

Human Rights Defenders Targeted in Serbia

A Report by the Helsinki Committee for Human Rights in Serbia delivered to the International Helsinki Federation for Human Rights (IHF)

Serbia¹

Introduction

Belgrade, Vienna 30 March 2006. The overall situation of human rights defenders in Serbia is determined by the fact that Serbia is still a *sui generis* case in many aspects in Europe, and primarily so because of the incumbent authorities' incapability or unwillingness to make a clear-cut break with the Milosevic regime. His policy was marked by gross violations of human rights, including ethnic cleansing and massive war crimes, and the ruling elite is troubled by still uncurbed territorial aspirations, insistence on the concept of ethnic state, and poor capacity for change. Serbia's deeply rooted ethnic nationalism not only blocks proper perception of today's world and its standards, but also practically negates the very concept of human rights and individual freedoms.

Today's Serbia is an unfinished state in many aspects and, therefore, institutionally inefficient. She has not reached a consensus on the strategy for development, national interests and common goals, let alone on a civil and secular society. Serbia lags behind her neighbours in many respects because of slow-paced and inconsistent reforms. The political elite in power lacks the vigour for constituting the state and setting foundations for a modern society, and for shaping Serbs' European identity. Moreover, a strategy for invigorating most conservative and anti-European sentiments and ideas is in full swing. In this context, human rights defenders are seen as "foreign elements," if not "traitors of national interests."

Nationalistic and extremely right or left wing political parties try to hinder the activity of human rights defenders at all costs. These forces also include the former regime's strongholds in the police and the army, influential public figures that keep fuelling Serbian nationalism and territorial aspirations, and many high-ranking members of the Serbian Orthodox Church, which interferes in state affairs and keeps close tabs on the society, the majority of the media, etc.

While human rights defenders in Serbia have along history of harassment and pressure against them, the most recent defamation campaign demonstrated the very same mentality toward NGO activists as during the Milosevic era. The main target has been the coalition of eight NGOs comprised of the

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Albania – Armenia* - Austria – Azerbaijan - Belarus – Bosnia-Herzegovina – Bulgaria – Canada – Croatia – Czech Republic – Denmark – Finland – France – Georgia* - Germany – Greece – Hungary – Italy – Kazakhstan – Kosovo – Kyrgyzstan – Latvia – Lithuania – Macedonia – Moldova – Montenegro – Netherlands - Norway – Poland – Romania – Russia – Serbia – Slovakia – Slovenia – Sweden – Switzerland – Turkmenistan* - Ukraine* – United Kingdom – United States – Uzbekistan*

COOPERATING ORGANIZATIONS: THE EUROPEAN ROMA RIGHTS CENTER – HUMAN RIGHTS WITHOUT FRONTIERS – MENTAL DISABILITY ADVOCACY CENTER

Helsinki Committee for Human Rights in Serbia, the Lawyers' Committee for Human Rights, the Humanitarian Law Center, the Center for Cultural Decontamination, the Youth Initiative for Human Rights, the Belgrade Circle, the Civic Initiatives and the Women in Black. Pressure against them from the media and high-ranking politicians intensified in early 2004 and continued throughout 2005, especially in the wake of their appeal to the Serbian parliament to adopt a resolution addressing the responsibility of Serbian forces for the genocide committed at Srebrenica. The government failed to denounce such campaigns and to protect the activists.

2. The Community of Human Rights Defenders

Though many Serbian NGOs have incorporated "human rights" in their names, there are only few that can be regarded as genuine human rights defenders, taking proactive steps to protect human (including minority) rights and the rule of law in Serbia and promoting the notion of *a citizen*, rather than *ethnos*. Their activities range from efforts taken to build up civil society, endeavours to help people to "face the past", monitoring the situation of vulnerable social groups, to alerting authorities and the general public about cases of xenophobia, intolerance, racism, anti-Semitism, ethnically motivated violence, etc.

As of recently, the coalition of eight NGOs – Helsinki Committee for Human Rights in Serbia, Lawyers' Committee for Human Rights, Humanitarian Law Center, Center for Cultural Decontamination, Youth Initiative for Human Rights, Belgrade Circle, Civic Initiatives and Women in Black – has been organizing joint high-profile actions. One of them was the 2005 spring campaign and the petitioning against anti-Semitism, submitting a Draft Declaration on Srebrenica to the Serbian Assembly for adoption in the wake of the 10th anniversary of the first genocide committed in Europe since the WWII.

The quality, effectiveness and impact of human rights defenders' work is probably best mirrored in the number of young people attracted to awareness-raising training programs organized by the NGOs; reflecting their awareness of obsolete notions and misconceptions, which today's Serbian educational system imposes on the young.

3. Positive Developments

While much of Serbian law related to human rights defenders still requires thorough reform, some positive legal steps have been taken in recent years to improve formal protection of human rights.

The State Union of Serbia and Montenegro has adopted the Charter on Human and Minority Rights and Fundamental Freedoms (hereinafter the HR Charter) as an integral part of its Constitutional Charter. The HR Charter's human rights protection standards adhere to all international human rights instruments. More precisely, its article 7 provides that international instruments such as the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights shall be integrated into the domestic legal system and shall be, therefore, directly applicable.

Further, the Ministry of Human and Minority Rights at the level of the Union of Serbia and Montenegro was set up in March 2003. However, the ministry's concern with the implementation of

international human rights treaties and covenants is considerably hampered by the fact that it has been tasked with all issues related to the cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY), including the extradition of indicted.

Another formally positive development was the adoption of the Law on Ombudsman, officially named the Act on Citizens' Defender, in September 2005. The Act provides that the ombudsman shall be appointed by the Serbian Parliament for a period of five years, with the possibility of re-election. Furthermore four deputies shall be appointed, with special focus on the protection of the rights of convicts, children, minorities, disabled and other vulnerable groups, as well as on the promotion of gender equality. The act further stipulates that the Ombudsman shall be authorized to supervise the respect of human rights within the republic's administration by controlling governmental agencies' work, acts, failures to act, and decisions. The competencies of the Ombudsman include the right to initiate amendments to laws and adoption of new ones, as well as to make suggestions about draft laws submitted to the parliament, provided they relate to the domain of human rights. However, the Ombudsman is not allowed to supervise and control the work of the parliament, government and president of Serbia nor the functioning of courts and public prosecutor offices.

Also, the act empowers the Ombudsman to take action only if an applicant has exhausted all legal remedies. Since the act came into force only in September 2005, it has yet to be seen how it will be implemented. As of early March 2006, no steps had been taken in regard to nominating candidates for the office, let alone securing necessary financial and human resources.

No positive developments or practices concerning human rights defenders have been registered for a long time, the more so since appropriate legislation is not in place. NGOs dealing with human rights, as well as the entire non-profit sector, are still treated as "groups of citizens" and are liable to the same taxes as profit-making groups.

4. Remaining Problems and Regression

The remaining problems faced by human rights defenders relate not only to Serbia's legislation that necessitates urgent reform with regard to non-governmental sector, but also to the authorities' unawareness of the very existence of the UN Declaration on Human Rights Defenders and other international provisions that protect the rights of human rights activists and promote their work.

4.1. Freedom of Association

Legislation

The right to association, assembly and freedom of opinion and expression is incorporated in the provisions of the Serbian Law on Civil Organizations and Citizens Associations dating back to 1982, and its amendments of 1984, 1985, 1989 and 1994. The law, however, is outdated in many respects.

The HR Charter and the constitutions of both Serbia and Montenegro guarantee the freedom of association. According to the constitutions, the freedom of political, trade union and other association and activities shall be guaranteed without the requirement of a permit and only subjected to registration with the competent authorities. The HR Charter also provides that everyone has the right

to deny membership of an organization, thus offering, for the first time, the protection against forcible association.

Yugoslavia's Law on Citizens Association, Social Organizations and Political Organizations of 1990 has not been formally repealed, but is no longer enforced in practice, since the Union's member-states are in charge of regulating the freedom of association in their territories. Serbia has two laws regulating the freedom of association: the above-mentioned Law on Civil Organizations and Citizens Associations (1982) and the Law on Political Organizations of 1990 (amended in 1994). Given that these laws have been adopted before the HR Charter, they do not fully comply either with the Charter or international standards. Therefore, Serbia is obliged to adjust its legislation.

The Draft Law on Associations was submitted to the parliament in 2004. The Ministry of Public Administration and Local Self-Government of Serbia has amended the initial version, taking into consideration expert comments by the Council of Europe. A one-day conference was organized in November under the auspices of the OSCE Mission to Serbia and Montenegro, enabling the public, notably NGO representatives, to provide further comments and suggestions. Although significant, this event has been the only activity so far aimed at establishing a legal frame for the work of numerous NGOs and associations in the country.

An overview of the original draft of 2004 shows that protection of human rights and development of democracy were either intentionally omitted or at least considered to be less important and, therefore, suitable for the category labeled "miscellaneous."ⁱⁱ Although improved, the current draft continues to raise serious questions about the main purpose of the law. There is still no clear definition of non-profit organisations and the role of the state remains strongly regulative. Some of the proposed solutions do not comply with other national and international standards, namely in regard to the property rights of NGOs and associations, and their financial obligations.

Practices

Freedom of association is exercised discriminately. For instance, organizations inciting racial, ethnic or religious hatred can be set up without problems and the authorities almost never properly react to their intolerable manifestations and activities, let alone ban them under law.

- For example, a perpetrator who tear-gassed the peaceful demonstration of the Women in Black staged in July 2005, on the eve of the 10th anniversary of the Srebrenica massacre, was not tracked down. Nor did security guards or the organizers of the debate entitled "Liberation of Srebrenica" try to protect outstanding human rights activists from both verbal and physical assaults by extremely nationalistic students gathered for the event that was held at the Belgrade Law School.

Probably the only exception to the rule of authorities' non-interference in cases of incitement to hatred was the 9 November 2005 incident at the Novi Sad Law School, where several skinheads who were members of the National Formation organization forced their way into the ceremony to mark the International Day Against Fascism and Racism, threatening and assaulting the organizers. The Vojvodina public prosecutor reacted by bringing charges against them.

4.2. Right to Peaceful Assembly

Legislation

The Serbian Law on Civil Organizations and Citizens Associations of 1982 (as amended in 1984, 1985, 1989 and 1994) formally guarantees the freedom of assembly and is fully in line with relevant international standards.

4.3. Freedom of Expression and the Media

Legislation

Legal acts in Serbia and Montenegro regulating freedom of expression are divided into two groups: those guaranteeing the freedom of opinion and expression, and those regulating the freedom of the media.

Freedom of expression is provided under Serbian and Montenegrin constitutions and the HR Charter. The Charter provides that this freedom shall be restricted by law only if necessary for the protection of the rights and dignity of other persons and the independence and impartiality of courts of law, and for the maintenance of national security, public health and morals, and public safety – and so formally complies with European and international human rights standards.

Media freedoms are regulated under the Public Information Act passed in 2003. In addition, the two member-states' constitutions prohibit censorship and provide that no one shall prevent the distribution of newspapers or dissemination of information and ideas, unless decided otherwise by a competent court for the reasons of preventing war propaganda, incitement of violence or advocacy of racial, ethnic or religious hatred leading to discrimination, hostility or violence.

Free Access to Information of Public Interest

A novelty in Serbian legislation with regard to the freedom of expression is the provision of the HR Charter guaranteeing the right to seek, receive and disseminate information and ideas, as well as the right to access the data in possession of state bodies, in keeping with law.

Under pressure from the media, NGOs and international organizations, the Serbian Assembly passed the Law on Free Access to the Information of Public Interest in 2004. Generally, the law is in line with internationally recognized standards and principles governing this sphere, but fails to provide the right to appeal against the highest authorities' decision to refuse, on whatever grounds, access to requested information (article 22). These highest authorities include the national parliament and government, the president of the republic, the government of the Republic of Serbia, the Supreme Court of Serbia, the Constitutional Court and the republican public prosecutor. For such cases, the law regulates the possibility of initiating an administrative lawsuit. Furthermore, its vague wording makes it possible for the authorities to delay providing a requested piece of information under various pretexts.ⁱⁱⁱ

The new Serbian Law on the Police, passed in November 2005, was meant to be a positive step towards the reform of police forces. However, its provisions are highly restrictive when it comes to the access to the information of public interest. In this respect, the newly adopted police law not only

contradicts the Law on Free Access to Information of Public Interest, but also raises the question about applicability of both.

Practices

Freedom of expression – in the media, in particular – is perceived rather loosely, with the result that responsible dissemination of information is hardly ever linked to it. Consequently, mushrooming of tabloids within the Serbian media has amounted to fabricated scandals and false information that are presented to the public. In practice, most flagrant abuses and violations of the freedom of expression end up in court, once plaintiffs press libel charges claiming “impaired dignity.” In many cases the plaintiffs are high officials such as ministers and other public servants, as well as party leaders and their closest associates, who abuse the freedom of expression and go unpunished for it. This primarily refers to their public statements where they either use foul language about their political or other opponents or intentionally spread misleading and defamatory information about them.

4.4. Financial Restrictions

The Serbian Law on Civil Organizations and Citizens Associations (passed in 1982, as amended in 1984, 1985, 1989 and 1994) treats “civil organizations and citizens’ associations” as if they were profit-making organizations and thereby makes them subject to the same dues and taxes as envisaged for commercial enterprises and companies.

The draft law on associations pending in parliament falls short of other national and international regulations with regard to the property rights of NGOs and associations and their financial obligations.

4.5. Direct Attacks of Human Rights Defenders

Since the beginning of the Milosevic regime in Serbia, several human rights and cultural organizations have been under more or less constant attack by media and political figures. The main target has been the coalition of eight NGOs comprised of the Helsinki Committee for Human Rights in Serbia, the Lawyers’ Committee for Human Rights, the Humanitarian Law Center, the Center for Cultural Decontamination, the Youth Initiative for Human Rights, the Belgrade Circle, the Civic Initiatives and the Women in Black. Pressures against them continued also after the fall of the Milosevic regime and intensified in early 2004, when the organizations urged the Serbian parliament to adopt a resolution addressing the responsibility of Serbian forces for the genocide committed at Srebrenica.^{iv}

In particular women leaders of some of these organizations have recently been increasingly exposed to an orchestrated media lynch campaign. They have been subjected not only to increased verbal and physical violence, threats, and hate speech in the media, but also to physical attacks by people in the street. At the same time some officials stigmatize them as traitors and “disseminators of evil for the sake of American and Anglo-Saxon project” and charge them of undermining the identity of the Orthodox community, among other things.

- In 2005, Sonja Biserko, chairwoman of the Helsinki Committee for Human Rights in Serbia, was repeatedly physically attacked and verbally assaulted, her apartment was invaded, she was threatened and newspapers printed inflammatory allegations that were incitements to violence against her. Investigations of the crimes against her led nowhere and the police failed to

protect her. On 8 September 2005, the newspaper *Tabloid* published an inflammatory article accusing Sonja Biserko of being, among other things, a Croatian spy. The dates of birth of her parents were published, information that suggests cooperation from secret service agencies. The article also included Biserko's home address. Lawyers of the Helsinki Committee have filed criminal charges to the Office of the Public Prosecutor about the article but so far the proceedings have not been effectuated.

- At its press conference on 23 July 2005, the Serbian Radical Party (SRS) openly threatened the Humanitarian Law Centre (HLC) Executive Director Nataša Kandić and television B92 Editor-in-Chief Veran Matic after the Fourth Municipal Prosecutor's Office in Belgrade had dismissed the SRS' complaint that Kandić and Matic intended to undermine the public law and order. The SRS general secretary Aleksandar Vučić said: 'Today we're setting a deadline for them, and on Monday Tomislav Nikolić is going to file a civil suit as well..., so we're giving them until 15 October...if the proceedings are not brought to a close [by that date], I promise them half a million people in the streets of Belgrade, so let them see for themselves whether or not they have put in jeopardy and undermined the public law and order.'
- The newspaper *Srpske novine* published in one of its editions the following: "Serbia's 'non-governmental government' with the notorious Nataša Kandić at its head has shown recently how powerful it really is by giving fresh currency to the 'Srebrenica case' by dint of heavily edited footage and political manipulation. By all accounts, Nataša Kandić has finally won by a wide margin the quiet behind-the-scenes power struggle among the mischief-makers systematically planted in Serbia. The silver may go to the ill-famed Sonja Biserko just to keep the pair of them in close company; next would follow their media entourage including B92, *Danas*, *Vreme*...The rest of the contestants liberally slinging mud at Serbia and Serbs are not in this league, which does not mean that they are not doing their best: some of them are actually falling over backwards in order not to drop out of the contest, which would mean being stricken off the Soros, the US and the Albanian drug mafia payrolls. (Surely, Kandić wouldn't be putting as much enthusiasm into the coaching of Albanian witnesses due to testify in The Hague if she were doing it for free!) This is why the second-raters are training hard daily, there being quite a large number of them including Biljana Kovačević-Vučo, Borka Pavićević, Vesna Pešić, Latinka Perović...not to mention the mournful "revolutionary" Čeda Jovanović and the "gay" Žarko Korać... However, it would be a waste of effort to invoke sense, morals or facts in any reference to Nataša Kandić, her trabant Sonja Biserko, the aforementioned media outlets and the second-rate gang of reprobates - calling them Sorosite "mujahedin" wouldn't be too wide of the mark."
- The daily *Kurir* wrote on 25 June 2005: "The national deputies, who recently failed to reach agreement on adopting a resolution to condemn war crimes, spent five hours on Friday discussing Srebrenica, a subject not on the parliament agenda! At the start of the extraordinary session, the deputies of the SRS, DSS [Democratic Party of Serbia] and SPS [Socialist Party of Serbia] accused non-governmental organizations of being behind the 'anti-Serb campaign.' Aleksandar Vučić (SRS) accused the president of the Humanitarian Law Centre of being behind the 'anti-Serb campaign' and of 'falsely accusing Tomislav Nikolić of participation in a war crime.' ...Dragoljub Kojčić (DSS) urged the Assembly to set up a 'special committee to investigate everything regarding the NGO anti-Serb campaign,' while Ivica Dačić (SPS) criticized the initiative of the Vojvodina government to declare the anniversary of the

Srebrenica crime falling on 11 July a day of mourning."^{vi}

- The daily *Srpski nacional* called the eight non-governmental organizations' motion to the Serbian Assembly to adopt a declaration on Srebrenica a “plant” and insisted that its adoption would have wider implications for the case before the International Court of Justice in The Hague where the Federal Republic of Yugoslavia (FRY) stands accused of aggression and genocide.^{vii}
- In an interview with *Svedok*, the academician Kosta Čavoški said: “Sonja Biserko is the least entitled of all to reproach anybody for anything. For a long time she was not only a public servant but also a member of the diplomatic service, that is, one of those who had to be screened for their attitude to the authorities. The screening was done chiefly by the secret police, that is, the UDBA. So, having passed the screening, she was fully one of them and a true communist by conviction... She worked all that time under Minister Lončar who, if my memory serves me well, was also a minister in Slobodan Milošević's day... So, she has no moral right to reproach anybody for anything.”^{viii}
- *Glas javnosti* wrote about Sonja Biserko: “As she watches the results of her deeds squinting through the fringe of her peculiar coiffure, this woman is already contemplating some other activity to curry even greater favour with her boss and those giving people marks.”^{ix}
- In context of the nomination of “1000 Women for the Nobel Peace Prize for 2005,” including Sonja Biserko, *Ogledalo* wrote an article incorporating the following: “...Whether the people who put forward these women activists were doing it for kicks or whether they meant it, we do not know; but the prospect of Kandić's right-hand man (or rather right-hand woman) Sonja Biserko getting a ‘Nobel’ - that crowns it all!” The article, which carried a “biography” of Biserko already published in *Internacional* (11 January 2005), also says: “By the way, Sonja Biserko is not overjoyed when you ask her what nationality she is, and she jealously hides her other biographical data from the Serbian public. All the same, it is known that she worked in the Federal Secretariat for Foreign Affairs as adviser to the notorious minister Budimir Lončar, that she has no children or family commitments, and that she is fully committed to the ‘activities’ mentioned above (that is, to tirelessly maligning the people she most hates in all the world - the Serb people).”^x
- *Srpski Nacional* daily wrote on 25 June 2005: “The opening of the session of the Serbian Assembly was marked with accusations by SRS, DSS and SPS representatives that non-governmental organizations are conducting an ‘anti-Serb campaign.’ The deputy head of the SRS caucus group, Aleksandar Vučić, said that the president of the Humanitarian Law Centre, Nataša Kandić, is the head of the gang conducting the campaign against Serbs.”
- Aleksandr Vučić also called the HLC director a “pathologic liar.” He accused Kandić of being party to a “campaign against all things Serb” and added that he was convinced that she will “end up behind bars.”^{xi} In a similar manner, *Srpski nacional* wrote: “...which means that the president of the Humanitarian Law Centre, Nataša Kandić, will find herself behind bars, to be followed by others...the prison is the only place in Serbia for those swindlers and wretches.”^{xii}

Recommendations

The situation of human rights defenders in Serbia can only be improved if the state adopts policies upholding the development of civil society and begins to take proactive steps to combat retrograde trends.

The IHF makes the following recommendations:

- 1) The governments of Serbia and Montenegro and their respective parliaments should place on their agendas draft laws on non-governmental organizations that are compatible with European and international human rights standards, and make sure that such laws make quick progress in the parliament.
- 2) The governments of Serbia and Montenegro should publicly denounce all verbal and physical attacks and media campaigns carried out to discredit the local community of human rights defenders and their leaders in regard to their commitments to protect civil society and combat intolerance and hate speech.
- 3) All cases of violence against human rights defenders should be investigated efficiently and thoroughly by the police and charges brought against the perpetrators.

For further information:

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Endnotes:

ⁱ Unless otherwise noted, based on information from the Helsinki Committee for Human Rights in Serbia to the IHF, October 2005, and its contribution to the IHF report *Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2006 (Events of 2005)*, due to be published in June 2006.

ⁱⁱ IHF, Human Rights in the OSCE Region. Europe, Central Asia and North America, Report 2005 (Events of 2004), at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4057.

ⁱⁱⁱ Ibid.

^{iv} IHF, "Serbia: Government Should Denounce Hate Speech and Violence Against Human Rights Defenders," 16 September 2005, at http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4132.

^v *Srpske novine*, "Ko je zapravo Nataša Kandić" [The true face of Nataša Kandić], No. 53, 2005, at www.srpskenovineogledalo.co.yu.

^{vi} *Kurir*, "NVO vode antisrpsku kampanju" [NGOs conduct anti-Serb campaign], 25 June 2005, p. 2.

^{vii} *Srpski nacional*, "Kukavičje jaje" [The Plant], 26 April 2005, p. 11.

^{viii} *Svedok*, 15 March 2005, p. 11.

^{ix} *Glas javnosti*, 'Psihološki profil' column, 20 July 2005, p. 15.

^x *Ogledalo*, 6 July 2005.

^{xi} *Danas*, "Radikali bili dobrovoljci JNA" [Radicals were JNA volunteers], 16 June 2005, p. 4.

^{xii} *Srpski nacional*, "Nataša Kandić i Veran Matić moraju u zatvor," [Nataša Kandić and Veran Matić must go to jail], 19 June 2005, p. 3.