

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF SERBIA SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 19 March 2014¹

¹ Unless otherwise indicated, any developments which occurred after 17 April 2013, date on which the response of the Serbian authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

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FOREWORD

As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

Accordingly and in line with the guidelines for the fourth round of ECRI's country-by-country work brought to the attention of the Ministers' Deputies on 7 February 2007¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2007)986/4.1.

1. *In its report on Serbia (fourth monitoring cycle) published on 31 May 2011, ECRI recommended that the Serbian authorities strengthen the institution of the Commissioner for the Protection of Equality by ensuring that it has the human and financial resources to function effectively.*

ECRI was informed that the Serbian authorities have provided the office of the Commissioner for the Protection of Equality with budgetary and logistic resources which the Commissioner deems satisfactory. The Commissioner says, however, that she lacks sufficient office space, which prevents her from recruiting the staff needed to discharge her functions. According to the Serbian authorities, this situation has been acknowledged by the National Assembly of the Republic of Serbia, which, following publication of the annual report of the Commissioner for the Protection of Equality, adopted a decision on 1 July 2013 calling on the government to settle this matter and expressing support for the setting up of regional offices.

ECRI understands that this expression of support by the National Assembly will be an opportunity for the Commissioner for the Protection of Equality to make appropriate arrangements to promote the institution's mission¹ and, consequently, encourage relevant applications.

While acknowledging the significant measures taken by the Serbian authorities, ECRI concludes that the recommendation has not yet been fully implemented.

2. *In its report on Serbia (fourth monitoring cycle), ECRI recommended that the Serbian authorities ensure that the training provided to the judiciary on issues of racism and racial discrimination is strengthened in order to, inter alia, ensure better sentencing practices for racist crimes.*

ECRI was informed of the existence of initiatives relevant to its recommendation. Various seminars were organised for students of the Judicial Academy or for judges and prosecutors under co-operation between the Judicial Academy and the OSCE mission (December 2011, March 2012). A training course on the application of Article 54a of the Criminal Code (general principles of sentencing), focusing on offences committed on grounds of racial hatred, was organised for judges and prosecutors (May 2013). An e-learning initiative for judges on anti-discrimination issues was launched under the Council of Europe's HELP programme (November 2013)². A training handbook for judges on civil courts and protection against discrimination was produced by the Judicial Academy in co-operation with the Commissioner for the Protection of Equality. ECRI was also informed that the OSCE mission was planning to organise a training course for judges and prosecutors on hate crime in 2014.

ECRI welcomes all these activities, but several concerns remain. It notes the wide variety of topics dealt with in these training initiatives but wonders whether the penal aspect, which is the subject of ECRI's recommendation, has been satisfactorily covered. It cannot conclude, therefore, that the specific objective of improving sentencing practices for racist offences has been fully met. ECRI also notes that, while these training courses have reached a large number of students of the Judicial Academy (to date, three whole generations since these subjects became a compulsory

¹ See public opinion research report on citizens' attitudes on discrimination in Serbia, Belgrade, December 2012, pp. 46-48.

http://www.undp.org/content/dam/serbia/Publications%20and%20reports/English/UNDP_SRB_Anti-discrimination_report_November_2012.pdf). This report commissioned by the Commissioner for the Protection of Equality was produced by the Centre for Free Elections and Democracy with support from the United Nations Development Programme.

² <http://helpcoe.org/news/help-e-learning-course-anti-discrimination-issues-launched-serbian-judges>.

part of the initial training curriculum), it cannot make the same finding with regard to in-service training of the judiciary as a whole. Lastly, ECRI notes that the OSCE has played an important role in the existing initiatives and wonders whether the Serbian authorities have taken all the necessary steps to turn these individual initiatives into a long-term approach.

ECRI therefore concludes that the recommendation has not yet been fully implemented.

3. In its report on Serbia (fourth monitoring cycle), ECRI urged the Serbian authorities to take immediate measures to ensure that Roma, Ashkali and Egyptians who do not have identity documents are provided with them.

ECRI notes the major legislative efforts made by the Serbian authorities to address this question. A law on the permanent and temporary residence of citizens came into force in November 2011. This law introduced a simplified procedure for registering permanent residence which, among other things, makes it possible to deal with situations where citizens are unable to produce the evidence needed to establish their residence by offering them the possibility of being registered at the address of a social protection centre. The law amending the law on identity cards, which came into force in June 2011, allows identity documents to be obtained at the registered place of residence without having to report for this purpose to police stations which might have been relocated in the meantime. Lastly, the law amending the law on non-contentious procedures, enacted in August 2012, introduced a procedure allowing persons whose legal status can no longer be established to determine and register their date and place of birth as a prerequisite for exercising the rights necessary to register residence and obtain an identity card.

ECRI also notes the support measures taken by the Serbian authorities, such as the drafting and adoption of handbooks describing the procedures for implementing the above-mentioned laws, the setting up in June 2013 of a Council of National Minorities responsible, among other things, for monitoring progress in the field covered by the ECRI recommendation, and additional legislative work (law on registers and law amending the law on administrative fees, which, among other things, facilitates access for socially vulnerable groups to rights relating to identity documents).

ECRI therefore considers that the recommendation has been implemented.

