

REPUBLIC OF SERBIA¹

Follow-up - State Reporting Action by State Party

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Annex VII

Letter addressed to the Chairman of the Committee on the Elimination of Racial Discrimination from the head of the delegation of Yugoslavia concerning the concluding observations adopted by the Committee on the eleventh to fourteenth periodic reports of Yugoslavia*

The Yugoslav delegation, having participated in the fifty-second session of the Committee on the Elimination of Racial Discrimination on the occasion of the examination of the consolidated report of the Federal Republic of Yugoslavia on 11 and 12 March 1998, avails itself of this opportunity to express its gratification for the renewed dialogue with the Committee, in the interest of future joint endeavors towards highlighting the status of rights defined in the International Convention on the Elimination of All Forms of Racial Discrimination.

The Yugoslav delegation and myself, as head of the delegation, have closely studied the conclusions and recommendations of the Committee concerning the Yugoslav consolidated report. In that connection, I would like to point out in this letter, with astonishment and concern, that some crucial positions presented during the discussion on the Yugoslav report were not reflected in the Committee's conclusions, although we believe they deserved to have been. Besides, the Committee's conclusions failed to reflect realistically the discussion and views of some of its members, and even less the actual state of affairs. Our observations are evidenced by the minutes on the mentioned sessions (CERD/C/SR.1260 and CERD/C/SR.1262).

Above all, I would like to emphasize that in the course of the consideration of our report the majority of distinguished experts clearly favoured the territorial integrity of the Federal Republic of Yugoslavia; namely, they were against the actions threatening the integrity and political unity of the country. Some experts stated that it was the constitutional right of each and every country to determine the status of different parts of its territory, and an internal affair of any country to decide on the scope of autonomy for individual parts thereof, with due respect for all their particularities. A peaceful and democratic way of tackling these problems should prevail over secession.

We are of the view that these observations of some experts should have been adequately reflected in the concluding statements of the Committee to mirror the discussion properly, the more so since the rest of the experts had not denied them, and rightly so.

¹ [Ed. Note: Formerly Yugoslavia. Effective 4 February 2003, the State of Yugoslavia changed its name to Serbia and Montenegro. Effective 6 June 2006, the state again changed its name to Republic of Serbia]

* CERD/C/304/Add.50. See also paragraphs 190-214 of the present report.

In the context of the above observations, may we recall that the experts of the Committee, elected on the merits of their high ethical and professional qualities, are obliged to act independently of the politics of the Governments of the countries they come from and neither should they be carried by the current or prevailing political attitudes towards a country in question or apply double standards. The individual Committee members expressed their views on the above themselves, while discussing Kosovo and Metohija, mentioning the examples of Chechnya, Northern Ireland and the Basque region.

Neither have the Committee's conclusions reflected an unequivocal condemnation of terrorism, in spite of the fact that such statements had been explicitly made in the course of the discussion of the Yugoslav report. In our view, a conclusion condemning terrorism, particularly as an instrument of secession, would have realistically reflected the statements of some Committee members, and the genuine state of affairs. It would have additionally accentuated the position of the Committee as to the need to protect the rights of national minorities by political means and in keeping with the international standards in the domain, and essentially altered the conclusion on the recent (March) actions of the competent authorities in Kosovo and Metohija when, reportedly, disproportionate police and military forces were deployed against the members of the Albanian national minority in Kosovo and Metohija, and the conclusion on allegedly numerous violations of the right to life, demolition of property and resettlements.

It is my definite impression that the conclusions and recommendations of the Committee were politically hued to an inadmissible extent and largely influenced by reports of some mass media and unconfirmed or hyperbolic allegations about otherwise quite legitimate actions by the police in suppressing terrorist activities of the Albanian separatists in Kosovo and Metohija. At the same time, the conclusions and recommendations have completely neglected the issue of the rights of the members of national minorities elsewhere in the territory of the Federal Republic of Yugoslavia.

With reference to the individual conclusions, may we single out on this occasion, the conclusion of the Committee that the Yugoslav report contains mainly legislative information but no examples of implementation. We think that such a conclusion is untenable, in view of the fact that the Yugoslav report covered the period 1990-1996, the period of promulgation of the new Constitution (1992) and a series of ensuing regulations. The report therefore contains information on the federal and respective republic constitutions as well as on new and other laws governing the matter of the International Convention on the Elimination of All Forms of Racial Discrimination, but it also contains a series of examples and data about practices, more specifically on education, information and culture. Besides, the statements by the Yugoslav delegation members included much information on the issues treated by the Convention.

It is with disapproval, too, that we point to the conclusion of the Committee on non-implementation of the Memorandum-Agreement on normalization of education in Kosovo and Metohija. Such a conclusion failed to address the crux of the matter, namely that the members of the Albanian national minority from Kosovo and Metohija wilfully and on political grounds rejected the uniform education system, curricula, certificates and diplomas valid throughout the territory of the Republic of Serbia,

even though, for them, teaching was anticipated in their vernacular, namely the Albanian language. We point out that the Albanian secessionist leadership has refused to talk to the representatives of the Government of the Republic of Serbia, putting forward again and again new preconditions for the Memorandum's implementation. At the time of the Committee's session, the provisions of the Memorandum-Agreement on normalizing education were being elaborated, which was to be reflected in the conclusions. In the meantime, agreement was reached on 23 March 1998 on preliminary implementation of the Memorandum-Agreement on Education in Kosovo and Metohija dating back to 1996, and a series of actions taken giving full effect to its provisions.

One of the conclusions of the Committee contains a statement on insufficient access of certain minorities to education, public information and cultural activities in their languages, irrespective of the constitutional and legal guarantees to that effect. I am of the view that the Committee failed to take into account that the constitutional and legal provisions are non-discriminatory and that non-use of rights in the fields of education, public information and cultural activities is exercised only in the case of the members of the Albanian national minority, who arbitrarily do not want to avail themselves of these rights. In the same vein, the members of the Albanian national minority refuse to utilize their active and passive suffrage, they take no part in population censuses and the like but they selectively exercise some other rights when it suits them (free medical care, pensions and various forms of social allowances, buy-out of flats, registration of private firms and the like).

All such information and more is contained in the Yugoslav reports, and was included in statements by delegation members in the course of the discussion thereon.

In view of the above and the fact that the regulations in the Federal Republic of Yugoslavia are harmonized with the international standards in the field of protection of rights of national minorities, particularly with the Framework Convention for the Protection of National Minorities of the Council of Europe, we are sure that numerous conclusions of the Committee would have had quite a different tone had all the information stated above been taken into account.

With all due respect to the distinguished experts, I am of the view that the Committee, in drafting its conclusions and recommendations, has had in mind more the prevailing judgements and views of the international factors about the Federal Republic of Yugoslavia than the Yugoslav report itself and the statements made by the members of the Yugoslav delegation.

I would appreciate if you would kindly bring the contents of this letter to the attention of the distinguished Rapporteur, Mr. Rechetov, and other distinguished Committee members, and also give consideration to this letter at the Committee's session at the time of consideration of the next Yugoslav progress report.

Finally, may I express readiness to consider your observations on the matters raised in this letter.

(Signed) Redzep HODZA

Head of the delegation of Yugoslavia to the fifty-second session of the Committee on the Elimination of Racial Discrimination