

Mandates of the Special Rapporteur on minority issues and the Special Rapporteur on freedom of religion or belief

REFERENCE:
AL SRB 2/2017

14 June 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues and Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolutions 25/5 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged destruction of a mezhdit (house of God) of a small Muslim Ashkali community, and physical threats and violence against individuals during the course of the demolition operation.**

According to the information received:

The Roma, Ashkali and Egyptian community of Zemun Polje, a municipality on the margins of Belgrade, is a Muslim community that comprises of approximately 200-300 households, with reportedly 500-800 persons. The majority of these are reportedly displaced persons from Kosovo, in particular Kosovo Polje. The community has been present in the municipality for more than 40 years.

One mezhdit (house of god) exists in the community on a property that was given to the community in 2007 by the municipality. The community organises after-school activities for children on the ground floor and there is a prayer room upstairs. It was made clear from the outset by the authorities that the community could not transform the premises into a mosque. Thus, the mezhdit does not have a minaret.

The mezhdit was too small to accommodate the needs of the community. In particular, it did not have a prayer room for the women. An official request was filed in 2015 by the Belgrade Muslim community to the municipality of Zemun Polje to be allowed to build a new mezhdit.

In the absence of a clear response from the municipality, construction for a new mezhdit on the same plot of land as the first one began approximately two years ago, in 2015. The authorities interrupted the process many times, including requesting proof of land ownership. However, as the Zemun Polje settlement is an informal one, none of community members had legal documents for their lands. Reportedly many warnings were issued by the authorities to stop the construction.

On 23 May 2017, the authorities reportedly came with heavy equipment and attempted to destroy the new mezhdit. However, as a result of widespread mobilisation of the community, including the presence of many people at the mezhdit and members of the community, as well as some members of the Turkish embassy and others, the authorities desisted from their efforts. It was understood that the Imam was given 7 days to negotiate a solution with the municipality of Zemun Polje.

Despite having orally committed to this negotiation period, around 3:00 am in the morning of 26 May 2017 the authorities came back to the mezhdit together with the military (zhendarmerie). They shut down the electricity and destroyed the building with heavy machinery. Telecommunications including phones and internet were suspended, and electricity was cut off. During the demolition, people from the community were barricaded in their houses and not able to leave. The operation lasted around three hours.

It is further alleged that members of the community were physically abused, as well as verbally threatened by the zhendarmerie whilst trying to stop the demolition, and that at least one person was taken into custody by police for a period of several hours.

The community only received an official rejection of their 2015 building permit request on 29 May 2017, after the actual destruction of the mezhdit had already taken place.

The community notes that in the last 50 years, the Serbian authorities have not approved a single building license for a Muslim object anywhere in Serbia. The community believes that the establishment of functional community spaces and places of worship are also essential to transmit the peaceful messages of Islam, and prevent their youth from following extremist and radical doctrines.

While we do not wish to prejudge the accuracy of these allegations, we express our grave concern at the destruction of the Roma, Ashkali and Egyptian community of Zemun Polje mehzit, the use of force and threats by the zhendarmerie against community members opposing the demolition, as well as more generally with regards to the lack of permits issued for Muslim minority objects in Serbia.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Are the above facts accurate? Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate the concrete legal basis of the destruction of the mehazit, and how such a measure is compatible with international human rights norms. In particular, please indicate if all feasible alternatives to demolition were explored in consultation with the residents of the informal settlement and if so, please provide details as to why proposed alternatives were unsuitable.
3. Please indicate what measures have been taken to ensure that minorities, and in particular religious minorities, are being protected in Serbia. In this regard, please kindly indicate what measures have been taken to ensure that their rights to freedom of religion, freedom of opinion and expression and freedom of peaceful assembly and association are guaranteed in compliance with articles 18, 19, 21 and 22 of the ICCPR. In particular, what measures have been taken by the Municipality of Zemun Polje as well as the Serbian authorities more broadly, to address the lack of permits being granted for Muslim minority religious spaces?

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to remedy the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Rita Izsák-Ndiaye
Special Rapporteur on minority issues

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Annex

Reference to international human rights law

In connection with the above-alleged facts and concerns, and recognizing that the affected community is a religious minority in Serbia, we would like to bring to your Excellency's Government attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the ICCPR and the 1992 Declaration on the Rights of Persons Belonging to national or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

The International Covenant on Civil and Political Rights (ICCPR), which your Excellency's Government ratified in 2001, has a number of key provisions relevant in this regard.

Article 18(1) provides that: "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."

Article 19 further notes: "Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals."

Article 26 establishes that: "All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

We further note that the Special Rapporteur on freedom of religion or belief, in his Serbia mission report of 2009 (/HRC/13/40/Add.3) made reference to 'General Assembly resolution 55/254, in which the Assembly called upon States to exert their utmost efforts to ensure that religious sites are fully respected and protected in conformity with international standards and in accordance with their national legislation. The

Assembly also calls upon all States to adopt adequate measures aimed at preventing all acts or threats of violence, destruction, damage or endangerment, directed against religious sites.”

We also take note that **Special Rapporteur on freedom of religion or belief** noted in his **2016 report to the General Assembly (A/71/269)** that ‘States should also facilitate the acquisition by religious communities of a collective legal standing, which they may need to undertake important community functions, such as employing professional staff, purchasing real estate to build places of worship or establishing charitable organizations or institutions of religious learning. The obligation to fulfil also covers a broad range of promotional activities, such as education about religious and belief diversity as part of the school curriculum, and the building of societal resilience against religious intolerance.”

In particular, he noted that ‘When wishing to build places of worship or religious schools or to repair existing religious buildings, minority communities often have to apply for special permissions, which may take decades to obtain. If the believers start to build or repair places of worship before receiving official permission, they may encounter hefty sanctions or even be forced to tear down a newly erected building.”

In this regard, we would also like to make reference to **Human Rights Council Resolution 12/16**, which refers to the right to freedom of thought, conscience or religion as an intrinsically linked right to freedom of opinion and expression, and in this context, calls on States to take all necessary measures to put an end to violations of these rights and to create conditions to prevent their recurrence.

We also take note of the **2011 Concluding Observations of the Committee on the Elimination of Racial Discrimination** on Serbia (CERD/C/SRB/CO/1), where it was noted with concern ‘reports of obstacles experienced by religious authorities of certain minority groups seeking their registration as legal entities under the Law on Churches and Religious Communities.’ The Committee also expressed further concern about ‘reports of discrimination in the restitution of property to certain minority religious groups whose assets were confiscated (arts. 2 (c) and 5 (d) (v) and (vii)).’ The Committee recalled the possible intersectionality of racial and religious discrimination and urged the State party to take all necessary measures to ensure the equal right to freedom of religion for all, without preferential treatment, including through a review of laws or practices that perpetuate an intermingling of the secular and religious spheres, which may impede the full implementation of the Convention. ...” Importantly, **the Human Rights Committee** in its **2017 Concluding observations on Serbia (CCPR/C/SRB/CO/3)**, reiterated these findings, in paragraph 36.