



SERBIA: STILL FAILING TO DELIVER ON HUMAN RIGHTS

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC
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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of Serbia in January 2018. In it, Amnesty International evaluates the implementation of recommendations made to Serbia in its previous UPR, assesses the national human rights framework and the human rights situation on the ground, and makes a number of recommendations to the government of Serbia to address the human rights challenges mentioned in this report.

Amnesty International is concerned about the failure of national legislation to meet international human rights standards and poor implementation of legislation that does meet such standards.

Amnesty International also raises concerns about impunity for crimes under international law, including enforced disappearances, and lack of adequate reparation; the failure to prevent forced evictions; and the failure to protect the rights of refugees and migrants.

FOLLOW UP TO THE PREVIOUS REVIEW

During its second Universal Periodic Review, Serbia received a total of 144 recommendations, of which it accepted 139.¹ These covered a range of human right concerns, including impunity for war crimes; reparation for victims of crimes under international law; the rights of Roma, including to adequate housing; freedom of expression, including in the media; non-discrimination; human rights defenders; and the national human rights framework.

Concerns raised by Amnesty International, and echoed in many reviewing states' recommendations, have been only partially addressed. These shortcomings include Serbia's failure to adequately address impunity for crimes under international law, including war crimes and enforced disappearances, and provide reparation to the victims; and to guarantee the rights of Roma to adequate housing, including by refraining from forced evictions. This submission illustrates how Serbia has guaranteed some rights, but failed to address others.

FREEDOM OF EXPRESSION

Reviewing states raised concerns about the rights of lesbian, gay, bisexual and intersex (LGBTI) persons to freedom of expression and assembly, following the authorities' prohibition of the

¹ Human Rights Council, Report of the Working Group on the Universal Periodic Review of Serbia, Outcome report UN Doc, A/HRC/23/15/, 22 March 2013, para 131: 30 accepted; para 132: 102 recommendations considered implemented or in the process of being implemented, i.e. accepted; para 133: 12 recommendations taken under consideration – after consideration: 7 accepted, 5 rejected - see Human Rights Council, Report of the Working Group on the Universal Periodic Review*, Serbia, Addendum, UN Doc, A/HRC/23/15/Add.1, 28 May 2013.

Belgrade Pride in 2011 and 2012.² The Pride march was again banned in 2013, in breach of Serbia's laws and Constitution. Following international pressure, the Belgrade Pride took place in 2014, peacefully and without serious incident, despite opposition from rightwing and religious organizations; subsequently, it has continued annually.³ However, the authorities have failed to protect LGBTI individuals and organizations from discrimination, including verbal and social media threats, physical attacks and hate crimes (see also below).⁴

The freedom of independent media has been severely curtailed since the election of Aleksandar Vučić as Prime Minister in April 2014.⁵ Journalists continue to experience harassment, intimidation and physical assaults, most recently at the new President's inauguration.⁶ Political television talk shows have been closed, editors dismissed,⁷ and websites of independent media hacked.⁸ In June 2014, for example, the website of online journal, *Pesčanik*, was taken down by "denial-of-service" attacks, after publishing allegations of plagiarism against the Minister of Interior.⁹

Rather than ensuring media independence and plurality, the government has instead undermined the rights of journalists. Under Aleksandar Vučić,¹⁰ government interference in the media has intensified and become personalized through public attacks by members of the government on independent journalists critical of the government or conducting investigations

² A/HRC/23/15/, recommendations 131.14 (USA), 131.15 (Australia), 131.16 (Norway), 131.17 (Austria), 131.18 (Spain), and 132.75 (Australia), 132.76 (Canada), 132.77 (Sweden), 132.78 (Switzerland) and 133.7 (Netherlands).

³ A separate Trans Pride also took place on the same day in 2016.

⁴ Amnesty International has specifically called on the authorities to uphold the rights of trans people, see, for example, Public Statement, *Prides in Belgrade: An opportunity to strengthen protection of fundamental rights for LGBTI people in Serbia*, 18 September 2016, <https://www.amnesty.org/en/documents/eur70/2470/2015/en/>

⁵ Serbia dropped from 54th place in 2014 the world media freedom index to 66th in 2017, World Press Freedom Index, <https://rsf.org/fr/ranking/>.

⁶ In 2016, NUNS, the Association of Independent Journalists, reported 57 incidents against journalists in 2015, and 33 in the first seven months of 2016, including 16 physical assaults, 41 verbal threats, 28 incidents involving pressure, and five attacks on property, see also Human Rights Watch, *A Difficult Profession. Media Freedom Under Attack in the Western Balkans*, 15 July 2015. Most recently, on the day the new President was inaugurated, journalists from daily *Danas*, production company *Insider*, *Radio Belgrade*, portals *VICE* and *Espresso* were either physically attacked or harassed, see "Serbian Journalists: Western Balkans Regional Platform for Advocating Media Freedom and Journalists' Safety, 2 June 2017, <http://safejournalists.net/rs/investigate-attacks-journalists-belgrade-urgently/>

⁷ For example, Srđan Škoro, chief editor of the Belgrade daily *Večernje Novosti* (a third owned by the state), was dismissed in early 2014, reportedly for his criticism of the SNS.

⁸ See for example, Balkan Insight, "Vučić Disputes BIRN Revelations on Etihad Contract", 15 August 2014, <http://www.balkaninsight.com/en/article/vucic-disputes-birn-revelations-on-etihad-contract>; <http://www.balkaninsight.com/en/file/show/Informer%203.pdf>; NUNS, "Pritisak Aleksandra Vučića Na Novinare Birn-A", 10 January 2015, <http://www.nuns.rs/info/statements/23139/pritisak-aleksandra-vucica-na-novinare-birn-a.html>; <http://www.balkaninsight.com/en/article/eu-condemns-serbia-pm-s-criticism-of-birn-1>; "Serbia: Protesters criticise cancellation of political talk shows", 6 October 2014, <http://mediafreedom.usahidi.com/reports/view/388>; <http://www.balkaninsight.com/en/article/belgrade-s-tv-head-dismissed>;

⁹ "Getting a PhD in Serbia: the case of minister Stefanović", 2 June 2014, <http://pescanik.net/getting-a-phd-in-serbia-the-case-of-minister-stefanovic/>; <http://pescanik.net/a-summer-strike/>; Cyber Attacks Hit Critical Serbian Websites, 2 June 2014, <http://www.balkaninsight.com/en/article/attacks-on-serbian-websites-coincide-with-criticism-of-gov-t-officials>

¹⁰ Elected President in April 2017.

into government activities.¹¹ In 2015, for example, following an investigation into government contracts, the Prime Minister called the Balkan Investigative Reporting Network (BIRN) “liars” and accused the head of the European Commission delegation to Serbia, and the EU, of funding BIRN “to wage a campaign against the Serbian government”.¹²

Similar attacks are delivered by proxy, by media close to the ruling Serbian Progressive Party (SNS), including the broadcaster, *TV Pink*, and the tabloid, *Informer*, which has accused BIRN and the Center for Investigative Journalism Serbia (CINS)¹³ of being “traitors” or “foreign mercenaries” working against Serbia. The Crime and Corruption Reporting Network (KRIK) has been targeted by *Informer* and accused by the *Srpski Telegraf* of attempting to overthrow Aleksandar Vučić through attacks on his brother.¹⁴

The media is increasingly controlled through advertising revenues and often toes the party line. Three days before Aleksandar Vučić was elected President in April 2017, six newspapers were sold in a wrap-around cover – the SNS presidential election campaign poster.¹⁵

Regulatory bodies appear unable to carry out their responsibilities to ensure media freedom, and independent media workers fear that measures included in the government’s draft media strategy for 2017-2021 will further tighten state control.¹⁶

In 2014, the Commission for the Investigation of Murders of Journalists was established, composed of journalists and state actors, to investigate the killings of Dada Vujasinović in 1994, Slavko Čuruvija in 1999, and Milan Pantić in 2001, allegedly because of their opposition to former President Slobodan Milošević. Proceedings opened in 2015 against four former state officials indicted for complicity in the shooting of Slavko Čuruvija. As of June 2017, there had been no progress in either of the other cases.

¹¹ Control over freedom of expression also affects the general public: for example, in 2014, public comments critical of the government’s response to the May floods were removed from government websites, and critical individuals – as well as an estimated 20 journalists – were summoned by the police for “informative talks”.

¹² Balkan Insight, EU Condemns Serbia PM’s Criticism of BIRN”, 10 January 2015, <http://www.balkaninsight.com/en/article/eu-condemns-serbia-pm-s-criticism-of-birn-1>; 10 NOV 15 Smear Campaign Against Media in Serbia Revs Up, 10 November 2015, <http://www.balkaninsight.com/en/article/smear-campaign-against-media-in-serbia-revs-up-11-10-2015>

¹³ In 2017 CINS was awarded the European Press Prize for Investigative Journalism. See for example, Balkan Insight, Serbian Pro-Govt Tabloid Labels Female Activists ‘Spies’, <http://www.balkaninsight.com/en/article/serbia-s-pro-government-tabloid-attacks-female-activist-for-espionage-09-07-2016> “Serbia: Independent media increasingly targeted as spies”, <https://www.cenzolovka.rs/english/serbia-independent-media-increasingly-targeted-as-spies/>

¹⁴ Organized Crime and Corruption Reporting Project, “Serbia: Government-Friendly Tabloid Continues Attacking Independent Media”, 8 November 2016, <https://www.occrp.org/en/daily/5779-serbia-government-friendly-tabloid-continues-attacking-independent-media>

¹⁵ “Serbia: Media freedom worsening as Serbs take to the streets”, 25 April 2017, <https://mappingmediafreedom.org/plus/index.php/2017/04/25/serbia-media-freedom-worsening-as-serbs-take-to-the-streets/>

¹⁶ The Regulatory Authority of Electronic Media, and the Anti-Corruption Agency and Council. In preparation March 2017; see also, “Closed’ Serbian news agency with ties to government still publishing”, 8 September 2016, <https://www.euractiv.com/section/enlargement/news/closed-serbian-news-agency-with-ties-to-government-still-publishing/>

HUMAN RIGHTS DEFENDERS

“The Prime Minister personally made statements, he went on TV Pink and said we broke the law on public peace. The Minister of Interior said we are a fascist group and asked for our arrest. None of us went through this before and we don't know how to deal with [it]”.¹⁷

Amnesty International interview, March 2017

Amnesty International is deeply concerned at the shrinking space for human rights defenders in Serbia, as raised by states during the review.¹⁸ Organizations in Serbia frequently report physical and verbal attacks against human rights defenders, including misogynistic and discriminatory smear campaigns against women human rights defenders.

NGOs working on transitional or post-conflict justice face threats ranging from personal attacks to prosecution. In March 2014, police anti-terrorist spokesperson, Radomir Počuča, on his Facebook page urged football fans to attack a vigil by the NGO, *Žene u crnom* (Women in Black), marking the anniversary of the Kosovo war.¹⁹

The Humanitarian Law Centre (HLC), a leading transitional justice NGO, is repeatedly vilified by politicians and media close to the government. In April 2016, Nataša Kandić, the former executive director of HLC, was ordered to pay damages to the Serbian Army Chief of General Staff, Ljubiša Diković, following its publication of a dossier alleging his responsibility for war crimes in Kosovo.²⁰

The Youth Initiative for Human Rights (YIHR) actively supports the RECOM²¹ campaign for transitional justice. Its Director, Anita Mitić, has been accused in the *Informer* of receiving one million euros to “make chaos in Serbia”. In January 2017, the YIHR offices were “visited by hooligans” who left bags of fake bank notes and messages calling YIHR “foreign mercenaries”.²²

¹⁷ Amnesty International interview with Anita Mitić, YIHR, March 2017. At the time of writing she was suing the *Informer* for spreading hate and inciting violence against her in January 2017. This followed a meeting held in Beška on 17 January 2017, organized by the ruling SNS party members, at which Veselin Šljivančanin, convicted of war crimes in Croatia by the ICTY, was present. Members of the YIHR protested at the meeting with a banner, and were roughly ejected. See, YIHR, “No Discussion with War Criminals”, 25 January 2017, <http://www.yihr.rs/en/no-discussion-with-war-criminals/>; see <http://rs.n1info.com/a221932/Vesti/Vesti/Aktivisti-Inicijative-mladih-pretuceni-na-tribini-SNS-a.html>; <http://rs.n1info.com/a221952/Vesti/Vesti/SNS-Grupa-huligana-prekinula-tribinu-u-Beski.html>.

¹⁸ A/HRC/23/15/, recommendations 133.8 (United Kingdom of Great Britain and Northern Ireland), 133.9 (Hungary).

¹⁹ <http://www.balkaninsight.com/en/article/eu-condemns-threats-to-civil-society/1431/140>; On 29 March, on another Facebook page, in support of Radomir Počuča, “Boris Knežević” wrote: “I call upon all our brothers, wherever they see those whores in black, to immediately lynch and burn them!!!” For further details of these and other threats, see *Repression over human rights defenders: Attacks against Women in Black in the period March-September 2014*, <http://www.helsinki.org.rs/otpor%20ekstremizmu/doc/Dossier%20%20-%20Attacks%20on%20WiB.%20September%202014.pdf> Proceedings against Počuča were delayed when he left the country to fight in Ukraine; he was acquitted in December 2016.

²⁰ See HLC, “Press Statement with Regard to the Judgement Rendered upon the Lawsuit Filed by General Diković against HLC and Nataša Kandić”, April 2016, <http://www.hlc-rdc.org/?p=31693&lang=de>

²¹ “Nakon uspešne kampanje, na redu zagovaranje za REKOM” 30 May 2017, <http://recom.link/mne/o-nama-mne/sta-je-rekom/>; A coalition of NGOs across the region, established in 2008, advocating for “the establishment of an official Regional Commission tasked with establishing the facts about the war crimes and other serious human rights violations committed on the territory of the former Yugoslavia in the period from 1 January 1991 through to 31 December 2001”.

²² “Serbian Youth Initiative Chief Blames State for Attacks”, 1 February 2017, <http://www.balkaninsight.com/en/article/mitic-we-are-not-scared-because-of-threats-01-31-2017>;

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Serbia has developed a potentially robust human rights framework during the process of its accession to the EU. The country is state party to all the major international treaties and regularly provides periodic reports. However, national legislation often fails to meet international standards and where it does, it is often poorly implemented.

For example, Serbia's Anti-Discrimination Law provides mechanisms for the prevention of and protection from all forms of discrimination.²³ Yet, the UN Human Rights Committee noted, in the context of hate crimes against Roma, that Serbia has failed to fully implement legislation introduced in 2012 to ensure the identification, investigation and prosecution of hate crimes.²⁴ This legislation provides for obligatory increased sentencing in cases of crimes motivated by race, religion, national or ethnic origin, gender, sexual orientation or gender identity.²⁵

although police acted promptly, attending the offices to assess the evidence, there has been no further progress.

²³ A/HRC/23/15/, 132.64 (Argentina), 132.65 (Switzerland); 132.66 (Spain), 132.67 (Mexico), 132.68 (France) and 132.69 (Australia).

²⁴ Human Rights Committee, Concluding Observations on the third periodic report of Serbia, UN Doc, CCPR/C/SRB/CO/3, 10 April 2017, para. 11(b). In December 2012 the Serbian Assembly adopted a Law on Amendments to the Criminal Code, which introduced a new Article (54a), which introduced the concept of hate crimes, providing for increased sentencing in aggravated circumstances - where crimes were motivated by race, religion, national or ethnic origin, gender, sexual orientation or gender identity.

²⁵ In February 2017, the NGO Lawyers Committee for Human Rights (YUCOM), reported that in cases of hate crimes, no final verdict had yet been reached in any case before the courts; they also commented that in several cases, "the investigation was inefficient and not in accordance to human rights standards and the standards of investigation for cases involving hate crimes", Joint submission, By the Lawyers' Committee for Human Rights – YUCOM and the Belgrade Centre for Human Rights, concerning Serbia, For Consideration by the Human Rights Committee at the 119th session, (6 – 29 March 2017), http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/SRB/INT_CCPR_CSS_SRB_26538_E.pdf

HUMAN RIGHTS SITUATION ON THE GROUND

IMPUNITY FOR CRIMES UNDER INTERNATIONAL LAW

Impunity persists in Serbia for crimes under international law, as raised by a number of states during the 2013 review.²⁶ Since then, the number of indictments raised by the Office of the War Crimes Prosecutor (OWCP) and prosecutions concluded at the Special War Crimes Chamber at Belgrade District Court has remained low. Five indictments were published in 2014, and first instance verdicts reached in only one case. In 2015, three indictments were raised, and in retrials following appeal, defendants were acquitted in two cases of rape as a war crime in Bosnia and Herzegovina.²⁷ In 2016, eight indictments were issued, each against a single defendant and mostly involving only one victim.²⁸ In ongoing cases, three first-instance judgments were decided by the Belgrade Higher Court, while six decisions were issued by the Court of Appeal.²⁹

Eight former members of the Bosnian Serb special police were indicted for war crimes in September 2015 – accused of organizing and participating in the killing of more than 100 Bosniak civilians in a warehouse in the village of Kravica near Srebrenica in July 1995.³⁰ The trial was halted in July 2017 on the basis that the indictment had been filed in the absence of a Chief Prosecutor.

The OWCP has faced considerable challenges in conducting investigations.³¹ In investigations involving former police officials, it has received little assistance from the War Crimes Investigation Service (a police department), sometimes even receiving threats from former police officials.

²⁶ A/HRC/23/15/, recommendations 132.64 (Argentina), 132.65 (Switzerland); 132.66 (Spain), 132.67 (Mexico), 132.68 (France) and 132.69 (Australia).

²⁷ HLC, *Report on war crimes trials in Serbia during 2016*, May 2017, http://www.hlc-rdc.org/wp-content/uploads/2017/05/Izvestaj_o_sudjenjima_za_2016_eng.pdf. Cases: Bijelina (one defendant acquitted), see footnote 29, below; *Skočić* (six defendants acquitted of rape and other charges; for analysis of this important case, see pp. 106-115).

²⁸ *Report on war crimes trials in Serbia during 2016*, p.16, none of these cases had been investigated by the OWCP, but were transferred from the prosecutor in Bosnia and Herzegovina.

²⁹ For case details, see HLC, *Report on war crimes trials in Serbia during 2016*,: Gradiška, pp. 95-99 (one Bosnian Serb soldier acquitted of murder); Sanski Most – Kijevo, pp. 135-139, (one Bosnian Serb soldier convicted of murder); Bosanski Petrovac pp. 100-105; two Bosnian Serb soldiers convicted of murder, one victim); Appeal Court: Luka Camp, pp. 127-134, (one defendant acquitted of torture); Sanski Most, pp. 147-152, (murder of six Croatian civilians, defendant's sentence extended from 10 to 12 years' imprisonment); Beli Manastir, pp. 160-7, (verdict upheld; three defendants convicted of unlawful confinement, violation of the bodily integrity, intimidation, terrorizing, and inhumane treatment of six Croatian civilians); Bijeljina II, pp. 140-146, (one defendant acquitted of rape on retrial); Sotin, pp. 153-9, (upholding original conviction of six defendants for the murder of 16 victims) and Sanski Most-Kijevo, pp. 135-139, (upholding first instance conviction).

³⁰ More than 1,300 bodies of civilians killed at the Kravica warehouse have been identified. Two of the defendants had been charged with genocide by the Prosecutor, but in the absence of an extradition agreement, could not be prosecuted in BiH, and so the case was transferred to the OWCP.

³¹ For further details, see Amnesty International, *Serbia: Ending Impunity for Crimes under International law*, 17 June 2014, Index: EUR70/012/2014.

Concerns persist about the capacity of the Witness Protection Unit (also a police unit) to provide adequate protection, including because of alleged intimidation of protected witnesses, especially before 2014. Measures to reform the Unit and enhance witness support have not been implemented.³²

Following the retirement of Vladimir Vukčević as Chief Prosecutor in December 2015, the position remained vacant until May 2017.³³ The implementation of a National Strategy for the Prosecution of War Crimes, 2016 to 2020, adopted in February 2016, as required by the EU accession process, has made little progress, pending the appointment of a new prosecutor.³⁴ The new prosecution strategy, prioritising complex cases involving many victims and high-level perpetrators, remains on hold.

In April 2017, the Human Rights Committee again urged Serbia to “ensure that the perpetrators of war crimes – including middle-and high-ranking officials – are prosecuted”.³⁵ Former prosecutor Ana Stanojković was elected Chief Prosecutor by the assembly in May 2017. The increasing politicization of the role of Chief Prosecutor was reflected in her declared priority to focus on the prosecution of “crimes against Serbs”.³⁶

REPARATION

Serbia failed to take adequate measures to provide compensation to victims of war crimes, despite accepting recommendations in this regard during its last review.³⁷ The December 2014 draft Bill on the Rights of Veterans, Disabled Veterans, Civilian Invalids of War and their Families failed to ensure that all civilian victims of war are provided with adequate

³² The Head of the Witness Protection Unit, which was alleged to have intimidated protected witnesses, was dismissed in June 2014, allegedly for corruption, *Ministry of Justice Report 4/2016 on implementation of the Action Plan for Chapter 23*. Indeed, the situation for witnesses has worsened: those without a foreign currency bank accounts are unable to receive reimbursement for travel expenses, see HLC, *Report on war crimes trials in Serbia during 2016, op.cit*, pp. 9-10.

³³ Since retirement, Vladimir Vukčević, has spoken about the pressure and criticism he was under, including for prosecuting war crimes cases against Serbian defendants rather than war crimes against Serbs, “Serbian Ex-War Crimes Prosecutor: Srebrenica was Genocide”, 25 April 2017, <https://www.balkaninsight.com/en/article/serbian-ex-war-crime-prosecutor-srebrenica-was-genocide-04-25-2017>. In January 2017, the Bar Association of Belgrade denied Vladimir Vukčević registration in the Directory of Attorneys-at-Law, on the basis that he had failed to prosecute enough cases in which Serbs were victims. He also was accused of allowing the HLC’s founder Nataša Kandić, to take “absolute power” in the OWCP, HLC, “Bar Association of Belgrade Abuses Public Powers”, 27 January 2017, <http://www.hlc-rdc.org/?p=33284&lang=de>

³⁴ Under Chapter 23 of the *acquis communautaire*; National Strategy for the Prosecution of War Crimes, Official Gazette of the RS no. 19/2016, 1.3, www.mpravde.gov.rs/files/National%20Strategy%20for%20the%20Prosecution%20of%20War%20Crimes.pdf; http://www.tuzilastvorz.org.rs/upload/HomeDocument/Document_en/2016-05/p_nac_stragetija_eng.PDF

³⁵ Human Rights Committee, Concluding Observations on the third periodic report of Serbia*, CCPR/C/SRB/CO/3, 10 April 2017, paras. 22-23. For previous iterations of these recommendations see, Concluding observations of the Human Rights Committee, Serbia, CCPR/C/SRB/CO/2, 24 March 2011, paras.10 and13.

³⁶ Such a strategy would, in reality present the prosecutor with an almost impossible task. Despite formal cooperation between mutual agreements on the investigation of war crimes with BiH there is no extradition agreement with respect to suspects in war crimes cases. There is no investigative or other cooperation with Kosovo. Further, Serbia has been repeatedly unsuccessful in extradition requests based on international arrest warrants from a number of EU member states.

³⁷ A/HRC/23/15/, recommendation 132.66 (Spain).

reparation.³⁸ The bill discriminates against civilian victims of war (including relatives of the missing), in comparison to military victims, with more restrictive eligibility criteria and a narrower range of reparation measures. The bill omits to provide reparation to victims of war crimes of sexual violence. A February 2016 amendment further limits access to reparation, stipulating that the “harm” must have occurred “on the territory of the Republic of Serbia”.³⁹

ENFORCED DISAPPEARANCES

In 2011, the UN Human Rights Committee called on Serbia to investigate and prosecute those responsible for the transfer to Serbia of the bodies of ethnic Albanians killed in Kosovo in 1999.⁴⁰ Despite further work by the OWCP at the site of mass graves in the police training ground at Batajnica in 2014,⁴¹ and the exhumation of 53 Kosovo Albanian civilians at Raška, in southern Serbia, no one has yet been brought to justice.⁴² In March 2015, five Serbian suspects were indicted for the abduction of 20 civilians from a train at Štrpci station in 1993.⁴³

The UN Committee on Enforced Disappearances in February 2015 urged Serbia to bring to justice all those suspected of criminal responsibility for enforced disappearances during the 1990s, including senior officials, and to guarantee reparation and legal status to the relatives of the disappeared.⁴⁴

FORCED EVICTIONS AND THE RIGHT TO ADEQUATE HOUSING

Serbia has failed to provide effective protection against forced evictions, despite committing to this in the previous review.⁴⁵ In April 2012, three months prior to Serbia’s previous UPR, around 1,000 Roma individuals (over 200 families) living in an informal settlement at Belvil in Belgrade were forcibly evicted by the city authorities. The authorities failed to apply crucial safeguards before the eviction, including to consult the affected communities to explore all feasible alternatives to eviction and resettlement. They also failed to provide people with information on

³⁸ The five forms of reparation set out in under international law: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

³⁹ In April 2017 the Human Rights Committee urged Serbia to amend the law, to “redefine the definitions of ‘victim’ and ‘injured party’” and ensure full reparation to victims of enforced disappearance, Concluding observations on the third periodic report of Serbia, UN Doc, CCPR/C/SRB/CO/3, paras. 22-23; for previous recommendations on this issue, see Human Rights Committee, Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, UN Doc, CCPR/C/SRB/CO/2, 20 May 2011, para. 10.

⁴⁰ As above, CCPR/C/SRB/CO/2, para.10.

⁴¹ “Serbia Reopens Batajnica Mass Grave Probe”, 20 September 2014, <http://www.gazetaexpress.com/en/news/serbia-reopens-batajnica-mass-grave-probe-46217/>

⁴² No further progress has been made in the identification and exhumation of individual or mass grave sites.

⁴³ The indictment was not confirmed until May 2017, meanwhile Proceedings against 10 others indicted in BiH for the same crimes opened in October 2015.

⁴⁴ Committee on Enforced Disappearances, Concluding observations on the report submitted by Serbia under article 29, paragraph 1, of the Convention*, UN Doc CED/C/SRB/CO/1, 16 March 2105, paras. 10-14, 25-26.

⁴⁵ A/HRC/23/15/, recommendation 132.95 (USA); see also 132.92 (Canada), 132.93 (Brazil), 132.94 (Libya), 132.96 (Austria) and 132. 97 (Germany). Given the number of Roma internally displaced persons from Kosovo, Amnesty International notes recommendations about refugees and IDPs: recommendation 132.101 (Azerbaijan) & 132.102 (Slovakia).

the reason for the eviction, adequate notice or legal remedies, or adequate housing options for resettlement.⁴⁶

The Roma families were instead provided with “temporary” accommodation in metal containers until apartments funded by the European Commission could be built.⁴⁷ The containers did not meet standards for adequate accommodation and were located in segregated settlements on the periphery of Belgrade. Due to delays in identifying sites, their resettlement was extremely slow.⁷⁷ Around 120 Roma households moved into new apartments during 2015, and a further 32 to new apartments in April 2016.⁴⁸ Another 39 families were resettled to abandoned village houses, where promised employment opportunities that failed to materialize.⁴⁹

By June 2017, 50 Belvil families, mostly living in containers, are still awaiting resettlement: 27 are due to move to “village houses”, while 23 families will move into apartments which are due for completion in February 2019. In the meantime, forced evictions continue.⁵⁰

Legislation on forced evictions

A draft law regulating evictions from informal settlements, which broadly met international standards, was published for consultation in late 2015, but later abandoned.⁵¹ Instead, more limited provisions – which failed to include key protections and safeguards set out in international human rights standards⁵² – were included in the Law on Social Housing and Building Maintenance, adopted in November 2016.⁵³ The law does not prohibit forced evictions, nor does it include fundamental components of the right to adequate housing, such as the right to legal security of tenure.⁵⁴

⁴⁶ See Amnesty International, “Serbia: Hundreds of families face uncertainty after Belvil eviction”, 26 April 2012; Amnesty International, *Serbia: After Belvil, Serbia Needs New Laws against Forced Eviction*, 17 October 2012, Index: EUR 70/015/2012.

⁴⁷ Another group of Roma families, living on land affected by the building of a bridge funded by the European Bank for Reconstruction and Development, were not evicted or resettled until apartments for them were completed.

⁴⁸ Amnesty International interview, March 2017.

⁴⁹ Amnesty International, *Serbia: Roma Still Waiting for Adequate Housing*, Index: EUR 70/1308/2015, 8 April 2015, According to the NGO Jednakost (Equality), resettlements in some locations on the periphery of Belgrade failed to provide Roma with essential components of adequate housing, including access to education and opportunities for employment, Amnesty International interview, March 2017.

⁵⁰ UNOPS, “EU support for Quality Housing of Additional 50 Roma Families”, April 2017, <http://www.sagradimodom.org/vest/566/EU-Suport-for-Quality-Housing-of-Additional-50-Roma-Families/>, Since 2015, for example, more than 200 families were evicted in advance of construction for the Belgrade Waterfront development.

⁵¹ The EC Delegation required Serbia, as part of their accession process, to introduce such a law.

⁵² UN Basic Principles and Guidelines on Development-Based Evictions and Resettlement, www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf

⁵³ Law on Housing and Building Maintenance, Official Gazette of the Republic of Serbia, no. 104/2016, Zakon o Stanovanju i Održavanju Zgrada.

⁵⁴ UN Committee on Economic Social and Cultural Rights, The Right to Adequate Housing (Article 11 (1)), General Comment 4, UN Doc. E/1992/23, Sixth Session, 13 December 1991.

REFUGEES AND MIGRANTS

Serbia is failing to provide refugees with effective access to international protection.⁵⁵ The authorities are unable to provide adequate reception conditions or sufficient care to vulnerable individuals, including women and children, especially unaccompanied minors.⁵⁶

Since 2013, tens of thousands of refugees have travelled through Serbia, most of them intending to seek international protection in the EU. After the introduction of new legislation in Macedonia in July 2015, thousands of refugees and migrants entered Serbia daily; by the year's end 600,000 had entered Serbia. The "Balkan route" officially "closed" in March 2016.⁵⁷ In April 2017, the Military Security Agency claimed that Serbian military personnel deployed to the border had, since mid-2016, prevented entry or returned "tens of thousands" of refugees and migrants at the Macedonian and Bulgarian borders.⁵⁸ This violated the principle of *non-refoulement*, which Serbia routinely failed to respect from early 2012 to July 2015, when push-backs to Macedonia were routine, often accompanied by ill-treatment by Serbian border police.⁵⁹

While most refugees aimed to travel through Serbia, a small number applied for asylum and a few were granted refugee status. Of 16,490 refugees registering their interest in asylum in 2014, 1,350 applied. Only 18 were interviewed: one was granted asylum, and five subsidiary protection. In 2015, 577,995 registered, 662 applied, and only 89 were interviewed; of these 16 were granted refugee status and 14 subsidiary protection.⁶⁰ In 2016, with 574 applicants, 42 people were granted asylum.⁶¹ Amnesty International has found that the Asylum Office consistently fails to follow procedures set out in the Asylum Law, including to register asylum seekers, issue identity cards, provide information about the asylum process, and interview applicants "as soon as possible".⁶²

By August 2017, only two out of 151 asylum applications had been accepted; 28 were rejected and hundreds more await consideration, due to lack of staff.

⁵⁵ A new law on asylum was drafted under the auspices of a twinning project with the EU, but has not yet been published. However, it is likely to – in accordance with EU Regulations – provide more scope for the detention of migrants and refugees.

⁵⁶ In 2015, 172,968 minors were registered, 10,642 of whom were unaccompanied. Belgrade Centre for Human Rights (BCHR), *Unaccompanied and Separated Children in Serbia, 2017*, http://www.asylumineurope.org/sites/default/files/resources/unaccompanied_and_separated_children_in_serbia.pdf

⁵⁷ Following the "EU-Turkey" deal, "EU – Turkey Statement: Questions and Answers", Brussels, 19 March 2016, http://europa.eu/rapid/press-release_MEMO-16-963_en.htm Following the earlier closure of the Hungarian border in 2015, many of deported to Serbia from Hungary were subsequently denied access to the asylum procedure. See also BCHR, *The Right to Asylum in the Republic of Serbia, 2016*, p. 26.

⁵⁸ According to Head of Border Security, Jovan Krivokapić, between June 2016 and March 2017, around 20,000 "migrants" have been prevented from entering Serbia, N1, "Sprečeno da 20.000 migranata ilegalno pređe granicu", 22 March 2017, <http://rs.n1info.com/a236674/Vesti/Vesti/Spreчени-ilegalni-prelasci-migranata-na-granici.html>

⁵⁹ *Amnesty International, Europe's Borderlands: Violations of the Rights of Refugees and Migrants in Macedonia, Serbia and Hungary*, Index: EUR 70/1579/2015, pp. 30-34. Police and other officials also financially exploited refugees and migrants.

⁶⁰ BCHR, *Right to Asylum in the Republic of Serbia 2015*.

⁶¹ BCHR, *The Right to Asylum in the Republic of Serbia 2016*, the lowest number (12,821) of refugees registering an interest in asylum).

⁶² Article 26 of the Law on Asylum requires an asylum officer to interview an asylum-seeker in person "as soon as possible" after they have submitted their asylum application.

By 2017, an estimated 7-10,000 refugees and migrants, the majority of them Afghan men and boys, remain trapped in Serbia, often living in inhumane and degrading conditions.⁶³ Over the winter of 2016-17, around 1,300 refugees and migrants lived in abandoned warehouses, often in sub-zero temperatures. In May 2017, the authorities evicted them and transferred them to government-run centres, where conditions are often inadequate and overcrowded.⁶⁴

RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF SERBIA TO:

FREEDOM OF EXPRESSION

- Ensure that state officials refrain from personal attacks on journalists and human rights defenders, including through media close to or controlled by the government or the ruling party;
- Support editorial independence and pluralism in the media, including through greater transparency on advertising and other revenues.

LGBTI RIGHTS

- Ensure that the Anti-Discrimination Law and the Commissioner for Discrimination provide effective protection from discrimination for LGBTI individuals and organizations, including hate crimes, and access to effective remedies.

HUMAN RIGHTS FRAMEWORK

- Ensure that police, prosecutors and judiciary are fully aware of their responsibilities with regard to the identification, prosecution and adjudication of hate crimes, and of the law allowing for higher sentencing.

IMPUNITY FOR CRIMES UNDER INTERNATIONAL LAW

- Implement the War Crimes Prosecution Strategy, prioritizing the investigation and prosecution, in fair trials, of complex cases where commanders or other superiors are suspected of criminal responsibility for crimes under international law, including war crimes and enforced disappearances;
- Apply legislative provisions on the responsibilities of commanders and other superiors for crimes under international law;
- Implement measures to enhance the protection and support of witnesses in war crimes trials;

⁶³ *The Right to Asylum in the Republic of Serbia, 2016*, p. 26, 2017; since the closure of the Hungarian border in 2015, many of those deported to Serbia from Hungary are subsequently denied access to the asylum procedure.

⁶⁴ A new centre with capacity for 500 single men in former military barracks at Obrenovac was opened in February 2017; by May/June, it was at maximum occupancy of around 1000.

- Search for and locate the mortal remains of those subject to enforced disappearance, exhume and identify them, and return their bodies to their families for burial;
- Amend the law on the rights of victims of war to provide full reparation to any individual who has suffered harm as the direct result of a crime under international law, including the relatives of victims of enforced disappearances committed during the armed conflict in the 1990s.

FORCED EVICTIONS AND RIGHT TO ADEQUATE HOUSING

- Amend the Law on Housing and Building Maintenance to explicitly prohibit forced evictions and guarantee the right to security of tenure;
- Ensure that the accompanying guidelines, administrative directions, plans and procedures ensure key protections and safeguards⁶⁵ to prevent forced eviction and protect the rights of those at risk of eviction, including to meaningful and adequate consultation;
- Refrain from using metal containers as temporary accommodation for evicted persons and instead delay further evictions until adequate alternative accommodation is available.

REFUGEES AND MIGRANTS

- Ensure that the proposed Law on Asylum includes binding timescales for procedures, including registration, issuance of identity cards, applications and interviews for individual determination procedures, and appeals, and that the law is implemented with adequate resources and professional personnel;
- Ensure that refugees and migrants are not subject to inhuman and degrading accommodation conditions, and refrain from unlawful push-backs and the use of excessive force.

⁶⁵ As set out in, Basic Principles on Development Based Evictions and Resettlement; CESCR, General Comment 7, The right to adequate housing (art. 11.1 of the Covenant): forced evictions.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE⁶⁶

- *Refugees in Serbia left out in the cold*, 23 January 2017, <https://www.amnesty.org/en/latest/news/2017/01/refugees-in-serbia-left-out-in-the-cold/>
- *Serbia: Proposed law on housing would violate human rights*, 12 February 2016, (Index: EUR 70/3411/2016)
- *Refugee Crisis: Balkans border blocks leave thousands stranded*, 20 November 2015, <https://www.amnesty.org/en/latest/news/2015/11/refugee-crisis-balkans-border-blocks-leave-thousands-segregated-and-stranded-in-greece/>
- *Prides In Belgrade: An Opportunity to Strengthen Protection of Fundamental Rights for LGBTI People in Serbia*, 18 September 2015, (Index: EUR 70/2470/2015).
- *Serbia: New Threats of Forced Evictions of Roma Families Put Signs of Progress at Risk*, 24 July 2015, (Index: EUR 70/2159/2015).
- *Europe's Borderlands: Violations against Refugees and Migrants in Macedonia, Serbia and Hungary*, 7 July 2015, (Index: EUR 70/1579/2015).
- *Serbia: Resettlement of Roma Families Still In Limbo, Three Years after Belvil Eviction*, 27 April 2015, (Index: EUR 70/1535/2015).
- *Serbia: Amnesty International's Submission to The Committee against Torture*, 23 April 2015, (Index: EUR 70/1519/2015).
- *Serbia: Roma Still Waiting For Adequate Housing*, 8 April 2015, (Index: EUR 70/1308/2015).
- *Serbia: Submission to The Committee on Enforced Disappearances: 8th Session, 2-13 February 2015*, 20 January 2015, (Index: EUR 70/001/2015).
- *Serbia: Twenty-Four Roma Families Risk Forced Eviction*, 29 October 2014, (Index: EUR 70/017/2014).
- *Serbia: Brutal Attack against LGBTI Activist Highlights the Need to Tackle Prejudice and Secure Safe Belgrade Pride*, 13 September 2014, (Index: EUR 70/015/2014).
- *Serbia: Ending Impunity for Crimes under International Law*, 17 June 2014, (Index: EUR 70/012/2014).
- *Serbia: Submission to the UN Committee on Economic, Social and Cultural Rights, 52nd Session, May 2014*, 24 April 2014, (Index: EUR 70/008/2014).
- *Serbia: Police Spokesperson's Call for Attack on Women in Black Underscores Urgent Need to Address Culture of Impunity*, 28 March 2014, (Index: EUR 70/009/2014).
- *How the EBRD's ⁶⁷ Funding Contributed to a Forced Eviction In Belgrade, Serbia*, March 2014, (Index: EUR 70/006/2014).

⁶⁶ All these documents are available on Amnesty International's website: <https://www.amnesty.org/en/countries/europe-and-central-asia/serbia/>

⁶⁷ European Bank for Reconstruction and Development.

- *Serbia: Time for a Human Rights Agreement with Kosovo*, 22 January 2014, (EUR 70/003/2014).
- *Serbia: Slavko Curuvija, A Step Towards Justice*, 15 January 2014, (Index: EUR 70/001/2014)
- *Serbia Must Commit to Ensure the Protection of LGBTI People*, 1 November 2013, (Index: EUR 70/016/2013).
- *Serbia: “Cleaning” of Roma Settlement Violates International Law*, 25 April 2013, (Index: EUR 70/008/2013).
- *Serbia: 2013 Belgrade Pride March In Jeopardy*, 25 September 2013, (Index: EUR 70/015/2013).

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