

Country Visit to Serbia

Report of June Zeitlin, the Special Representative of the OSCE Chairperson-in-Office on Gender Issues

April 25-27 2012

Introduction

The goal of the Special Representative's brief visit to Serbia was to highlight issues related to gender equality with a particular focus on women's political participation, non-discrimination, violence against women, and women, peace and security. These are all areas covered by the Gender Action Plan and where the OSCE has made significant commitments. The visit provided the first opportunity for the Special Representative to visit a field mission and to understand more deeply how a mission can support an OSCE participating state in carrying out its commitments to gender equality.

The Special Representative wishes to express her appreciation to the OSCE Mission Head and Deputy Head for the warm welcome and excellent program that was arranged. She is also grateful to the Government of Serbia and the government officials with whom she met for their cooperation and availability despite the press of national elections. Furthermore, she wishes to express utmost appreciation to the representatives of NGOs and civil society who shared their experiences and insights on the topics described below. This report concludes with recommendations based on these wide ranging discussions.

Legal and Institutional Context

In preparation for my visit, I reviewed copies of Serbia's report to the CEDAW Committee and its National Action Plan on Security Council Resolution 1325. These documents provided a comprehensive picture of the status of gender equality in Serbia. It should be noted that Serbia is a candidate for membership in the European Union and has adopted new laws on equality and non-discrimination, a National Strategy for Advancement of the Position of Women and the Promotion of Gender Equality, a National Action Plan on Women, Peace and Security, and a National Strategy for Prevention and Elimination of Violence Against Women in the Family and in Intimate Partner Relationship, among other policy reforms.

The Constitution of the Republic of Serbia in Article 15 provides that the State shall guarantee the equality of women and men and shall develop an equal opportunity policy.¹ The Constitution expressly provides that ratified international treaties form an integral part of the laws of Serbia

¹ Constitution of the Republic of Serbia, art. 15. Adopted by referendum on: 28/29 Oct 2006.
http://www.servat.unibe.ch/icl/ri00000_.html

and shall be directly applied.² This means that the comprehensive provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which has been ratified by Serbia, shall be directly applied.

Serbia has also adopted an Anti-Discrimination Law, a Gender Equality Law, as well as a Law on Prevention of Abuse at Work, which aim to eradicate discrimination at work, and generally to undertake measures and regulations to eliminate sex and gender based discrimination in Serbia.³ Serbia has developed The National Strategy for the Advancement of the Status of Women and the Promotion of Gender Equality 2009-2013, which defines comprehensive and coordinated state policy to address discrimination against women and to integrate a gender perspective into all areas of activity of government institutions.⁴ The National Action Plan on Women, Peace and Security focuses on the implementation of Security Council Resolution 1325. It highlights the importance of incorporating strategies and action plans with a clear gender perspective into recovery and reconstruction programs in Serbia, as well as generally in society and in promoting a sustainable peace. The National Strategy for Prevention and Elimination of Violence Against Women in the Family and in Intimate Partner Relationship adopted in 2011 sets ambitious goals for establishing a system of prevention; improving the normative framework and strengthening national legislation relating to the protection of women from violence; promoting multi-sectoral cooperation and capacity building of authorities and specialized services and developing a system of measures to ensure protection and support for victims of violence.⁵ The Republic of Serbia has significantly improved its normative framework for the protection of women's rights against discrimination. According to the report on the NAP for the implementation of UN SC Resolution 1325, "systematic measures are not yet in place that would help eradicate violence against women, overcome gender stereotypes, limit the use of firearms and solve other problems posing a threat to peace and security, while insufficient attention is paid to raising public awareness of the situations in which women are discriminated against and their rights trampled upon."⁶ As a result, the main focus of my meetings was on the implementation of these new laws and the successes experienced and challenges that the country has faced thus far.

² *Id.*, art. 16.

³ See generally Law On the Prevention of Harassment at work:
<http://civilrightsdocs.info/pdf/humanrights/Zakon%20o%20sprecavanju%20zlostavljanja%20na%20radu%20%20ENG.pdf>

⁴ National Action Plan on Women, Peace and Security, at 14.
http://www.peacewomen.org/assets/file/NationalActionPlans/serbia_nationalactionplan_2011.pdf

⁵ See "Official Journal of RS" No. 27/11

⁶ *Id.* at 54.

Women's Political Participation

Serbia requires that one-third of the members of Parliament be female. As my visit took place prior to the May election, I have updated this section based on information supplied by the Serbian government as well as by the OSCE Mission to Serbia. Before the election in May 2012, women represented just over 20% of Parliament, thus falling short of the one-third requirement. The President of the National Assembly was a female and she was confident that one-third of the members of the new Parliament (84 out of 250 MPs) would be female. Previously, despite the one-third requirement, political parties replaced female MPs with male MPs following the election, thus falling below the 30% threshold.

The law was amended in 2011 to require electoral lists to include at least one male/female candidate of the under-represented gender among every three candidates on the list.⁷ This provision was in effect for the first time in the elections at all levels in May 2012. The May election resulted in the election of one-third of the MPs being women. At the municipal level, women are severely underrepresented. Out of 165 municipalities, there are only 6 women mayors. As the May election required that 1/3 of the municipal council members be women, it is anticipated that there will be an increase in the representation of women but final numbers are not yet available.

Council on Gender Equality is the coordinating body for the Government on gender equality issues. It has the role to advise and coordinate activities of the line ministries on issues related to gender equality. The president of the Council is the state secretary for the Ministry for Labor and Social Policy who is also in charge of the administrative work related to the Council.⁸ It serves as a forum for discussion but lacks the authority to recommend or implement actions by other government agencies.

There has also been a National Assembly Committee on Gender Equality. However, in the next session of Parliament, this Committee will be absorbed into a Committee on Minorities, Human Rights and Gender Equality. Some NGOs expressed a concern that this change could dilute the focus on gender equality. The government representatives explain that the change was instituted to economize resources and that the change should not have a negative effect on gender issues.

⁷ Law Amending the Law on the Election of MPs "Official Journal of RS" No. 27/11

⁸ See generally "Sonja Stojanović elected to Serbian Ombudsperson Council for Gender Equality," <http://www.bezbednost.org/BCSP-News/4636/Sonja-Stojanovic-elected-to-Serbian-Ombudsperson.shtml>

The Commissioner for the Protection of Equality

In 2009, Serbia established the office of the Commissioner for Protection of Equality in order to implement domestic antidiscrimination laws as well as the international responsibilities it had acquired through the ratification of European Convention on Human Rights and Fundamental Freedoms in 2004.⁹ The Commissioner is charged with enforcing the new statute on non-discrimination which prohibits many forms of discrimination, including discrimination based on sex, ethnicity, national identity (Roma), sexual orientation, etc.¹⁰

The Commissioner is vested with powers to provide independent legal assistance to victims of discrimination, to file lawsuits against entities that discriminate, and to initiate drafting of laws that address discrimination. In addition to receiving and processing complaints, the Commissioner is also charged with raising public awareness about non-discrimination. The Commissioner has used its limited resources strategically, both in terms of selecting cases to bring to court and in making its findings public. For example, the law requires that the public be informed of the outcomes of its review of complaints. This could have been done in a pro forma way, or in a legal publication that could ultimately only be accessed by a few people. Instead, the Commissioner decided to publish its opinions in Blic, a large circulation newspaper that is widely read. They publish the names of the individuals or institutions that have failed to comply with the Commissioner's recommendations after 60 days. This is an effective mechanism not only to deter rights violations but also to educate the public about their right to be free from discrimination. Due to their limited staffing and budget, the Commissioner has had to select cases to bring in court very deliberately, looking for those cases that could affect an important economic sector, e.g. banks, or send a powerful public message.

The Commissioner has an urgent need for more staff (it is authorized to have 60 persons and currently has only 19 employees including administrative personnel) and more space, particularly space that is more accessible to the public. They received an extra space from the Government which is suitable for working with clients directly and to have staff at the front desk that are trained to counsel people about potential discrimination complaints. For now, this service is limited to a couple of days per week. Staff also make visits to Roma settlements to explain the anti-discrimination law and how to submit complaints. The Commissioner is very well linked with Roma NGOs, including Roma Women's Network.

There is also a need to train more lawyers in anti-discrimination law. Very few cases have been brought under the law, even by private attorneys, as they are not well-versed in these types of

⁹ Interview with Nevena Petrusic, the Serbian Commissioner for the Protection of Equality, <http://www.equineteurope.org/107464.html>

¹⁰ Target Issues of Discrimination in Serbia, http://setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/articles/2011/04/25/reportage-01

cases. While judges now have mandatory training on anti-discrimination law, there are few courses for practicing lawyers. The Commissioner is working with the Bar Chamber on a joint course on anti-discrimination law as part of the certification of lawyers. Few law faculties focus on anti-discrimination law, and the course that does exist is not viewed as sufficient.

The OSCE has provided targeted support for activities of the Commission. The work of the Commission seems to be very strategic, innovative and efficient in the use of limited resources.

Roma Women

I was particularly interested in exploring issues specific to Roma women as Serbia has a significant Roma population and has taken a number of steps to address the challenges that Roma communities face. In 2008, the Serbian government formed the Council for Improvement of the Status of the Roma, which includes members of the different Serbian Ministries (Health, Education, State Administration, Finance, etc) which seek to improve the status of the Roma minority.¹¹ In 2009, Serbia adopted the Strategy for Improvement of the Status of the Roma.¹² The latter defines Roma women as a group particularly vulnerable to gender violence and discrimination.

Roma women make up about 70% of the illiterate Roma population and also have the highest maternal mortality rate in Serbia. The Roma population is the largest and poorest minority group in Central and Eastern Europe, so a greater focus on Roma rights, especially in countries like Serbia where their population is concentrated, is critical to furthering human rights in the region.¹³

I participated in a discussion with representatives of the Roma Women's Network focusing primarily on a comprehensive shadow report to the CEDAW Committee which will be submitted in time for Serbia's review in October 2012 and on initiatives to address violence against women.

The Roma Women's Network is expected to focus the CEDAW shadow report on the lack of implementation of both of the Strategy for Prevention and Elimination of Violence against Women in the Family and the National Action Plan on Roma Women. On the issue of violence

¹¹ U.N. Doc. *CEDAW/C/SRG/2-3* (16 March 2011), at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/416/92/PDF/G1141692.pdf?OpenElement>

¹² See Strategy for Improvement of the Status of the Roma, at <http://www.inkluzija.gov.rs/wp-content/uploads/2010/03/Strategija-EN-web-FINAL.pdf>

¹³ Roma Inclusion is Smart Economics: Illustrations from Bulgaria, Czech Republic, Romania and Serbia. <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/0,,contentMDK:22895991~pagePK:146736~piPK:146830~theSitePK:258599,00.html#roma>

against women, the Network representatives indicated that while substantial donor support was provided to the government in this area, services for Roma women were still not adequate. A hotline for Roma women in local languages had been supported by the government but this has been closed due to lack of funds. Where shelters or safe houses exist, Roma women face difficulties in gaining admission. The requirement that a woman must be employed prevents many Roma women from using these services. I subsequently raised this issue with the State Secretary of the Ministry of Labour, Employment and Social Policy, who was going to look into whether there was such a requirement. The Network also indicated that there was an informal acceptance by the police of domestic violence in the community and that often little assistance was provided to women seeking help.¹⁴ The Network takes a firm position that domestic violence is a criminal act and not acceptable but this message needs to be more widely disseminated. The Network and other Roma NGOs have limited funding to carry out this work.

The Network filed a shadow report previously and they are hoping that the government will respond to the particular concerns they highlight to the CEDAW Committee. While the 2007 government report submitted to CEDAW is available in Serbia, the concluding comments by the CEDAW Committee are available only on the CEDAW website in English so the recommendations have not been widely available for public discussion in Serbia. Some NGOs also expressed concerns about the government consultation on the current CEDAW report. They indicated that only a small number of NGOs were invited to participate and that while many suggestions were offered only a few were taken up by the government.

Gender and Security

As noted, Serbia has developed a comprehensive National Action Plan on Women, Peace and Security. The National Assembly has been engaged with the government agencies on the development and implementation of the National Action Plan. In December 2011 the Assembly held a public hearing on the National Action Plan and suggested forming a Monitoring Body for Implementation in the National Parliament where government agencies would report on progress made to date. By the Decision made by Parliament the Commission on Monitoring Implementation of NAP 1325 was established starting from September 2012. MPs from five Committees and a representative of the Commissioner for the Protection of Equality were appointed as members of the Commission. It was unclear at the time of the visit whether the Ministry of Defense or others have made progress reports publicly available. I understand that the first joint report compiled by the Ministry of Defense is now available.¹⁵

¹⁴ See generally UNDP report on Prevention of Domestic and Partner Relationship Violence against Women as a Strategic Response of the State , <http://www.undp.org.rs/index.cfm?event=public.newsDetails&revid=31DE88AC-BF96-F91A-8FA3E93800279A9B>

¹⁵ http://www.mod.gov.rs/lat/dokumenta/akcioni_planovi/akcioni_planovi.php

I have also been advised by the government that two other bodies have been established with responsibility to either implement or monitor the implementation of the National Action Plan in addition to the Parliamentary Committee. These include a Multi-sectoral Coordinating Body, which was established in October 2011, of various ministries responsible for the implementation of the National Action Plan and an advisory Political Council for the Implementation of Security Council Resolution 1325 with representatives of state bodies and civil society.¹⁶

For the first time, the Ministry of Defense, Ministry of Interior and Directorate of Custom Administration have appointed gender advisors to help integrate gender issues into the security sector, including police and the military. While some progress has been made to include more women in the military, women still make up only 17.6% of the military contingents deployed.¹⁷ Domestically, women account for a disproportionately small part of the army and police, and recent studies show that even in these capacities, they take up mostly administrative jobs. A survey conducted on gender discrimination within the security sector shows that there is a prejudice that women are not equipped with the necessary physical and mental qualities to be a successful part of the military.¹⁸ Quota allocation is a common practice in Serbia in relation to the availability of training, education, and courses in professional development in the security sector. In relation to quotas, the National Action Plan states that: “it can reliably be said that [quotas] pose a possible risk of discrimination in both directions, so that, in one category, candidates of one sex get enrolled, who, according to relevant criteria, perform worse than candidates of the other sex who are rejected due to the existing quotas, but, on the other hand, the non-existence of quotas reduces the chances for women being equally represented in the security sector which is male dominated, according to all the indicators.”¹⁹

Violence Against Women

As noted above, The National Strategy for Prevention and Elimination of Violence Against Women in the Family and in Intimate Partner Relationship adopted in 2011 sets ambitious goals for establishing a system of prevention; improving the normative framework and strengthening national legislation relating to the protection of women from violence; promoting multi-sectoral cooperation and capacity building of authorities and specialized services and developing a system of measures to ensure protection and support for victims of violence.²⁰ This strategy grew

¹⁶ Conclusion of the Republic of Serbia Government: 02-77706/2011

¹⁷ NAP to Implement UN SCR 1325, 45, at http://www.peacewomen.org/assets/file/NationalActionPlans/serbia_nationalactionplan_2011.pdf

¹⁸ *Id.*

¹⁹ *Id.* at 61.

²⁰ See “Official Journal of RS” No. 27/11

out of several years of research on the prevalence of violence against women and an assessment of the agencies' responses.

The Republic of Serbia amended its Criminal Code to add Article 118 (a) which made domestic violence a criminal act.²¹ The Family Law also addresses the need for protection of victims of domestic violence. The strategy adopted by Serbia calls for improving the national legislative framework. There have been education and training programs for judges and prosecutors, police and social welfare workers. This has increased awareness and understanding of the problem of domestic violence and led to the establishment of safe houses, domestic violence hotlines and guidelines and protocols for prosecutors and police

Over the last several years, Serbian NGOs have undertaken projects to eliminate violence against women at home which include training for social service professionals as well as rehabilitation of abused women. While unquestionably progress has been made in the last ten years, more needs to be done. For example, some NGOs indicated concern that now shelters were seen as “the solution” and insufficient attention is paid to prevention or to public discussion of domestic violence, particularly to sexual assault, which is still somewhat of a hidden problem. NGO representatives urged that domestic violence be viewed as a human rights issue and that services be made more widely available. For example, benefits should not be conditioned on going to a shelter. More education about gender-based violence is needed, including in school curricula, health system and other sectors. It is also important to engage men, especially young men, in education and prevention activities. An innovative program by Center E8 called “Be A Man” is underway in 20 cities and is expanding its work.

OSCE Mission

The Special Representative appreciated the opportunity to meet with the Head and Deputy Head of Mission, as well as make a presentation to all staff, to discuss the importance of gender issues in the work of OSCE. One issue that surfaced was the need to promote more coverage of women's issues in the media. Suggestions about approaches that had worked in other countries included bringing female journalists together informally both for networking purposes and for promoting coverage of women's issues. The Mission has one staff member who works exclusively on gender equality and she and her program head serve as the gender focal points for the Mission. Within each program unit of the Mission one or more staff serves as gender focal points for the program unit. The Special Representative had an opportunity to meet with the gender focal points in the various units to learn about the work they are doing. There was also an

²¹ Official Gazette of the Republic of Serbia No. 10/2002. *See also* UN Violence Against Women report, at <http://www.un.org/womenwatch/daw/vaw/responses/SERBIAANDMONTENEGROweb.pdf>

opportunity to discuss the need for both gender specific programming as well as gender mainstreaming.

RECOMMENDATIONS

Government Accountability and Political Representation

1. OSCE should consider undertaking or supporting approaches to monitoring the implementation of the 30% requirement for representation of women in the Parliament and at the provincial level. If the target is not met, training should be provided to ensure that political parties include women on their lists so that the target is met.²² Consideration should also be given to incentives and penalties for political parties if the outcome is less than 30% representation, including requiring that women elected be replaced by other women.
2. Council on Gender Equality—The government should consider ways to strengthen the Council on Gender Equality so that it has authority over the various agencies to develop and implement a Gender Equality Strategy and to hold agencies accountable. Some have suggested that to be most effective, the Council should be an independent office within the Office of the President with a separate budget.
3. CEDAW Reporting—While the government did undertake some consultation with NGOs and civil society on the development of the official CEDAW report, the government should consider broader consultations open to interested NGOs, including those working in the Roma community. In addition to making its report publicly available, the concluding observations of the CEDAW Committee should be reported back to the Parliament and the NGO community and be publicly available.²³ Implementation of the recommendations should be taken up by government agencies, coordinated by the Council on Gender Equality. I was advised subsequently that Serbia asked to postpone its review by the CEDAW Committee scheduled for fall 2012 for one year. I have not been advised of the reason for the postponement.
4. The government should consider strengthening the Commissioner for the Protection of Equality with sufficient staff and budget to carry out its mandate. Support should be considered for training of lawyers in anti-discrimination law both in legal clinics in law schools and for certification and education of practicing lawyers.

²² See ODIHR Handbook on Women and Political Parties—publication forthcoming 2012.

²³ <http://www.ljudskaprava.gov.rs/konvencije/drugi-i-treci-periodicni-izvestaj-o-primeni-konvencije-o-eliminisanju-svih-oblika-diskrim>

Violence Against Women

5. Further training of police and social service personnel serving Roma communities is needed. Funds should be provided to continue hotlines in Roma languages.
6. The government should consider changing its policy so that admission to safe houses is open to all victims of domestic violence. Social service personnel should receive training on this policy.
7. The government and others should consider expanding support for public education and prevention programs, including the education of men and boys.

Gender and Security

8. The Government should consider ways to better inform the public about its implementation of the National Action Plan on 1325. This could include public hearings in the National Assembly, reports by the agencies that are made available to the public and ongoing dialogue with civil society.

List of state and civil society representatives who met with Ms. June Zeitlin

1. Professor Slavica Djukic Dejanovic, National Assembly Speaker, Parliament of Serbia
2. Professor Nevena Petrusic, Commissioner for Protection of Equality
3. Ms. Snezana Lakicevic, State Secretary of Labour, Ministry of Labour and Social Policy, President of the Gender Equality Council

Civil Society Organizations:

- Roma Issues
- Roma Women Network

Gender and Security

- Belgrade Fund for Political Excellence
- Belgrade Centre for Security Policy

Women's CSOs Combating Violence against Women

- Autonomous Women Centre
- Incest Trauma Centre

- Victimology Society Serbia
- Centre E8