

SERBIA'S MEMBERSHIP IN THE COUNCIL OF EUROPE AND THE IMPLEMENTATION OF HUMAN RIGHTS STANDARDS

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Abstract: The paper analyzes the Republic of Serbia's accession to the Council of Europe (CoE) in 2003, focusing on its context and reasons for accession. The author also briefly presents the most important CoE conventions that Serbia has ratified, as well as the extent to which it has implemented obligations deriving from those conventions. It is discussed whether Serbia has established formal and informal mechanisms of cooperation with the bodies of the CoE, and especially whether it has a control body for monitoring the fulfillment of recommendations, similar to the Council for monitoring recommendations issued by United Nations human rights mechanisms. Special attention is given to the relationship with the European Court of Human Rights and the impact of judgments, primarily those handed down against the Republic of Serbia (the issue of enforcement), while focusing on systemic problems identified by the Court. Also, a case in which Serbia failed to comply with interim Court measures when it extradited a Bahraini citizen in January 2022 is presented. The paper assesses how this case affected the good relations between the CoE and the Republic of Serbia, especially now that Kosovo has submitted its application for membership in the organization.

Keywords: Council of Europe, Serbia, Human Rights, Monitoring bodies, European Court of Human Rights, European Court of Human Rights.

INTRODUCTION

The Council of Europe is an organization established after the Second World War with the aim of promoting human rights, democracy, and the

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rule of law, following the atrocities that happened during the global conflict. The horrors of the conflict have convinced people that international cooperation is vital for avoiding future conflicts and creating conditions for mutual cooperation among states (Benoit-Rohmer, Klebes, p. 20). The idea emerged from Winston Churchill's speech delivered in Zurich on September 19, 1946. The British statesmen and Prime Minister underlined that there was a need to unite the European States, which "would transform the whole scene and in a few years make all Europe as free and happy as Switzerland" (Council of Europe, 2022). This idea was formally initiated at the Hague Congress in 1948, gathering more than a thousand delegates from seventeen Western European countries.¹ This was one of the most dramatic postwar events, and it needed to provide a successful formula for European integration (Walton, 1959, p. 38). Observers from Eastern Europe, the US, and Canada were also present, including the Yugoslav delegation.² Most delegates came from France, Great Britain, Belgium, the Netherlands, Italy, and Germany (The Congress of Europe in The Hague, 1948, May 7-10). One of the three committees present was the Cultural Committee, which advocated for the adoption of the international human rights Charter and the foundation of a Supreme Court. The Treaty on the Constitution of the Statute of the Council of Europe was signed by ten states on May 5, 1949, in London.³ The Preamble listed the basic values of European states, such as "individual freedoms, political liberty, and the rule of law, principles which form the basis of all genuine democracy" and were akin to those "of a European constitution" (Wassenberg, 2013, p. 24). The Statute in Article 1 clearly stipulates that the aim of the organization is "to achieve a greater unity between its members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress". These objectives shall be pursued through the organization's organs "in economic, social, cultural, scientific, legal, and administrative matters and in the maintenance and further realization of human rights and fundamental freedoms". The idea of the

¹ Countries that were officially represented were: Austria, Belgium, Denmark, Ireland, France, West Germany, the United Kingdom, Italy, Liechtenstein, Luxembourg, Norway, the Netherlands, Sweden, Switzerland, Turkey, and Greece.

² Other observer states were Bulgaria, Czechoslovakia, Finland, Poland, Romania, and Spain.

³ Belgium, France, Luxembourg, the Netherlands, the United Kingdom, Ireland, Italy, Denmark, Norway, and Sweden.

Cultural Committee was realized on November 4, 1950, when the European Convention on Human Rights and Fundamental Freedoms (European Convention) was adopted (Krstić et al., 2016a).⁴ After democratic changes in Serbia, the door opened for Serbia's membership in the CoE. The State Union of Serbia and Montenegro joined the organization on April 3, 2003. Through its membership, Serbia accepted the principles of the rule of law and respect for human rights within its jurisdiction (Article 3 of the Statute). The aim of this paper is to analyze and present the relationship between Serbia and the CoE. The main premise is that Serbia increased its capacity to deal with human rights issues after joining the CoE. However, the human rights level did not significantly improve, indicating that it is a long-term process that requires coordination and cooperation from all state actors, as well as their genuine engagement.

THE MAIN BODIES OF THE COUNCIL OF EUROPE

The Council of Europe has two main organs: the Committee of Ministers and the Parliamentary Assembly. The Committee of Ministers is the decision-making body of the CoE, and Serbia, like all other states, has one representative on the Committee of Ministers, with one vote. Its representative is the current Minister of Foreign Affairs, who can be replaced by a member of the Government. The Committee of Ministers has the authority to issue the conclusion of conventions, agreements, or common policy with regard to particular matters. The conclusion can take the form of recommendations, and it can request that the member states inform it of any actions undertaken in response to those recommendations. The Committee of Ministers, as a legislative and budgetary authority, represents the first pillar of the CoE structure. Its role is to develop a dynamic partnership with parliamentary and government representatives, which means that it relies on cooperation with the Parliamentary Assembly (Kleinsorge, p. 96). The Parliamentary Assembly (before the Consultative Assembly) is the organization's deliberative organ, perceived as its "engine", which may discuss and make recommendations on any matter within the aim and scope of the organization (Article 23 of the Statute). Each member state has its own representatives, nationals of the member state, who are elected members of national parliaments. Serbia has seven assigned seats. The chairperson is Mr. Ivica Dačić, and members come from the following

⁴ The Convention came into force on September 3, 1953.

parties: one from the Socialist Party of Serbia, one from the Party of Democratic Action of Sandžak, one from the Alliance of Vojvodina Hungarians, and four from the Serbian Progressive Party. The Parliamentary Assembly is the organization's second pillar, regarded as Europe's motor and conscience. The Honorary President, Edouard Herriot, who opened its first session on August 10, 1949, underlined that the role of the Assembly is to "furnish the means to governments to constantly keep in contact with European public opinion" and to constantly defend freedom and the law (Kleinsorge, p. 75). The Parliamentary Assembly also maintains external relations with international bodies and can request regular reports from them, invite observers, and direct the Secretary-General to establish official relations with the outside body (Evans, Silk, p. 323). The Secretariat consists of a Secretary-General, a Deputy Secretary-General, and administrative staff. The Secretary-General and Deputy Secretary-General are appointed by the Parliamentary Assembly on the recommendation of the Committee of Ministers, while the administrative staff is appointed by the Secretary-General. The Secretary-General is accountable to the Committee of Ministers for the Secretariat's work. Among other consultative bodies, established by consequent decisions of the Committee of Ministers, is the Congress of Local and Regional Authorities, a watchdog of the rights guaranteed by the European Charter of Local Self-Government, ratified by Serbia in 2007 (Serbia – Monitoring Report, 2017, October 18).⁵ This body consists of a Chamber of Local Authorities and a Chamber of Regional Authorities, which have a total of 306 delegates each, who are elected members of local and regional political bodies in their countries. It advises the Committee of Ministers on issues relevant to local and regional governments. The main aim of the Congress is to strengthen cooperation among CoE member states and to promote human rights at the local and regional level. Serbia has seven members in this body. The Chamber of Local Authorities consists of four members: two from the Serbian Progressive Party, one from the Alliance of Vojvodina Hungarians, and one from the United Rural Party. Serbia has three members in the Chamber of Regions, all from the Serbian Progressive Party. It is the organization's third pillar.

⁵ Through its ratification, Serbia accepted 25 provisions and refused to accept five. According to the second monitoring report, Serbia made significant legislative changes in order to strengthen local self-governments, but some additional efforts are needed, such as the fight against corruption and the continued implementation of the Strategy on Public Administration Reform.

Finally, the CoE's fourth pillar, and its consultative body, is the Conference of International Non-Governmental Organizations (INGOs), which respects and defends the values and principles of the CoE. This body brings together civil society representatives and is regarded as a junior partner in the CoE structure (Martyn Bond, 2012, p. 11). In 1952, the consultative status of INGOs was introduced, which allowed the CoE to develop a closer relationship with civil society. In 2003, the participatory status was introduced, which increased the participatory process of INGOs. Participatory status is granted once a year to organizations that have members in at least five of the member states of the CoE. There are over 400 INGOs with such status, and they meet in Strasbourg twice a year, during the ordinary sessions of the Parliamentary Assembly. Among them, as many as 116 organizations are geographically represented in Serbia. Their status is regulated by the Resolution of the Committee of Ministers CM/Res (2016) 3. They are organized into three committees: the Democracy, Social Cohesion and Global Challenges Committee, the Education and Culture Committee, and the Human Rights Committee. The position of Commissioner for Human Rights was not originally stipulated in the Statute of the organization. It was established in 1999 by Resolution 99 (50) as a non-judicial institution that promotes human rights education, awareness, and respect. In other words, the Commissioner's main responsibility is to increase the human rights culture in the member states and has a broad and flexible mandate to foster the effective observance of human rights in the member states (De Beco, 2013, p. 17). Ms. Dunja Milatović is the current Commissioner, elected to that position in 2018, while her predecessors were: Alvaro Gil-Robles (1999-2006), Thomas Hammarberg (2006-2012), and Nils Muiznieks (2012-2018). During his mandate, Mr. Hammarberg made two visits to Serbia in order to assess the overall human rights situation. His first visit was in October 2008. The report reveals that there were many obstacles to effective human rights implementation. Although Serbia had a strong legal framework, its implementation was inadequate. It was also noted that there is a widespread public perception of corruption and distrust of public institutions. Particular areas of concern were lengthy trials and the non-enforcement of national-level decisions. Mr. Hammarberg returned to Serbia for a second time in June 2011 and issued a report on his visit. The report recommended that authorities conduct thorough investigations into crimes committed during the war, improve the position of Roma, LGBTI people, and persons with disabilities, and promote the media's essential role in building pluralism and open-mindedness. In October 2021, the Commissioner expressed concern about the cancellation of the Belgrade Gay

Pride on grounds of public safety, stressing the importance of freedom of expression and assembly. The Ministry of Interior responded that the event was canceled due to the rise of anti-LGBTI citizen associations, civic groups, and football fan groups, and that it was not possible to guarantee their safety. In 2015, Mr. Muiznieks published a report on the third visit to Serbia, made in March 2015. It was found that there were still some issues for concern in Serbia, such as impunity for grave breaches of international humanitarian law, a lack of effective access to justice and reparations for victims of human rights violations, a lack of long-term solutions for Roma displaced from Kosovo and experiencing housing and education problems, discrimination against persons with disabilities, the unsuccessful deinstitutionalization process, and gender-based violence against women. Additionally, the Commissioner found that there is political pressure that leads to self-censorship, impunity for crimes against journalists, a non-supportive environment for investigative journalism, as well as sensationalism and non-ethical media reporting.

MEMBERSHIP IN THE COUNCIL OF EUROPE

The organization was established after hard negotiations between federalist and unionist “Europeans” at the Hague conference in May 1948 (Anita Prettenthaler-Ziegerhofer, 2010, p. 9). Its foundation represents a milestone in the European integration process (Anita Prettenthaler-Ziegerhofer, 2010, p. 13). The heads of governments of Belgium, Denmark, France, Great Britain, Ireland, Italy, Luxembourg, the Netherlands, Norway, and Sweden signed the Council of Europe Statute on May 5, 1949. The Yugoslav delegation was not invited to London in 1949 to join the Treaty constituting the Statute of the Council of Europe. Despite its primary purpose to unite the European States, the Council of Europe remained a Western European organization for a long time, focusing on the first generation of human rights (civil and political rights). Eight countries joined the Council of Europe between 1949 and 1970: Greece, Iceland, Turkey, Germany, Austria, Cyprus, Switzerland, and Malta. During the 1970s and 1980s, only a few states became members: Portugal in 1976, Spain in 1977, Liechtenstein in 1978, San Marino in 1988, and Finland in 1989. Finland’s membership ended the pure Western character of the organization (Winkler, 2010, p. 22), which was seen by Eastern Europe “as the civilian arm of NATO” (Bond, 2012, 8). Since 1985, the organization has focused on central and Eastern European states. In 1989, Soviet leader Mikhail Gorbachov addressed the Assembly for the first time, mentioning the “common

European home” (Winkler, 2010, p. 23). His attitude was accepted with enthusiasm by ordinary people, while politicians were cautious and suspicious (Denis Huber, 1999, 5). In the same year, the assemblies of Hungary, Poland, the USSR, and Yugoslavia were granted special guest status. The enlargement policy was initiated by Francois Mitterrand at the first Summit of the Heads of State and Government of CoE Member States in October 1993, opening the door for the democratization process in Central and Eastern Europe.⁶ The role of the CoE has grown considerably over its 70 years of existence, with enlargement not only in its membership but also in policy-making areas (Bond, 4). The Council of Europe Office in Belgrade was opened by the Secretary-General on March 16, 2001. It was opened as a contact point for cooperation with Yugoslavia, which had applied for membership. The State Union of Serbia and Montenegro became the 45th member in April 2003. After the referendum, Montenegro declared its independence from the State Union on June 3, 2006, and on June 5, 2006, the President of Serbia informed the Secretary-General that Serbia was the sole successor of the Union. The Committee of Ministers noted in its decision on June 14, 2006, that Serbia has remained a member. The Office is still in Belgrade today. It provides assistance to the Government and its institutions in conducting reforms and developing their capacities to deal with human rights issues, such as protecting human and minority rights, protecting the rule of law, etc. In March 2022, the Secretary-General, Ms. Marija Pejčinović Burić, paid an official visit to Belgrade. She visited the Office and representatives of institutions, such as the Prime Minister, Minister of Foreign Affairs, and Minister of European Integration. She expressed her support for all key reforms in Serbia concerning human and minority rights, the fight against corruption, improving the capacities of local self-governments, and strengthening regional cooperation. The Minister of Foreign Affairs, Mr. Nikola Selaković, stressed the importance of the visit for Serbia, given the political climate at the time. He also expressed his satisfaction with the cooperation between Serbia and the CoE, which supports the country in its European integration process. He also welcomed

⁶ Hungary joined the CoE in 1990, Poland in 1991, Bulgaria in 1992, Estonia, Lithuania, Slovenia, and Romania in 1993, and Andorra in 1994. In 1993, the Czech Republic and the Slovak Republic replaced Czechoslovakia’s accession from 1991. In 1995, several countries joined the CoE: Latvia, Moldova, Albania, Ukraine, and the former Yugoslav Republic of Macedonia. Further memberships were: Croatia in 1996, Georgia in 1999, Armenia and Azerbaijan in 2001, Bosnia and Herzegovina in 2002, Monaco in 2003, and Montenegro in 2007.

the Parliamentary Assembly's decision to send an observation mission for the presidential and parliamentary elections in Serbia, held in April 2022. Serbia has a Permanent Mission to the CoE in Strasbourg, which was established in 2003 and is currently represented by Mr. Dejan Milivojević, Delegation Secretary, and Ms. Kristina Bunić, Deputy Secretary. The Mission aims to present and promote the interests of Serbia within the organization and to link the CoE with national authorities. The CoE has also been supporting Kosovo and Metohija since 1999, but in all official documents Kosovo is marked with a *, and its status is treated in full compliance with UN Security Council Resolution 1244. Between 2014 and 2021, seven meetings with the Working Group on cooperation between the CoE and Kosovo were held. Cooperation activities were concerned with promoting human rights, anti-discrimination and diversity, ensuring justice, combating corruption and organized crime, freedom of expression and the media, as well as democratic governance and participation. In his statement concerning the visit of the Secretary-General to Serbia, Mr. Selaković stated that Serbia supports any engagement of the CoE in Kosovo and Metohija aimed at the advancement of human rights, the rule of law, and democracy, which is in accordance with Resolution 1244 and the status-neutral approach. He also clearly stated that Serbia strongly opposes Kosovo's admission to the organization, as this would undermine its unity and would be contrary to its Statute. Despite this position, Kosovo officially applied for membership on May 12, 2022. This information was confirmed by Ms. Donika Gervalla, Kosovo's Minister of Foreign Affairs. The procedure of reviewing the request will go through the Parliamentary Assembly and the Committee of Ministers, complicating Serbia's relationship with the CoE.

MAIN HUMAN RIGHTS INSTRUMENTS

Serbia became a member of the Council of Europe in 2003. Since then, it has accepted many treaties adopted under its auspices. It can be said that Serbia is among the European states least reluctant to sign international treaties. However, the issue of obligations' implementation remains complex and deserves special attention from the authorities in Serbia.

European Convention on Human Rights

The European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, ECHR)

is the main human rights instrument, adopted in 1950 and entered into force in 1953 (Krstić et al., 2016b). It is supplemented by 16 Protocols, which have extended the list of protected rights and freedoms. There is a common view that it has not ceased evolving since its first version (Petaux, 144). Its importance, however, is not only in the scope of protected rights but also in the protection system that ensures that states comply with their obligations that derive from the ECHR. The European Court for Human Rights (ECtHR, the Court) was established in 1959 and reformed in 1998, becoming the permanent human rights court in Strasbourg.⁷

Judgments against Serbia

Although the ECHR entered into force for Serbia on March 3, 2003, according to the Court's statistics, as of January 1, 2010, the number of applications against Serbia was already high – 2.7% (in total, 9th place).⁸ According to the statistics of the Court from its establishment until December 31, 2021, 34,858 applications from Serbia were allocated to a judicial formation, while 32,786 were struck from the list. At least one violation of the ECHR was found in 207 out of 232 judgments. Most of the judgments concern the rights to property, non-enforcement (75), the length of proceedings (54), and the right to a fair trial (33) (Committee of Ministers, 2017, September 29).⁹ The first judgment delivered against Serbia was *Matijasević v. Serbia*. In this case, the Court found a violation of Article 6 (2)

⁷ Protocol No. 11 entered into force on November 1, 1998, instituting the new “court.”

⁸ The Statistics was as such: 28.1% Russia, 11% Turkey, 8.4% Ukraine, 8.2% Romania, 6% Italy, 4% Poland, 3.4% Georgia, 2.8% Moldova, 2.7% Serbia and Slovenia. As of this date, around 119,300 applications are pending before a decision body, with 5506 being from Serbia. On January 1, 2010, the Court delivered 40 judgments against Serbia, 38 of which found at least one violation of the ECHR, and two of which did not. The majority of cases concerned the length of proceedings (16), the right to an effective remedy (14), the right to a fair trial (12), and property protection (7), while others were related to the right to respect for private and family life (7), the right to liberty and security (4), and freedom of expression.

⁹ Other judgments concern: the right to an effective remedy (18), the right to respect for private and family life (17), the right to liberty and security (11), lack of effective investigation concerning Article 3 (10), freedom of expression (7), inhuman and degrading treatment (7), lack of effective investigation concerning Article 2 (3), prohibition of discrimination (2), the right to free elections (1), and the right to be tried or punished twice (1).

of the ECHR as the “Novi Sad District Court found the applicant guilty before this was proved according to law” (*Matijasević* case, Para. 47). Many cases involving Serbia reveal systemic failures, with the length of proceedings remaining one of the main challenges. However, judgments delivered against Serbia (see, e.g., *Ristić v. Serbia*) resulted in criminal proceedings reforms, which were accelerated through several legislative amendments in 2013, including the Law on the Protection of the Right to Trial within a Reasonable Time, adopted in 2015. However, while there have been improvements in the number of confirmed breaches of this right, the length of proceedings in Serbia has not been significantly reduced (Milošević, Knežević Bojić, p. 463). Moreover, some studies show that the law places an additional burden on judges to decide on violations. Another challenge was the enforcement of final judgments on the debts of socially owned companies or local authorities (see, e.g., *EVT Company v. Serbia*, group of 58 cases). In 2012, the enforcement proceedings were improved by amending the practice of the relevant local authorities and by introducing an effective remedy for non-enforcement of final judgments. Another case was *Grudic v. Serbia*, in which applicants claimed that their disability pensions had been suspended for more than a decade and that they had been discriminated against based on their ethnicity. The payments were collected in the Autonomous Province of Kosovo and Metohija and suspended by the Serbian Pensions and Disability Insurance Fund. Serbia was found to be responsible for implementing all laws to ensure the payment of the pensions. As many individuals were affected, the Court required the state to provide individual measures to put an end to violations and erase their consequences, as well as to introduce general measures to prevent similar violations. Following this decision, pecuniary damages were paid. Additionally, on January 20, 2013, the authorities issued a public call for those whose payments had not been paid, verified the eligibility of each applicant (3,920 cases), and payment was immediately resumed. There has been progress in terms of the execution of judgments; in 2015, the number of pending cases was around 250, while in July 2021, that number had fallen to 44. The most challenging cases concerning judgment execution were the *Kacapor* group of cases (non-enforcement of domestic decisions), the *Jevremović* group (excessive length of domestic proceedings), and the *Zorica Jovanović* case. The last was about missing babies, and was the most difficult judgment to be executed by Serbia thus far. In this case, a mother received no credible information about the fate of her son, who died three days after birth. She had never seen his body or been informed about where he was buried. The case was not investigated or officially documented. The ECtHR

found a violation of the right to respect for her family life (a violation of Article 8 of the ECHR). Although Serbia announced that it would adopt *lex specialis* to resolve all similar cases, the process has been disrupted for several years. Finally, on February 29, 2020, the Law on Determining the Facts on the Status of Newborn Children Suspected of Missing from Maternity Hospitals in the Republic of Serbia was adopted. It set up an independent investigation mechanism to determine the fate of missing babies and provide individual redress to their parents. Furthermore, Serbian authorities are preparing amendments to the law with the aim of introducing a DNA database to facilitate truth-finding in the case of missing babies.

Position of the Agent of the Republic of Serbia

The Agent before the ECtHR has an extremely important role in defending the state. Its position is mentioned in Article 35 of the Rules of the Court from 2020, stipulating that “[t]he Contracting Parties shall be represented by Agents, who may have the assistance of advocates or advisers.” Its role is also to coordinate the process of execution of judgments, which usually involves several branches of power (Delovski, Rodić, 2020, p. 19).

The position of Agent can be modeled in several ways: as a separate office, as a section of a particular ministry (usually the Ministry of Justice or the Ministry of Foreign Affairs), or as part of the Office of the State Attorney General (Delovski, Rodić, 2020, p. 20). The latter model has been adopted in Serbia. As a result, the status of the Agent is regulated by the Law on the State Attorney’s Office. The law contains only a few provisions that relate to the Agent, who represents the Republic of Serbia in proceedings before the Court (Article 13 (1)). The law also prescribes the duty of other state bodies and public institutions to cooperate and submit the necessary information to the Agent (Article 8). However, the execution of judgments is not mentioned in the law. More detailed provisions are stipulated in the Rules of the organization of the State Attorney’s Office, but they are still not concrete and detailed enough. In reality, cooperation with different bodies can be very challenging at times and can affect the successful defense of the state. Another challenging task is overcoming the very limited human resources despite the enormous workload and very demanding tasks. In April 2013, the Government established a Council for Cooperation with the ECtHR. The Council had very important duties: to monitor cooperation with the Court; to monitor the implementation of the ECHR; to consider

important cases against Serbia and develop a defense strategy; to consider cases where Serbia can intervene; to consider the request for referral to the Grand Chamber; to consider any inter-state applications; to monitor the execution of judgments; to give proposals and expert opinions on the actions of state bodies in order to reduce the number of applications against Serbia; and to offer professional assistance in providing training for the judiciary and public administration regarding the implementation of the ECHR. The Council was established for a period of five years, and when this term expired, it was unfortunately not renewed.

Interim measures and the case of Serbia

Under Rule 39 of the Rules of Court, the ECtHR can issue, either at the request of the party or on their own motion, any interim measure that should be adopted in the interests of the parties or the proper conduct of the proceedings. Interim measures are urgent measures that apply when there is an imminent risk of irreparable harm. For example, interim measures are usually invoked when authorities decide to extradite a person within their jurisdiction. In that case, the ECtHR may grant the request if it believes that the person is facing a genuine risk of serious and irreversible harm, such as torture, and may suspend expulsion or extradition. They can also be invoked in relation to the right to a fair trial, the right to respect for private and family life, and freedom of expression. Applicants and Governments are informed of any granted interim measure. They may be discontinued at any time by a decision of the Court. Although interim measures are stipulated in the Rules of Court and not in the ECHR, they are compulsory, and states must comply with the decision of the ECtHR. It was stressed for the first time in *Mamatkulov and Askarov v. Turkey*, where the Court found that a state had violated the ECHR by failing to comply with interim measures issued under Rule 39 of the Rules of Court. Between 2019 and 2021, there were 38 “Rule 39” requests in the case of Serbia, and the Court granted nine interim measures. As many as seven of the concerned expulsions were to the United States, and one was to Turkey. Serbia complied with all interim measures issued until the beginning of 2022. Then, in November 2021, a Bahraini national, Ahmed Jaafar Mohamad Ali, was held in pre-trial detention. He stated that he intended to seek asylum in Serbia. He claimed that if he was extradited to his home country, he would be subjected to torture and political persecution. He said that the Bahraini security forces tortured him and that he sustained severe physical injuries during the protests in Manama in 2011, when the police and army killed

five and wounded around 250 people. He was sentenced in absentia to life imprisonment in trials held in 2013 and 2015, while three others were sentenced to capital punishment and executed in 2017. As a result, extradition was allowed based on an Interpol red notice request from Bahrain. The Ministry of Justice signed the decision on extradition on January 18, three days before the interim measures were granted. Serbia extradited a Bahraini national on January 24, 2022, despite interim Court measures issued in the meantime, which determined that the risk of torture in this case needed to be better assessed. This decision was condemned by international and national human rights lawyers and activists. According to many, non-compliance with the interim measures of the ECtHR impinges on its international reputation. In 2017, Serbia extradited Cevdet Ayaz, a Kurdish activist, to Turkey despite interim measures granted by the Human Rights Committee. This decision on extradition was executed despite the fact that the asylum procedure was not finalized and that there were many indications that he would be subject to torture and inhuman treatment in his country of origin. He is serving a 15-year sentence in the high-security Silivri Prison in Istanbul, where the Turkish authorities hold many political dissidents as a result of an unfair trial in absentia. These decisions on extradition by Serbian authorities lead to insecurity, violations of the rule of law and human rights, and destroy the international trust and reputation that Serbia has been trying to build.

Other relevant human rights instruments

Serbia has ratified many international treaties adopted under the auspices of the Council of Europe. It is not reluctant to accept international human rights obligations, although ratification is usually not accompanied by measures for their implementation. However, it must be noted that supervisory mechanisms established by many international conventions have led to the improvement of human rights situations in many areas. Only a few instruments will be mentioned. In 2004, Serbia ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The European Committee (CPT), established by the Convention, has the mandate to visit places of detention and assess how persons deprived of their liberty are treated in order to strengthen their protection from torture and inhuman or degrading treatment or punishment. These places include prisons, police stations, centres for refugees and migrants, psychiatric hospitals, institutions of social care, etc. So far, the CPT has made five regular and one *ad hoc* visits to Serbia,

publishing reports with recommendations for improving the treatment and conditions in places of detention. In 2005, the Convention on Action against Trafficking in Human Beings was adopted, with a comprehensive scope of application, encompassing all forms of trafficking. Serbia ratified the Convention in 2009 and has undergone three evaluation rounds by the Group of Experts on Action against Trafficking in Human Beings (GRETA), a monitoring body established by the Convention. The first report focuses on the legal and institutional framework in Serbia, the second on child victims and unaccompanied minors, while the third report focuses on trafficking victims' access to justice and effective remedies. The GRETA found that Serbian authorities have undertaken a number of measures to prevent and combat trafficking in human beings but identified some shortages that need to be overcome. In 2013, Serbia ratified the Istanbul Convention Action against violence against women and domestic violence (Istanbul Convention). A supervisory body was established under the Convention, in the form of a Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), which published a baseline evaluation report on Serbia in January 2020, as a result of the first evaluation procedure. The report proposes a number of measures to strengthen the implementation of the convention, using different words that reflect the level of importance, such as "urges," "strongly encourages," "encourages," and "invites". Serbia also accepted two conventions that protect minorities. In 2006, Serbia ratified the European Charter for Regional or Minority Languages, which aims to protect and promote languages used by traditional minorities. The Committee of Experts, a supervisory body established by the Convention, has so far received Serbia's initial report and five periodic reports, and issued recommendations on the application of the Convention in Serbia. Recommendations concern the availability of adequate teaching of certain minority languages, the facilitation of the broadcasting of public and private radio and television programs in minority languages, the increased use of minority languages in administrative and court proceedings, the strengthening of the capacity of national councils of national minorities, and the promotion of awareness and tolerance in society. Serbia also accessed the Framework Convention for the Protection of National Minorities in 2001. The Advisory Committee, the Convention's supervisory body, has so far considered four reports on the implementation of the Convention by Serbia. The most recent report from 2017 contains the assessment of many follow-up activities and recommendations for the improvement of the implementation process.

CONCLUSIONS

Serbia joined the Council of Europe on April 3, 2003, and has since then actively taken part in many activities and ratified many international human rights conventions adopted under its auspices. Serbia also cooperates with the monitoring bodies established under these conventions, allowing their visits, sending regular reports, and implementing recommendations issued by supervisory bodies. The Serbian authorities have very good cooperation with the CoE Office in Belgrade. Through its numerous ongoing projects, the Office supports many important activities, increases knowledge, skills, and attitudes toward human rights among justice professionals and law students, and promotes HELP courses with the goal of better integrating human rights standards into decision-making in many areas covered by CoE human rights conventions. The Horizontal Facility for the Western Balkans and Turkey has been implemented since 2014, after the Secretary-General of the CoE and the EU Commissioner for Enlargement and European Neighborhood Policy agreed to strengthen their cooperation in key areas of joint interest. The first phase of the program was between 2016 and 2019, while the second phase covered the period from 2019 to 2022. Programs are focused on the efficiency and independence of the judiciary, the fight against corruption, organised crime and economic crime, freedom of expression and the media, as well as anti-discrimination and protection of the rights of vulnerable groups. Despite many monitoring bodies, Serbia is primarily oriented toward the ECtHR and the execution of its judgments. However, there are many recurring cases, as well as several human rights violations, that dominate applications against Serbia, such as fair trial rights, the length of proceedings, and the right to property. The government's Council for the relationship with the ECtHR had a significant role in providing support to authorities in executing judgments, but also in building the defense before the Court in Strasbourg. The Council's term, however, expired and was not renewed. Moreover, the Agent's position before the Court weakened after it became a part of the State Attorney's Office, and its limited human capacities need to be resolved in order to regain the Agent's respect and full efficiency. Furthermore, the interim measures granted by the Court in January 2022 and later violated, endanger Serbia's international reputation, especially in times when this respect is more relevant than ever. This is the second time this has happened to Serbia after it breached interim measures issued by the Human Rights Committee in 2017. These two cases demonstrate that, despite some serious reforms and improvements in the area of human rights, there are still situations in Serbia

when political influence and friendship with autocratic regimes will prevail over international human rights obligations. Russia ceased to be a party to the ECHR and was excluded from the CoE, while Kosovo submitted an application for membership in the organization on May 12, 2022. This provoked a strong reaction from Serbia as it lost support from Russia, which would have vetoed any attempt for Kosovo to join the CoE. Kosovo's application was supported by the European Stability Initiative (ESI), a think tank from Berlin, stating that Kosovo fulfills all the conditions for CoE membership and that 34 out of 46 member states recognize Kosovo's independence. Kosovo's application will provoke a diplomatic and political fight among Serbian authorities and can potentially lead to some future dissensions within the CoE.

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