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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Honouring of obligations and commitments by Serbia

Information note by the rapporteurs on their fact-finding visit to Belgrade and Novi Pazar (28 November – 2 December 2010)¹

Co-rapporteurs: Mr Davit HARUTYUNYAN, Armenia, European Democrat Group, and Ms Sinikka HURSKAINEN, Finland, Socialist Group

¹ This information note has been made public by decision of the Monitoring Committee dated 10 December 2010.

I. Introduction

1. We visited Serbia from 29 November to 2 December 2010. This was the second visit carried out in 2010 in the framework of the regular monitoring procedure for this country. The first one was organised on 20-22 January 2010. In the meantime, on 27 April 2010, Ms Sinikka Hurskainen (Finland, SOC) was appointed Rapporteur, replacing Mr Andreas Gross (Switzerland, SOC).
2. Further to the exchange of views held in the Committee on 7 October 2010, the programme of this visit focused on recent political and legal developments. The question of national minorities was also given much attention. The programme is attached in the appendix.
3. This visit also aimed at discussing the preparation of a Roadmap for the completion of commitments and implementation of statutory obligations, in line with Resolution 1661(2009). In this Resolution, the Parliamentary Assembly invited the Serbian authorities "to draw up a roadmap for the implementation of the remaining obligations and commitments in the field of co-operation with the ICTY, the functioning of democratic institutions, the rule of law and human rights".
4. We would like to thank the Parliament of Serbia, as well as the Office of the Special Representative of the Secretary General of the Council of Europe in Belgrade, for their assistance in the preparation of the programme during the visit.

II. Recent developments

i. Regional co-operation

5. In the past months, Serbia has made progress in the field of regional co-operation. A series of diplomatic visits improved the regional ties of Serbia with neighbouring countries. The Serbian President, Mr Tadić, visited Montenegro on 7-8 July 2010 for the first time since the dissolution of the State Union of Serbia and Montenegro in May 2006. President Tadić attended the commemoration of the Srebrenica massacre on 11 July 2010, expressing regret for the crimes committed in Srebrenica. The Croatian President, Mr Josipović, paid his first official visit to Serbia on 18-19 July 2010. President Tadić and President Josipović expressed their strong wish to improve relations between their countries and agreed that both neighbours are on the right path to resolving the remaining open issues (ie the return of Serb refugees from Croatia, the question of the state border, as well as missing persons, minorities and the protection of their rights). During his visit to Vukovar on 4 November 2010, President Tadić paid tribute to victims of war atrocities committed in 1991, and together with Croatian President, Mr Josipović, offered apologies to the families of those killed.

6. Since June 2009, Serbia has ratified a number of Council of Europe conventions, including :

- the European Social Charter (Revised) (CETS No. 163);
- the Convention on Cybercrime and its Additional protocol (CETS Nos. 185 and 189);
- the Convention on Action Against Trafficking in Human Beings (CETS No. 197);
- the Convention on the Laundering, Search, Seizure and Confiscation of the Proceeds of Crime and the Financing of Terrorism (CETS No. 198);
- the Convention on the Prevention of Terrorism (CETS No. 196);
- the Protocol Amending the European Convention on the Suppression of Terrorism (CETS No. 190);
- the Convention on Transfrontier Television (CETS No. 132);
- the Convention on the Protection of the Archaeological Heritage (Revised) (CETS No. 143);
- the Framework Convention on the Value of Cultural Heritage for Society (CETS No. 199);
- the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201).

7. During the same period, the Serbian authorities signed :

- the European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes (CETS No.082);
- the European Convention on the compensation of Victims of Violent Crimes (CETS No.116);
- the European Convention on the Exercise of Children's Rights (CETS No. 160);
- the European Convention on the Adoption of Children (Revised) (CETS No. 202);
- the Council of Europe Convention on Access to Official Documents (CETS No. 205).

8. Further to paragraph 14.5.6 of Resolution 1661 (2009), Serbia is invited to ratify the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid Convention). We were informed that the ratification process is envisaged in the near future.

ii. Co-operation with the European Union (EU)

9. At EU level, the EU Foreign Ministers agreed, on 25 October 2010, to ask the European Commission to prepare an opinion on Serbia's candidacy to the European Union. The European Commissioner for Enlargement and European Neighborhood Policy, Mr Stefan Fule, handed to Serbia the Commission's questionnaire that Serbia agreed to answer by the end of January 2011. The questionnaire contains about 2,500 questions divided into 33 policy areas.

10. The Serbian Deputy Prime Minister for European Integration indicated that Serbia should adopt - by mid-December 2010 - an action plan focusing on core activities (and "ten commandments" of the EU) with a view to obtaining the status of candidate country by the end of 2011. We noted that many of these core activities (such as co-operation with ICTY, funding of political parties, reform of the judiciary, regulatory bodies, inclusion of Roma, etc) are part of the remaining obligations and commitments identified in Resolution 1661 (2009).

iii. Co-operation with International Criminal Tribunal for the former Yugoslavia (ICTY)

11. The last assessment of ICTY Prosecutor to the UNSC, in December 2010, recognised continued progress by the Serbian authorities. However he urged Serbia to adopt a rigorous and more proactive approach to arrest the remaining two fugitives Mladić and Hadžić². The Serbian government has increased its reward for information leading to the arrest of Mladić from one Euro to 10 millions Euros, and it has doubled the reward for similar information on Hadžić.

12. We invite the Serbian authorities to pursue the co-operation with ICTY (in line with Resolution 1661 (2009)) and ensure that all means are used to arrest Mladić and Hadžić.

III. Functioning of democratic institutions

i. Reform of the parliament

13. The Serbian Parliament adopted the Law on the National Assembly on 26 February 2010 and its new Rules of Procedure on 28 July 2010. These reforms aim at making the parliament a more efficient, modern institution and strengthening the role of parliament. The parliament is now entitled to adopt its own budget.

14. We had extensive exchange of views, with MPs from both the ruling coalition and the main opposition parties, on the new rules introduced in the parliament, ie the organisation of the work, the speaking time of parliamentarians, the coverage on TV, the role of the opposition, etc. While the ruling parties highlighted the pace of reforms and high number of laws adopted, the opposition parties deplored excessive use of the urgent procedure to pass laws, limited speaking time, etc.

15. In our view, however, two substantial issues remain unsolved. The first issue relates to *party-administrated mandates*. According to the opinion of the European Commission for Democracy through Law (Venice Commission), "members of Parliament are regarded as representatives of the whole people and are responsible only to their conscience. As a consequence, they should abide only by the rules and no other orders or instructions can be binding on them"³. In its Resolution 1747 (2010), the Parliamentary Assembly urged the Parliament of Serbia "to amend the existing constitutional framework with a view to abolishing a party-administered mandate and amend the electoral legislation accordingly, in order to increase the transparency for voters of the allocation process for seats from party lists" and "to abrogate constitutional and legislative provisions providing for the recall of peoples' representatives by the political parties (the so-called "imperative mandate" ⁴) and legislative provisions (...) that allow for the reordering of candidates on the party lists after the elections have taken place"⁵. In addition, OSCE/ODIHR and the Venice Commission

² VIP Daily News Report, nr. 4500, 7 December 2010

³ Opinion of the Venice Commission 423/2007, CDL-AD(2007)018, paragraph six.

⁴ Concerning the Imperative mandates of the members of the Serbian parliament, see the report on Honouring of obligations and commitments by Serbia of 2008 (Co-rapporteurs: Mr Charles GOERENS, Luxembourg, Alliance of Liberals and Democrats for Europe, and Mr Andreas GROSS, Switzerland, Socialist Group), Doc. 11701, paragraph 3.1.2.1.

⁵ Resolution 1747 (2010) on the State of democracy in Europe and the progress of the Assembly's monitoring procedure, para. 19.1.10 and 19.1.12

underlined in their Guidelines on political party regulations⁶, that "there are instances where candidates elected from a party list renounce their party membership or change parties during their term in office. (...). Elected officials are elected by votes cast by citizens. Political party legislation should not transfer control of the voter bestowed mandate to a political party"⁷.

16. It was explained to us that party-administrated mandates were established historically to secure political stability. We were also informed that the electoral system should soon be reviewed and a mixed system should be set up (with directly elected parliamentarians and parliamentarians elected on party lists). However, changing to a mixed system may not *per se* solve the issue of party-administrated mandates, unless the reordering of candidates on the party lists after the elections is forbidden. This question needs to be included in the law, and political parties should all agree to amend the electoral law with a view to eliminating the possibility of having party-administrated mandates. Reforming the party-administered mandate system is an essential element of Serbia's post accession commitments and statutory obligations to the Council of Europe, as underscored in Resolution 1661 (2009).

17. The other pending issue concerns *blank resignations* - whereby MPs must hand over blank resignations to group leaders before or after the elections. We were informed that this practice no longer exists since 2006 and that blank resignations are no longer accepted: parliamentarians who wish to resign from their political party need to submit a personal request to the Administrative Committee. It should be noted that, on 22 April 2010, the Constitutional Court ruled the practice of "blank resignations" by municipal counselors, which effectively ensured party ownership of the elected mandate, unconstitutional.

18. The Law on the Voters Registry was adopted on 11 December 2009 and the draft law on political parties was adopted by the Parliament on 12 May 2009. However, the draft electoral Law and draft Law on the State Electoral Committee (both expertised by the Venice Commission), the draft Law on the State Election Commission and draft Law on the Election of Councilors of Local Assemblies (examined by the Venice Commission and ODIHR on 8 October 2009) have not yet been adopted. This has become an urgent issue with a view to the upcoming 2012 elections.

ii. State regulatory bodies

19. We welcome the setting up of a range of independent bodies: the Anti-Corruption Agency, the Ombudsman, the Commissioner for the Protection of Equality, the Commissioner for the Protection of Free Access to Information.

20. We note with satisfaction that the institution of the Ombudsman is functioning well with qualified staff, at offices in Belgrade and Southern Serbia. The Ombudsman has received so far over 2200 complaints. The Ombudsman issues recommendations to the relevant authorities, 80% of them being implemented within the given deadline. The Ombudsman submits annual and specific reports and can appeal to courts to challenge laws and regulations that are considered to breach constitutional norms.

21. State regulatory bodies need to be secured in order to allow sustainable democracy. In this respect, the adequate allocation of financial and human resources is indispensable to enable these institutions to function properly and become efficient bodies in the fight against discrimination, corruption and other abuses.

22. These state regulatory bodies also need to be independent and influential for the decision-making process to be successful. We are therefore concerned by the new Rules of Procedure adopted in July 2010 by the parliament which allow parliamentarians to reject the reports of these regulatory bodies, which may unduly influence the work of these bodies.

iii. Local self-government

23. Following the adoption of the 2006 Constitution, new laws on territorial organisation, local self-government, local elections, and the capital city, were adopted on 29 December 2007. The Law on jurisdiction of the Autonomous Province of Vojvodina was adopted in November 2009, allowing the Provincial Assembly's October 2008 Statute of Vojvodina to be enacted⁸. The issue of financial autonomy and restitution of properties to local authorities and the Autonomous Province of Vojvodina remains however pending.

⁶ CDL-AD(2010)024, adopted by the Venice Commission at its 84th Plenary Session (Venice, 15-16 October 2010)

⁷ CDL-AD(2010)024, para. 139

⁸ DPA / Inf (2010) 34 add

24. The Ministry for Human and Minority Rights evoked the setting up of regional statistical units (to comply with the EU standards), pointing out however that these units would not lead to the setting up of political regions.

25. The Congress of Local and Regional Authorities paid a visit to Serbia from 29 June to 1 July 2010 to assess the state of local and regional authorities since the signing of the European Charter of Local Self-Government in 2007. The report (Rapporteur: Odd Arild Kvaløy, Norway, NR and ...) is to be presented to the Congress in 2011.

IV. Reform of the justice sector and the independence of the judiciary

i. Reform of the Judiciary

26. In its Resolution 1661 (2009), the Assembly (PACE) invited the Serbian authorities to intensify their efforts particularly with regard to enhancing the transparency and the efficiency of the judicial system. In 2009, the European Commission expressed concerns as to the lack of transparency, the performance and efficiency of the judicial system.

27. The final report of the project "Support to the Reform of the Judiciary in Serbia in the light of Council of Europe standards" (commissioned by the Directorate General of Human Rights and Legal Affairs (DGHL) of the Council of Europe) was published on 19 August 2010. The report addresses the extent to which the 2006 National Judicial Reform Strategy (NJRS) has or has not been implemented in Serbia, the obstacles preventing full implementation of the NJRS, and what is needed to reach this objective.

28. The NJRS foresees the setting up of two self-governing bodies, ie High Judicial Council (HJC) (which is the guarantor of the autonomy and independence of courts and judges, and is the management and oversight body for the court system) and the State Prosecutorial Council (SPC), which should guarantee the independence and autonomy of the public prosecution service.

29. The final report of the DGHL underlines the efforts made by the Serbian authorities to carry out this comprehensive reform. At the same time, it points out a number of concerns, including lack of human and financial resources, need for training, need of co-operation between the Ministry of Justice and the HJC and SPC, need for transparent procedures, etc.

30. Serbia launched the elections for the permanent composition of the HJC, however, without proper and transparent preparations and consultations. Further to difficulties encountered in the preparation of the elections of the HJC and SPC members, the Serbian authorities decided to amend the laws and prepare a proper legal background. We believe that the election of the members of the High Judicial Council in line with Council of Europe standards is a key issue. We thus encourage the Serbian authorities to seek Council of Europe expertise, in particular to amend the legal background, set up clear criteria and prepare transparent elections for the permanent members of the HJC and SCP, and to adopt a pragmatic and acceptable approach to move forwards. It is of crucial importance that these judiciary bodies are set up in a transparent, indisputable manner.

ii. Re-appointment of judges and prosecutors

31. Judiciary reforms based on the 2006 NJRS include the adoption of the Law on the Constitutional Court adopted on 24 November 2007. On 22 December 2008, the Parliament adopted the Law on the Organisation of Courts, the Law on Judges, the Law on the High Judicial Council, the Law on the Public Prosecution, the Law on the State Council of Prosecutors, and the Law on Court and Public Prosecutors Seats and Districts.

32. The Venice Commission commented the rules for general election (re-election) of judges and prosecutors. However, additional changes were introduced later on and the issue became highly politicised. General re-elections were completed by 1 January 2010⁹.

33. In accordance with the previously adopted package of laws on the reform of the judiciary, the High Judicial Council decided, in December 2009, not to reappoint about one third of the Serbian judges. This decision was severely criticised by the Association of Judges of Serbia. In particular, it was argued that the procedure in the High Judicial Council was not transparent and that the criteria for confirming the judges were rather political.

⁹ DPA / Inf (2010) 34 add

34. The Association of Prosecutors also expressed concerns about their re-appointment process and submitted concrete proposals to the High Prosecutorial Council about how the procedure could be improved. An agreement with the Republic Prosecutor of Serbia reached in March 2010 enabled non-reelected prosecutors to apply for newly created positions of deputy prosecutors.¹⁰

35. Appeals against decisions made by the High Judiciary Council were filed to the Constitutional Court by 827 judges who were not reappointed to their functions. Some of the judges have been reappointed whereas some joined the Bar Council in the meantime. In a first ruling issued in May 2010, the Constitutional Court upheld the appeal of a judge and instructed the HJC to reconsider his application as an appeal court judge, considering that the decision of terminating the judge's service failed to offer proper justification¹¹.

36. In order to lift the burden from the Constitutional Court, the Minister of Justice, Ms Snezana Malović, announced that the High Judiciary Council would review every decision on the re-election of judges once the HJC is formed with permanent members.¹²

37. However, it is of utmost importance that the Serbian authorities find a proper way and a pragmatic approach so as to ensure a transparent procedure of appointment of judges in the future.

V. Human rights

i. Public Assembly Act

38. The Venice Commission and OSCE/ODIHR prepared a joint opinion on the Public Assembly Act in October 2010 (CDL-AD (2010) 031) and identified certain shortcomings. Key recommendations relate to the title of the law, the notification requirements, the application of the law to both nationals and non-nationals and other categories of persons, removal of blanket restrictions on time and location, the limitation of the reasons for suspension, ban or termination of assemblies.

ii. Pending legislative issues

39. The Law on Electronic Communication, adopted by the Parliament on 28 June 2010, raises serious concerns: this law entitles the secret service to have access to private information available in electronic media without prior authorisation of a court. The Ombudsman lodged a complaint with the Constitutional Court, which declared this law unconstitutional in July 2010. However, since this decision has not yet been published in the official journal (for staff-related problems according to the Ombudsman), this Law, although unimplemented, remains in force. This creates legal uncertainty, in particular among journalists.

40. The Public Information Law (which was also struck down by the Constitutional Court) was also perceived by journalists as additional pressure¹³.

iii. Fight against corruption

41. Progress in the fight against corruption has continued with the Anti-Corruption Agency starting its work in January 2010. A majority of public officials submitted asset declarations to the new Agency as required. However, corruption remains prevalent in many areas (in particular in the justice and health system) and continues to be a serious problem.

42. A draft law on financing of political activities was prepared and sent to the Venice Commission and the OSCE/ODIHR for expertise. The control over the funding of political parties and financing of election campaigns at this point still remains weak. The Anti-Corruption Agency still has to establish a track record of verifying asset declarations and carrying out its role effectively. The number of final convictions, especially in high-level cases, remains low. Public procurement, privatisation and public expenditure remain areas of concern. The protection of whistleblowers needs to be improved.¹⁴

¹⁰ DGHL Final report, p. 34

¹¹ DGHL Final report, p. 35

¹² VIP Daily News Report, nr. 4500, 7 December 2010

¹³ See the position of the International Federation of Journalists, <http://www.ifj.org/en/articles/ifj-opposes-repressive-amendments-to-media-law-in-serbia>

¹⁴ Communication from the Commission to the Council and the European Parliament "Enlargement Strategy and Main Challenges 2010-2011", COM(2010)660 final

VI. National minority rights

i. Overall assessment

43. The Law on National Councils of National Minorities adopted in August 2009 sets up national minority councils. The election of these 19 councils on 6 June 2010, was a positive move. 436,334 members of 16 national minorities (Albanian, Ashkali, Bosniak, Bunjevac, Bulgarian, Vlach, Greek, Egyptian, Hungarian, German, Romani, Romanian, Ruthenian, Slovak, Ukrainian and Czech national minorities) directly elected the members of the national councils of the national minorities in 858 polling stations. Three national minorities (Macedonian, Slovak and Croatian) elected their national councils the same day through the electronic assembly¹⁵.

44. All national minority councils have similar competences in the field of education, media, culture, etc. De facto, only the biggest councils exercise their competence in education (development of school curricula, election of minority representatives in management boards in schools providing classes in the minority language, etc).

45. While the setting up of these national minority councils must be considered as a positive move to ensure better promotion and protection of minorities' rights, a number of irregularities and errors were observed relating to the data protection of registers, the lack of clear requirements concerning the registrations of voters, the role of the Ministry for Human and Minority Rights in setting up the councils, etc. The Ombudsman confirmed that he had launched an investigation into these issues.

ii. The Bosniak National Minority Council

46. The Bosniak National Minority Council was the only minority council which was not established following the elections.

47. Three lists took part in the elections. The Bosniak Cultural Community (led by Mufti Zukorlić) won 17 mandates, the Bosniak List (close to Minister Uglanin) 13 and the Bosniak Revival (close to Minister Ljajić) 5. Two members of the Bosniak Revival list decided to join Mufti Zukorlić's camp at the constituent meeting¹⁶.

48. The Council was to be formed on 7 July 2010. However, a day before the Ministry for Human and Minority Rights interfered and issued a new rule, requesting two-third of the members to be present at the opening session, instead of 50%. The boycott of the minority lists (Bosniak List and Bosniak Revival) of the constitutive session did not allow the formation of the Council.¹⁷ The Assistant Minister Antić explained the changes were made to the voting system on the Bosniak Council "to provide stability".¹⁸ This decision was criticised by the newly appointed Commissioner for the Protection of Equality, who stated that changing the rules for forming the BNC was a clear act of discrimination¹⁹.

49. The Bosniak Cultural Community, led by Mufti Muamer Zukorlić, formed the council, which is not, however, recognised by the Serbian Ministry for Human and Minority Rights.²⁰ Since then, discussions have been organised by the Ministry under the auspices of the OSCE to help find a consensus with a view to setting up a council before 6 December 2010, as required by the law, but to no avail: new elections will need to be organised.

50. During our visit to Novi Pazar, we met the keyplayers. We were informed of a number of incidents, intra-ethnic tensions and radicalisation of speeches that could lead to an alarming situation. These ethnic or religious tensions are becoming acute in an economically depressed region, where unemployment reaches 50%.

¹⁵ MIN-LANG/PR (2010) 7 - Second periodical report presented by Serbia to the Secretary General of the Council of Europe in accordance with Article 15 of the European Charter for Regional or Minority Languages.

¹⁶ The opinion of the Legislative Committee of the National Assembly of the Republic of Serbia is currently requested in relation to an interpretation of Article 98 of the Law on National Minority Councils as to whether the mandates of these two members of the council belong to the persons, or the party / community.

¹⁷ http://www.balkanchronicle.com/index.php/index.php?option=com_content&view=article&id=579:newest-mishandlings-of-the-serbian-sate-this-time-in-the-region-of-sandak-&catid=84:national&Itemid=461

¹⁸ <http://www.yucom.org.rs/rest.php?tip=vest&idSek=4&idSubSek=4&id=118&status=drugi>

¹⁹ DPA/Inf (2010) 27

²⁰ http://www.b92.net/eng/news/politics-article.php?yyyy=2010&mm=09&dd=27&nav_id=69916

iii. *The National Council of the Vlach Minority*

51. Our attention was brought to difficulties encountered during the election of the National Council of the Vlach national minority. We therefore met representatives of three Vlach groups from Eastern Serbia. The situation of the Vlach/Romanian ethnic community in Serbia has been well described in the report of Mr Jürgen Herrmann (Germany, Group of the European People's Party)²¹, which highlighted that the situation of the members of the Vlach/Romanian minority in Eastern Serbia is significantly less favourable than that of the inhabitants of Vojvodina.

52. In its Resolution 1632 (2008), the Assembly reaffirmed the principle set out in Article 3 of the Framework Convention for the Protection of National Minorities that any attempt to impose an identity on a person, or on a group of persons, is inadmissible. It encouraged the members of the Romanian and Vlach minorities in Eastern Serbia to combine their efforts and overcome their internal disagreements in their own interest and in order to preserve the distinctive traits that make up their identities (the Serbian authorities have a duty not to impede but to support initiatives in that direction). It urged the Serbian authorities to co-operate with both the Serbian Orthodox Church and the Romanian Orthodox Church in finding a practical solution whereby freedom of religion would be made a reality in Eastern Serbia, as is already the case in Vojvodina²².

53. An NGO, the *Committee of Human Rights of Negotin*, referred to difficulties faced by one fraction of the Vlach community in Eastern Serbia and the interference of mainstream political parties in the electoral process. Intimidation of voters, illegal interventions in the voters registry, fraud and other violations of the law were mentioned. These difficulties were confirmed by the Ombudsman (see below).

54. The Minister for Human and Minority Rights acknowledged that the Romanian identity of the Vlach community should be discussed and envisaged setting up an expert committee to carry out research on the Vlach community. The President of the newly established National Council of the Vlach minority indicated that the council had decided to work on the harmonisation of the Vlach language, the use of which remains a matter of dispute. We hope that a compromise can be found at local level to enable the Vlach minority council to work properly.

iv. *The Rom and Albanian minorities*

55. The situation of the Rom community has been raised. The number of Roms in Serbia is estimated between 100 000 and 500 000. Lack of identity documents is a serious problem and prevents Roms from benefitting from social rights. Roms face multiple discrimination, even though several interlocutors acknowledged that their access to education and health was in progress. Cases of forced removal have been observed in Belgrade. The situation of the Rom community will be further examined during our next information visit to Serbia.

56. The situation in Southern Serbia remains precarious. Unemployment and poverty accelerate the internal migration of the Albanian minority.

VII. Other minority related issues

57. We welcome the election of the first Commissioner for Equality, Ms Nevena Petrešić, by the Parliament, in line with the March 2009 Law on Prevention of Discrimination. The Office of the Ombudsman should be an efficient institution to secure the protection of minority rights and promote the full implementation of the Anti Discrimination Law. Adequate means should be allocated to this institution to reinforce the fight against racism and anti-semitism.

58. Concerning the rights of the sexual minorities, we welcome the fact that the Gay Pride Parade took place on 10 October 2010 with the support of the political leadership of Serbia and the full protection of the State. *Pro memoria*, in 2009, the Belgrade Gay Pride was cancelled a day before it was scheduled after the authorities assessed that they would not be able to protect the participants. The 2010 Parade proceeded smoothly under tight police protection. However, groups of extremists (some 6 000 members of right-wing organisations and football hooligan groups according to the police) simultaneously attacked the police in different locations of the city, official buildings (the offices of the Democratic Party and the Socialist Party and

²¹ Doc. 11528, The situation of national minorities in Vojvodina and of the Romanian ethnic minority in Serbia, 14 February 2008

²² Resolution 1632 (2008) on Situation of national minorities in Vojvodina and of the Romanian ethnic minority in Serbia, para. 19-21.

the State TV) and vandalised cars and shops in the city centre. At the time, the Minister of the Interior indicated that thorough investigations were underway and the Ministry of Justice proposed changes to the law on criminal proceedings, which were adopted by Parliament under urgent procedure.²³

59. NGO representatives acknowledge that the organisation of the Gay Parade was a positive development. They felt protected by the police. However, they felt that the statements of the Mayor of Belgrade and the Minister of the Interior, asking to avoid the organisation of another such Parade, addressed a society which remains divided on the issue. They also deplored that the very nature of the grounds for violence, motivated by hate, was not explicitly recognised. Therefore they called for the institution of a law on hatred. Further rights related to family issues, and administrative recognition of transgender persons, were also requested by LGBT NGOs.

VIII. Kosovo²⁴

60. At Serbia's request, the UN General Assembly had asked the International Court of Justice to give its opinion on Kosovo's unilateral declaration of independence. The Court stated on 21 July 2010 that Kosovo's declaration of independence is not contrary to international law.²⁵

61. At its special session of 26 July 2010, the Serbian Parliament adopted a resolution on Kosovo and voted (by 192 votes out of 220) in favour of "the continuation of Serbia's activities in the defence of its sovereignty and territorial integrity". The Serbian Radical Party, the Democratic Party of Serbia and the Liberal Democrats voted against.

62. On 9 September 2010, the United Nations General Assembly adopted by consensus a joint Serbia-EU resolution on Kosovo. The resolution acknowledges the International Court of Justice's advisory opinion on the *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo* and calls for dialogue between Belgrade and Pristina. President Tadić stressed that the resolution paves the way for a dialogue on future solutions to the Kosovo problem and preserves Serbia's right to defend its territorial integrity and legitimate interests in Kosovo, by peaceful and diplomatic means, while respecting the legitimate rights of the Albanian people²⁶.

63. In a resolution approved on 1 December 2010, the Committee on Foreign Affairs of the European Parliament urged that talks with Kosovo start "without delay" and welcomed Serbia's willingness to engage in dialogue within the EU framework, underlining that the commitment and readiness of both sides to compromise is needed for long-term stability and for improving people's wellbeing.

64. We encourage Serbia to pursue the dialogue in accordance with its commitment to peaceful means.

IX. Conclusions

65. Undoubtedly, Serbia has made significant progress in many areas and is heading towards the full completion of its commitments. However, some key issues remain unsolved or incomplete (reform of the Justice System, Electoral Law, party-administrated mandates, etc).

66. In order to measure the achievements made, but also the progress yet to be accomplished, the Serbian delegation is invited to submit a Roadmap for the completion of commitments and implementation of statutory obligations (in line with Resolution 1661(2009)), an initiative suggested by President Tadić during a previous visit of the co-rapporteurs in 2009. The Roadmap is meant to be a strategic policy document, which represents the authorities' vision of key reform processes as well as the criteria and benchmarks these reform processes must comply with, in the view of the Assembly.

67. This Roadmap should contain general policy statements, identifying key political priorities in terms of implementation of post-accession commitments and Assembly recommendations, as well as fulfillment of statutory obligations to the Council of Europe. It should also include a detailed plan of action and measures which the authorities intend to take in order to fulfill the commitments, recommendations and obligations.

²³ DPA/Inf (2010) 39, p. 21

²⁴ All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

²⁵ DPA/Inf (2010) 27

²⁶ DPA / Inf (2010) 33

68. Our attention will focus particularly on the mechanisms to establish a sustainable democracy based on Council of Europe standards. Core issues identified by the co-rapporteurs since 2009 should be addressed in this Roadmap with a view to clarifying the steps that the Serbian parliament and government intend to take in the current months. These issues include, among others, the reform of the judiciary system (including a transparent procedure for the (re) appointment of judges and the setting-up of the highest judicial courts), the revision of the electoral law, the elimination of the party-administrated system and blank resignations, the full compliance of the laws on freedom of speech, association, etc, in conformity with Council of Europe standards and their full implementation.

69. We believe that the Euro-integration process will speed up the process of reforms in Serbia, based on the political will expressed by the authorities during our visit. The Council of Europe can be a key partner to achieve the remaining progress in the field of democracy, rule of law and human rights and, at the same time, help Serbia to fulfill the requirements of the European Union.

70. As discussed during our visit, the Serbian delegation agreed to present, by the end of December 2010, an updated Roadmap based on the information provided by the Ministry of Foreign Affairs. We will comment on this first proposal and discuss it with the Serbian delegation in the margins of the January 2011 part-session, in order to allow the Serbian parliament to submit its Roadmap to the Monitoring Committee at the March 2011 meeting.

APPENDIX

Programme of the fact-finding visit to Belgrade and Novi Pazar (28 November – 2 December 2010)

Mr Davit HARUTYUNYAN, member of Parliament
Ms Sinikka HURSKAINEN, member of Parliament
Ms Sylvie AFFHOLDER, Secretary of the Monitoring Committee

Sunday, 28 November 2010

18:00 Briefing by Ambassador Constantin YEROCOSTOPOULOS, Special Representative of the Secretary General of the Council of Europe in Serbia, and Ms Nadia CUK, Deputy Special Representative of the Secretary General of the Council of Europe in Serbia

Monday, 29 November 2010

08:30-10:15 Meeting with the representatives of NGOs:
Belgrade Centre for Human Rights – Mr Bojan GAVRILOVIC
Regional Center for Minorities – Ms Jovana VUKOVIC
Gay-Straight Alliance – Ms Mirjana BOGDANOVIC
Labris – Ms Marija SAVIC and Ms Jovanka TODOROVIC

10:30-11:15 Meeting with the representatives of the majority coalition in the Assembly of Serbia

11:20-12:05 Meeting with the representatives of parliamentary caucus LDP, SRS and DSS

15:00-16:00 Meeting with the representatives of the media associations:
NUNS – Mr Dragan JANJIC
UNS – Ms Ljiljana SMAJLOVIC

16:30-17:15 Meeting with Mr Svetozar CIPLIC, Minister for Human and Minority Rights

20:00 Working dinner with the members of the Serbian delegation to PACE

Tuesday, 30 November 2010

15:00-15:45 Meeting with Mr Meho MAHMUTOVIC, Mayor of Novi Pazar

16:00-16:45 Meeting with Mr Muamer ZUKORLIC, Mufti of the Islamic Community in Serbia

17:00-17:45 Meeting with Mr Adem ZILKIC, Reis-I-Ulema of the Islamic Community of Serbia

18:00-19:00 Meeting with the representatives of NGOs and media:
Sanzak Committee for Human Rights – Ms Semiha KACAR
Cultural Centre Damad – Ms Zibija SARENKAPIC
Radio 100 plus – Mr Ishak SLEZOVIC
Youth Interethnic Alliance – Mr Samid SARENKAPIC
Sandzak Intellectual Circle – Mr Ramiz CRNISANIN

20:00-21:30 Working dinner with representatives of OSCE Mission to Serbia

Wednesday, 1 December 2010

12:00-12:30 Meeting with Ms Slavica DJUKIC-DEJANOVIC, Speaker of the Parliament

12:45-13:30 Meeting with Mr Sasa JANKOVIC, Ombudsman

13:45-14:30 Meeting with Mr Borislav STEFANOVIC, Political Director and Chief of Cabinet, Ministry of Foreign Affairs

14:45-15:30 Meeting with Mr Radisa DRAGOJEVIC, President of the Vlach National Minority Council

15:50-16:40 Meeting with Mr Rasim LJAJIC, Minister of Labour and Social Policy

- 17:00-17:45 Meeting with Mr Bozidar DJELIC, Deputy Prime Minister for European Integration, and Ms Ksenija MILENKOVIC, Advisor for EU Integration
- 18:00-18:30 Meeting with Mr Dusan PRVULOVIC, President of the Committee for Human Rights of Negotin (Vlach minority)
- 18:30-19:00 Meeting with Mr Predrag BALASEVIC, Vlach Community of Serbia
- 19:00-19:30 Statements for the media
- 20:00 Working dinner with representatives of the diplomatic community in Serbia

Thursday, 2 December 2010

- 08:30-09:15 Meeting with Ms Nevena PETRUSIC, Commissioner for Equality
- 09:30-10:15 Meeting with Mr Milan MARKOVIC, Minister of Public Administration and Local Self-Government
- 10:30-11:00 Statements for the media