious Communities. It is also concerned about reports of discrimination in the restitution of property to certain minority religious groups whose assets were confiscated (arts. 2 (c) and 5 (d) (v) and (vii)). The Committee recalls the possible intersectionality of racial and religious discrimination and urges the State party to take all necessary measures to ensure the equal right to freedom of religion for all, without preferential treatment, including through a review of laws or practices that perpetuate an intermingling of the secular and religious spheres, which may impede the full implementation of the Convention. It also encourages the State party to ensure that the process</p> | |

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| | of property restitution is carried out without further delay and without discrimination. | |
| <p>33. Concerning places of worship, the Special Rapporteur would like to refer to General Assembly resolution 55/254, in which the Assembly calls upon States to exert their utmost efforts to ensure that religious sites are fully respected and protected in conformity with international standards and in accordance with their national legislation. The Assembly also calls upon all States to adopt adequate measures aimed at preventing all acts or threats of violence, destruction, damage or endangerment, directed against religious sites.</p> | <p>CERD/C/SRB/CO/1 Concluding observations of the Committee on the Elimination of Racial Discrimination on Serbia 13. The Committee notes with interest the extensive legal framework and general policies to eliminate racial discrimination and prohibit incitement to national, racial or religious hatred, but is concerned that acts of racial discrimination, exclusive nationalism and hate speech are still prevalent in society, including in political discourse, in sports, in the media and by groups and organizations. The Committee is concerned about the absence of a codification of hate crimes and the fact that racially motivated offences may not be reported (arts. 2 (a), (b), (d) and (e), 4, and 6). The Committee urges the State party to take all further necessary legislative, judicial and administrative measures to give effect to the provisions of articles 2 and 4 of the Convention and also that it:</p> <ul style="list-style-type: none"> (a) Enact legislation and other effective measures to prevent, combat and punish hate crimes and speech as well as incitement to hatred; (b) Pursue and prosecute the activities of racist or xenophobic extremist groups, and if necessary, ban them; (c) Intensify the enforcement of criminal law against racially motivated crimes; (d) Combat racial prejudice and discrimination in the media, both public and private, including through increased efforts to foster understanding, tolerance and friendship among the various ethnic minority groups in the State party, and through the adoption of a code of media/journalistic ethics; (e) Continue its efforts to combat racism in sports, particularly in football; (f) Encourage and support non-governmental organizations and institutions that combat racial | |

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| | discrimination and promote a culture of tolerance and cultural and ethnic diversity. | |
| <p>34. The Special Rapporteur noticed that the voices of those individuals who do not profess any religion and those who are dissenters within their communities or dispassionate about religions are being marginalized. These individuals are neither realistically reflected in the latest census nor given an opportunity to institutionally express their views in matters of religion or belief. A truly pluralistic society is the backbone of a democratic system. Theistic, atheistic and non-theistic believers as well as those who do not profess any religion have an important role to play in building that pluralism.</p> | | |
| <p>64. During her visit, the Special Rapporteur noticed that the scars of the previous decade's conflicts remain, even though all communities yearn for sustainable peace and reconciliation. The Special Rapporteur is well aware of the painful history of the whole Balkans region and the deep suffering of individuals and communities caused by violence, atrocities and wars. The Special Rapporteur notes that, regrettably, racism and religious issues contributed to the recent conflicts. Indeed, most of her interlocutors emphasized that religious issues in this region are closely interlinked with ethnicity and historical experience.</p> | <p>CERD/C/SRB/CO/1 Concluding observations of the Committee on the Elimination of Racial Discrimination on Serbia. 17. [...] It also recommends that the State party create an environment of dialogue to address these issues with the minority communities concerned and that it further encourage and implement projects and policies to eliminate barriers between communities. It encourages the State party to continue promoting the preservation and development of the languages and cultures of the aforementioned communities. The Committee also recommends that the State party adopt the necessary measures, including legislative, social and cultural, to ensure that engagement among minorities and with the larger public sphere is meaningful, builds trust, and fosters social cohesion and integration.</p> | |
| <p>65. In Kosovo, there have been recent instances of violence and threats directed against religious communities. At the same time, many of her interlocutors told the Special Rapporteur that the society has historically been characterized by a culture of religious tolerance. Yet, as detailed above (see paras. 50-63), there are a number of serious issues of concern with regard to freedom of religion or belief which need to be addressed adequately by the various actors.</p> | | |
| <p>66. Consequently, the Special Rapporteur would like to formulate</p> | | |

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| the following recommendations for the consideration of (a) UNMIK and the international presence in Kosovo; (b) the Kosovo authorities; (c) the religious communities and their leaders; and (d) the whole international community. | | |
| <p>1. Recommendations for the consideration of the United Nations Interim Administration Mission in Kosovo and the international presence in Kosovo:</p> <p>67. The reconstruction of cultural and religious heritage sites that had been damaged or destroyed during the violence in March 2004 remains of utmost importance. The Special Rapporteur welcomes that a year-long stalemate over the tendering procedures for reconstruction projects was overcome by the parties at a meeting of the Reconstruction Implementation Commission on 12 May 2009, with the participation of representatives of the Kosovo Ministry of Culture, Youth and Sport, the Serbian Orthodox Church, the institutes for the protection of monuments from Belgrade and Prishtinë/Priština, and UNMIK.</p> | <p>CCPR/C/101/2 Human Rights Committee, Report of the Special Rapporteur for follow-up on concluding observations, 101st session, March 2011, page 3: “3 June 2009 A letter was sent to request additional information. 27 August 2009 A reminder was sent. 28 September 2010 (sent late) While taking note of the cooperativeness of UNMIK, the Committee sent a letter in which it noted the measures taken but indicated that none of the recommendations has been fully implemented. Recommended action: Send a request for a meeting at the Committee's next session between the Special Representative of the Secretary-General at UNMIK and the Special Rapporteur”</p> | |
| <p>68. Furthermore, it is vital to continue efforts in order to ensure safe conditions for the sustainable return of displaced persons, in particular those belonging to religious minorities. The Special Rapporteur would like to refer to the conclusions of the Representative of the Secretary-General on the human rights of internally displaced persons (A/HRC/13/21/Add.1) and she joins his recommendations addressed to the European Union Rule of Law Mission (EULEX) to pay particular attention to housing, land and property cases involving displaced parties to prevent miscarriages of justice.</p> | | |
| <p>2. Recommendations for the consideration of the Kosovo authorities</p> <p>69. The Special Rapporteur recommends the relevant authorities to take swift action and devise creative measures to counter the worrying trend of coercion and violence in the name of religion or belief. In addition, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence must be vigorously investigated and the perpetrators must be prosecuted in accordance with international human rights law. In this regard, article 20, paragraph 2, of the</p> | | |

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| International Covenant on Civil and Political Rights is an important tool for the protection of persons from discrimination, hostility or violence because of their national, racial or religious identity. | | |
| 70. The Special Rapporteur would also like to refer to the concluding observations of the Human Rights Committee (CCPR/C/UNK/CO/1, paras. 20-21), which was concerned about the widespread discrimination against minorities in Kosovo and noted that members of minority communities have only limited access to the conduct of public affairs. Further efforts should be made to increase the representation of minority communities, including members of religious minorities, in the judiciary and to improve their access to public service. | | |
| 71. The Kosovo authorities should exert their utmost efforts to ensure that religious sites are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration and destruction. The Kosovo authorities should also aim to foster a culture of tolerance and respect for the diversity of religions and for religious sites, which represent an important aspect of the collective heritage of humankind. In general, further efforts should be made by all actors to improve the communication between the Kosovo authorities and the Serbian Orthodox Church. | | |
| 3. Recommendations for the consideration of religious communities and their leaders 72. One of the tools for promoting religious tolerance is a meaningful interreligious and intra-religious dialogue, particularly in order to address contentious issues that religious leaders can resolve amicably through negotiations rather than confrontation. The Special Rapporteur would urge a more cooperative attitude in this regard, especially from the leader of the Serbian Orthodox Church in Kosovo. At this critical moment, religious leaders have a responsibility to play a constructive role so that freedom of religion or belief can be enhanced in a democratic, non-discriminatory and depoliticized manner. The religious leaders' public positions have a direct impact on their communities and can have either positive or detrimental effects on religious harmony. | | |
| 73. Ultimately, dialogue at the grass-roots levels as well as joint | | |

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| <p>meetings or artistic events that bring together from different religious backgrounds may help in building bridges between the communities and seeking reconciliation. In this regard, the General Assembly emphasizes in its resolution 63/181 the importance of a continued and strengthened dialogue among and within religions or beliefs, at all levels and with broader participation, including of women, to promote greater tolerance, respect and mutual understanding. The Assembly also stresses the need to address the rise of religious extremism that affects the rights of individuals, as well as the misuse of religion or belief for ends inconsistent with the Charter of the United Nations and other relevant instruments.</p> | | |
| <p>4. Recommendations for the consideration of the international community</p> <p>74. It is vital to send a clear message that violence and incitement to racial or religious hatred will not be tolerated. The Special Rapporteur would like to reiterate the Human Rights Committee's concern (CCPR/C/UNK/CO/1, para. 12) about the continuing impunity enjoyed by some perpetrators of war crimes and crimes against humanity committed prior to the UNMIK mandate and about ethnically motivated crimes perpetrated since June 1999, including those committed in March 2004, as well as the failure to effectively investigate many of these crimes and bring perpetrators to justice.</p> <p>75. One of the lessons learned from the violent conflicts in the past decade is to remain vigilant in detecting any emerging religious tensions and to try defusing them before they suddenly deteriorate and turn violent. In this regard, the Human Rights Council, the system of special procedures and the treaty bodies have an important early warning function. Due attention must also be given to early signs of intolerance that may not be human rights violations themselves, but that may ultimately lead to religious discrimination. The Special Rapporteur on freedom of religion or belief stands ready for any further consultations and follow-up to the present report.</p> | | |

30 November 2011