

**SUBMISSION
TO THE HUMAN RIGHTS COUNCIL
FOR THE UNIVERSAL PERIODIC REVIEW OF THE REPUBLIC OF
SERBIA**

United Nations Country Team in Serbia

2022

Submission prepared with the contributions of: ILO, IOM, UNDP; UNFPA; UNHCR; UN Human Rights Adviser Team; UNICEF; UNODC; UN Women; UNESCO; WHO

1. Cooperation with United Nations

The establishment of a Ministry of Human and Minority Rights and Social Dialogue facilitated cooperation with the UN and civil society in 2021-2022. The ministry supported the ratification of the Optional Protocol to the ICESCR (currently pending for parliamentary debate end of 2022.¹ The development of a Human Rights strategy is pending.

Serbia has issued standing invitations to UN Special Procedures in 2005. Serbia was visited by the SR on Torture in 2017 (report published in 2019²). Planned visits include: SR on Truth, Justice and Reparations, in November 2022; SR Freedom of Opinion and Expression, in January 2023; SR on Freedom of Peaceful Assembly and of Association, in 2023. Special Advisor on Prevention of Genocide visited in November 2021.

Recommendations:

1. Adopt the Optional Protocol to the ICESCR
2. Ensure visits and diligent follow-up to SR recommendations

2. Human Rights and Discrimination

Besides the Ministry for Human Rights, the Equality Commissioner is regularly involved in all discrimination initiatives. Amendments to the Law on the Prohibition of Discrimination were adopted in 2021, introducing improvements to the anti-discrimination framework, incl. updated definition of indirect discrimination, recognition of additional grounds of discrimination such as gender, gender characteristics, income level. The new 2021-2030 Anti-Discrimination Strategy and Action Plan were adopted in 2022. A draft Law on Same-Sex Unions was prepared in 2021- pending adoption.

Serbia's engagement and progress in the topic of ageing and discrimination against older persons was featured in the 2021 Madrid International Plan of Action on Ageing report – recognized the need to invest in full respect for human rights for all generations and on access to services and the labour market. A new strategy on ageing & ageism is being developed through joint multi-stakeholders consultations.

Recommendations:

1. Adopt pending anti-discriminatory legislation, in particular the Law on Same-Sex Unions
2. Strengthen enforcement and implementation of the existing antidiscrimination legal and policy framework

3. Judiciary

Constitutional changes affecting the judiciary were approved in a referendum in January 2022. There were concerns about the short time in which the referendum was organized, with legislation regulating referenda having changed a few days before it was implemented.³ The declared intention of the Government of Serbia was to improve constitutional provisions to prevent political influence over the judiciary. Amendments resulted in improvements with respect to the independence of judges, through changes in the election and composition of the High Judicial Council. The risk of political influence over prosecutors remains, given the composition of the High Prosecutorial Council where prosecutors do not have a majority of votes, contrary to international standards.⁴ The impact of the constitutional reform will have to be monitored and evaluated over the coming years to assess and ensure effectiveness.

In 2020, a National Strategy for the Realization of the Rights of Victims and Witnesses of Crime was adopted. Support to victims (including children victims of violence) and witnesses of crimes in criminal proceedings remains inconsistent. With regard to juvenile offending, diversion measures vis-à-vis children in conflict with the law are only applied in a very limited number of cases.

The absence of specialized labour courts results in inefficient and exceedingly long procedures to address labour disputes, to the detriment of both workers and employers.

Recommendations:

1. Assess the impact of constitutional amendments on judicial independence, taking corrective measures as needed
2. Ensure the monitoring and implementation of the National Strategy for the Realization of the Rights of Victims and Witnesses of Crime
3. Improve the capacities of courts on labour rights and international labour standards, to ensure they are able to address labour disputes in an effective and timely manner

4. NHRI

The Protector of Citizens is Serbia's NHRI, accredited with A status by GANHRI-SCA. The new Law on the Protector of Citizens, adopted in 2021, extends the Ombudsman's term in office to eight years and prohibits her/his re-election. In a welcome step, the NHRI is now defined also as "a special body that protects, promotes and advances the rights of children", with a Deputy Ombudsman for Children with these functions.

During NHRI accreditation, GANHRI-SCA⁵ noted its concerns that the process of selection and appointment of the Protector is not fully participatory, and emphasized that a clear, transparent, and participatory selection and appointment process for membership of the NHRI's decision-making body must be included in relevant legislation, regulations, or binding administrative guidelines. Similar concerns were raised by the UN Committee against Torture in its latest Concluding Observations on Serbia, in particular about reports on the compromised independence, effectiveness and visibility of the Protector of Citizens. The Committee also expressed concern about the reduction in the number of visits by the National Preventive Mechanism against torture under OPCAT (whose functions are performed by the Protector of Citizens), the delayed publishing of its findings and recommendations and a perceived lack of trust by CSOs.⁶

Recommendations:

1. Ensure transparent procedures for the election of the Protector of Citizens, based on objective and publicly available criteria
2. Ensure the allocation of adequate resources to the NHRI, to effectively perform its NPM mandate and to enable the Deputy Ombudsman for Children to fully perform her/his functions
3. Ensure that the NHRI comprehensively addresses human rights violations and maintains strong cooperation with civil society

5. Civic space

CSOs are generally invited to engage in law and policy development in an inclusive and participatory manner. However, 20 prominent human rights CSOs declined to participate in the development of the recently adopted CSO Strategy and the ensuing Action Plan, alleging an overall shrinking of civic space.

In July 2020, in the so-called “List case”, the Administration for the Prevention of Money Laundering sent official requests to all commercial banks in Serbia to provide information concerning the accounts and financial transactions of 57 CSOs, media and individuals (inter alia active in investigative journalism and human rights protection). Such action was widely considered, including by UN Special Procedures⁷, as unduly interfering with the freedoms of expression and association and risking intimidating CSOs and human rights defenders. The response from the State is still pending.

Threats - and in some cases physical attacks on premises and individuals - against CSOs, human rights defenders and activists continue to be recorded, mostly against those working on transitional justice, media freedoms, LGBTI rights, climate change. Reportedly, many of these attacks have not been thoroughly investigated and the perpetrators have not been prosecuted. Some of the attacks led to mass protests, occasionally dispersed by the police.

Recommendations:

1. Ensure that harassment, threats, intimidation against CSOs, human rights defenders and journalists are promptly, independently and impartially investigated, bringing those responsible to justice
2. Close the “List case” and introduce safeguards to ensure that anti money laundering and terrorism legislation are not used to unduly restrict the activities of CSOs, activists and journalists
3. Protect freedom of expression and freedom of peaceful assembly, including as exercised by human rights defenders to protest against shrinking civic space

6. Media freedoms

Limitations to freedom of the media, freedom of expression and freedom of information in Serbia remain.

The Data Secrecy Law⁸ of 2009, restricts access to classified data which are defined as any data of interest for the State, whose disclosure to an unauthorized person would result in damage, if the need to protect the interest of the State prevails over the interest to have free access to information of public importance. Anyone who obtain or communicate classified data or documents without authorization is subject to prosecution and imprisonment.

Although the media strategy and following action plan envisage increasing the level of protection of journalistic sources, the drafting of certain regulations shows opposite. The Working Group on Security and Protection of Journalists⁹ was established in 2020 to monitor all activities taken to protect safety of journalist. However, most media associations withdrew from the WG in March 2021, citing hate speech and smear campaigns against journalists and CSOs.

There is a large number of unresolved media cases, poor investigation and prosecution of attacks against journalists (see also above).

Inadequate media pluralism and a lack of transparency of media ownership were recorded. Media and journalists, particularly independent journalists and media, are exposed to SLAPP lawsuits and the inequality in media financing.

Independent institutions such as the Regulatory Body for Electronic Media (REM) do not fulfil their role provided by law, and it fails to take certain measures prescribed by law and thus fails to improve the situation in the electronic media. State media and tabloids are being provided with greater opportunities

to report on information of public interest, compared to other media. State officials often refuse to give interviews for the independent media.

The position of female journalists has been unfavourable for years, including gender-based violence such as sexist, misogynistic, and degrading abuses, threats, intimidation and harassment. They are exposed to editorial and financial pressures, as well as pressures that are the result of cultural and traditional views on their position.

Recommendations:

1. Ensure prompt, independent and impartial investigation of all reported cases of violation of freedom of expression including attacks and violence on journalists and media workers, and with a strong attention on women journalists.
2. Promote media pluralism and transparency of media ownership, by fostering a media environment in which all media, independent and state-controlled alike, are afforded equal opportunities to report on information of public interest
3. Enhance the work of independent institutions, mainly REM, to allow for a better protection of media freedoms and freedom of expression.

7. Transitional justice and war crimes

Serbia continues to try individuals for war crimes committed during the conflicts in the 90s, with an estimated backlog of over 2,000 potential cases. Regional cooperation between Serbia and Bosnia and Herzegovina was reported as improving, helping to narrow the impunity gap. More is expected from the cooperation with Croatia.

In 2021, the Government adopted a new five-year National Strategy for the Prosecution of War Crimes, as the overarching policy document providing commitments and guidance for state institutions on the prosecution of war crimes and the tracing of missing persons. Its shortcomings are a lack of measurable interim targets and case selection criteria for prosecutorial strategy.

The vast majority of processed cases involve ethnic Serb alleged perpetrators. A concern is that cases generally focus on lower ranking alleged perpetrators, rather than on mid- or senior level commanders. In an encouraging development, several indictments were issued in 2021 and 2022 against colonels and generals of the former Bosnian Serb Army. Despite the country's obligation to cooperate with the International Residual Mechanism for Criminal Tribunals (IRMCT), Serbia continues to refuse to arrest and surrender to the IRMCT two persons charged by the IRMCT of contempt of the court.

Victims of war crimes receive compensation through civil proceedings following convictions establishing the crimes, a cumbersome and potentially retraumatizing process due to the need to establish again facts already determined in criminal proceedings. There is no comprehensive system of reparations for victims and survivors, leaving substantial gaps in particular for victims of crimes committed by Serbian forces and of conflict-related sexual violence. These also result from the requirement for victims of conflict-related sexual violence to prove significant physical injuries.

The denial or relativization of crimes, including the Srebrenica genocide, by state officials and politicians, has been growing in the past three years, culminating in the state's passive to complacent attitude to multiple murals and graffiti in Belgrade and across Serbia celebrating convicted war criminal Ratko Mladic.

Recommendations:

1. Prioritize the investigation into the role of suspected senior level perpetrators of war crimes, crimes against humanity, and genocide
2. Establish comprehensive and non-discriminatory mechanisms to afford reparations to all victims of war crimes, crimes against humanity and genocide, including survivors of conflict-related sexual violence
3. Ensure that state officials respect courts decisions related to war crimes, crimes against humanity, or genocide and that they counter denial and relativization.

8. Rights of LGBTI people

In 2020, the Ministry for Human and Minority Rights and Social Dialogue announced the development of a draft Law on Same-Sex Unions and involved a working group of experts and CSOs. Its adoption is still pending.

Hate crimes against LGBTI people frequently occur and are not adequately prosecuted and sanctioned. Family violence against LGBTI persons includes verbal and physical abuse, eviction from family homes, and forced medical treatment. Roma lesbian women have been identified as particularly vulnerable, being exposed to intersectional discrimination and violence, including within their communities and families. Transgender persons are often pathologized, and a lack of necessary and adequate hormone therapy medications is largely reported. Obstacles for sex change include overly bureaucratic procedures and a lack of knowledge by competent state officials. Intersex persons remain largely invisible, although new amendments to the Anti-Discrimination Law include discrimination on the grounds of intersex status.

Since 2014, Pride Parades were held in Serbia, without major incidents. Belgrade was selected as the city organizer of the EuroPride2022. Several weeks before the event, high ranking politicians announced that it will be cancelled. Such developments raised concerns about a possible overall deterioration in the enjoyment of the rights of LGBTI people. the Pride March did take place on 17 September 2022, with several thousand participants and approximately 5,200 police officers securing the event. Sixty-four counterdemonstrators against the Pride were arrested, while 10 police officers were injured.

Recommendations:

1. Fully protect the freedom of peaceful assembly of LGBTI individuals, ensure that hate crimes against LGBTI persons are promptly, independently and impartially investigated; and that violence in the family motivated by sexual orientation or gender identity is addressed through criminal justice and social protection measures
2. Adopt the Law on Same-Sex Unions, protecting the rights that derive from same-sex union, such as pension rights, health related rights, heritage, etc
3. Ensure that trans-related and gender diverse identities are not considered, in policy and practice, as conditions of mental ill-health

9. Rights of Persons with Disabilities

A 2020-2024 Strategy for Improving the Position of Persons with Disabilities in the Republic of Serbia and the corresponding Action Plan were adopted in 2021 – inclusive of deinstitutionalization programmes, support towards living with the family or independently, and social housing for persons with disabilities. The Strategy recognizes the barriers women with disabilities face in sexual and reproductive health protection, but the Action Plan includes very limited measures in this area.

Despite improvements in the policy framework, the provision of adequate services, housing and support in the community for persons with disabilities and their caregivers in the deinstitutionalization context remains inadequate – including with prejudices and stereotypes within the health system, insufficient information, insufficient skills and knowledge of medical staff,

The legislative framework for the education of children with disabilities has improved recently with the adoption of legislation establishing resource centers - as providers of support to children with disabilities and to mainstream schools and teachers in the implementation of inclusive education -, enrolment under more favorable conditions in secondary education, and enhanced anti-discrimination rules and procedures. Over 6,000 children remain educated in special pre-school groups, schools and classes. Children with disabilities are over-represented in residential institutions.

Recommendations:

1. Provide full protection to the rights of women with disabilities, including in the area of sexual and reproductive health, and within the wider health system
2. Implement inclusive early childhood development services, strictly limit the enrolment of children with disabilities into special education, and transform special schools in providers of additional educational support for children with disabilities
3. Create and finance supportive services to enable children and youth with disabilities to live in the community in a family setting, including upon discharge from institutions

10. Rights of National minorities (general)

There are 21 recognized national minorities in the Republic of Serbia (2011 census).

In 2018, the legislative framework concerning minorities in Serbia improved - the Law on Amendments and Supplements to the Law on Protection of Rights and Freedoms of National Minorities and the Law on the Official Use of Languages and Scripts came into effect. An Action Plan for the realization of rights of national minorities was adopted in 2016, which foresees that national minorities will be proportionately represented in the public sector and state institutions. A mechanism to determine the number of members of a national minority in public companies and state institutions is lacking, hampering the effectiveness of the Action Plan. Key remaining concerns include ensuring comprehensive participation and financing of minority communities at the national and local levels, lack of disaggregated data. The 2022 Census will be done in all national minority languages.

In the school year 2019/20, primary education in eight languages of national minorities was offered in 68 local self-government units, and secondary education in 27. The subject “Maternal Language with Elements of National Culture” was offered in 16 languages of national minorities in 374 schools in Serbia.

Recommendations:

1. Improve disaggregated data collection on minorities and, in particular, establish data collection mechanisms to assess minority participation in the workforce of public companies and state institutions, to ensure their equal representation
2. Promote the representation of minorities in political institutions at the national and local levels

10.1. Roma population and IDPs

Roma in Serbia are in a vulnerable position and experience intersecting forms of discrimination. GBV violence and child marriage disproportionately affect Roma women. Older Roma women are among the most vulnerable groups in society and research has found that very few older Roma women have ever reported GBV¹⁰

In 2022, a new Roma Strategy and corresponding action plan were adopted, following a process assessed as not being sufficiently inclusive. The Coordination Body to monitor the implementation of the Strategy for Social Inclusion of Roma was established in 2021, to coordinate state administration activities on the social inclusion of Roma. A CSO platform will support the work of the Coordination Body.

The adoption of a national housing strategy is pending. Many Roma households have no access to electricity, drinking water or a connection to the sewage system. A 2020 mapping of substandard Roma settlements¹¹ highlighted lack of access to essential services and additional vulnerabilities caused by the epidemiological context and restrictions to freedom of movement. Roma employment measures have yet to deliver results and the low level of education remains a barrier to employment. Informal employment is decreasing but continues to be high among the Roma.

Child mortality rates are higher in Roma settlements than the national average and Roma remain an extremely disadvantaged group in their access to education. Serbia has adopted new legislation simplifying birth registration, resulting in a significant decrease in the number of Roma at risk of statelessness. However, the vast majority of those whose birth was not registered declare themselves as Roma.

Serbia hosts 196,140 IDPs from Kosovo,¹² of whom 68,500 still lack a durable solution over 20 years after their displacement. Roma IDPs live in informal settlements in deplorable conditions without basic infrastructure and in extreme poverty.¹³

Recommendations:

1. Ensure the meaningful participation of Roma women and men, and consideration of their circumstances in the legislative and policy agenda.
2. Ensure that Roma have access to essential services and economic and social rights, prioritize the legalization of informal Roma settlements, and consolidate the network of health mediators operating in Roma settlements
3. Formulate and implement durable and just solutions for IDPs in Serbia

11. Rights of the Child

Serbia guarantees access to education for all children on its territory, including migrant, refugee and asylum-seeking children. However, Roma from poorest families are significantly excluded from the pre-school education. Services for better protection of unaccompanied and separated refugee and migrant children have been expanded. However birth registration for children whose parents lack personal documents still needs to be systemically addressed, including to mitigate the risk of statelessness.

In January 2022, a National Strategy for the De-Institutionalisation and Development of Community-Based Services was adopted. The accompanying 2022-2023 action plan is yet to be prepared.

Strengthened monitoring of early childhood development is needed. In 2021, only 41 children psychiatrists covered the country, restricting children's access to psychosocial support or treatment.¹⁴

In 2020 a National Strategy for the Prevention and Protection of Children from Violence was adopted, accompanied by a two-year action plan (2020-2021). The mechanism for the coordination and monitoring of its implementation has not been established. Legislation on the prohibition of corporal punishment at home is still at the draft stage.

In 2017 the first Decree on Hazardous Child Labour was adopted and, after two years of its implementation. The new draft Decree was developed through a broad consultative process and, if adopted, will improve the protection of children from hazardous child labour.

Recommendations:

1. Increase education financing and enhance education system capacities to ensure access of all children to quality inclusive education, and develop measures to support enrollment and school attendance of vulnerable children, and to prevent drop-out
2. Ensure child protection including by implementing legal and policy documents and ensure that court proceedings involving children are led by professionals applying a multi-sectoral approach and respecting the principles of the best interests of the child and child participation
3. Prevent, identify and combat child labour and ensure the protection of children from the worst forms of child labour by improving the regulatory framework on the protection of children against hazardous child labour and by adopting the amended Decree on Hazardous Child Labour.

12. Gender equality and Women's rights

The legislative and policy framework has improved through amendments to the Law on the Prohibition of Discrimination, Gender Equality Law, National Strategy for Gender Equality 2021-2030 and Action Plan 2022-23, National Strategy for Combating Gender Based Violence against Women and Domestic Violence (2022-2025). Implementation of laws and policies is inconsistent.

Violence against women and girls remains a key challenge, with women from marginalized groups – including women with disabilities, older women, Roma women and girls - being particularly vulnerable. Overall, 21.6% of women experienced certain form of violence, including 10% physical or sexual violence. About 30 femicides happen every year in Serbia. Progresses include the realization of social housing programmes that meet the needs of Roma women exposed to GBV.¹⁵

The definition of rape as a criminal offence is not in line with Istanbul Convention of the Council of Europe and conviction rates for most forms of violence against women are extremely low.

Serbia cabinet appointed in 2020 achieved full gender parity, including a female PM. Following the 2022 General Elections, 38.15% of MPs are women. At the local level currently only 12% of elected mayors are women. In the WEF Global Gender Gap Report 2022, Serbia maintains a high overall ranking (23/146), although it dropped four places compared to the previous year.

The socio-economic status of women shows high disparity across the country and economic sectors and is reflected by lower labour market participation of women (15% less than men) and a salary gap of 8.8%. Economic analysis of the monetary value of unpaid care work, primarily performed by women, showed that its contribution to the GDP is about 21%.

Recommendations:

1. Address gender gaps through employment, entrepreneurship, access to resources and property ownership, promoting women's leadership in the economy and decent work for women, recognizing and redistributing unpaid labour, further efforts in gender statistics to inform policies,
2. Implement legal and strategic framework related to gender equality and women empowerment, including full alignment with international standards, most notably those arising from Istanbul convention and CEDAW recommendations; align education laws and regulations with the 2021 Law on Gender Equality and National Gender Equality Strategy 2030
3. Revise and implement legislation to ensure a full ban on child marriage, effective protection of victims of GBV, proportionate sanctioning of perpetrators, and aligning the definition of rape with international standards in accordance with the Istanbul Convention;

13. Rights of Refugees, Asylum seekers and stateless persons

Serbia remains primarily a country of transit for asylum seekers and refugees. A March 2022 Government decision provides for temporary protection to Ukrainian citizens and residents.

The 2018 Law on Asylum and Temporary Protection brought the asylum system closer to international standards.¹⁶ Its application needs to be strengthened by the adoption of bylaws and harmonization with other legislation.

To facilitate inclusion, access to labour market should be facilitated for asylum seekers as early as possible upon submission of asylum application.¹⁷ Since the establishment of the asylum system, refugee travel documents are not being issued, despite relevant provisions in legislation. The quality of personal documents issued to asylum seekers, refugees and persons receiving subsidiary protection needs improvement. Current legislation does not provide for a pathway to citizenship for persons granted international protection.¹⁸ This is an obstacle to integration, increases insecurity and can limit access to rights for concerned individuals. In addition, Serbia did not establish a statelessness status determination procedure, enabling effective access to rights for stateless persons.

Despite access to state run services, refugee/migrant children face heightened risk for their health, wellbeing and safety, including GBV and trafficking. The education and asylum legal frameworks protect the right to education for children asylum seekers, persons granted with asylum or temporary/subsidiary protection. While 87.3% of refugee and migrant children in the 2020/21 school year attended primary schools, only 5.2% attend secondary education.

Recommendations:

1. Ensure effective access to asylum procedure from airports' transit zones of all international airports; start issuing travel documents to persons granted international protection in Serbia and improve quality of personal documents issued to asylum seekers, refugees and persons receiving subsidiary protection
2. Provide a pathway to citizenship and facilitated naturalization for persons granted international protection who wish to obtain Serbian citizenship; establish a statelessness determination procedure in line with the 1954 Statelessness Convention
3. Increase the enrollment of refugee and migrant students in secondary education, providing required learning support

14. Torture

The definition of torture under UN CAT has not been incorporated in criminal legislation in Serbia, despite repeated recommendations of human rights mechanisms to this effect.

Concerns remain regarding overcrowding in pretrial detention facilities and in prisons.

In 2020, the UN Special Rapporteur on Torture has addressed Serbia through several urgent communications, relating to extradition and the excessive use of force against protesters.¹⁹

Due to a lack of harmonization of asylum and extradition legislation, there is a risk of refoulement for foreigners in need of international protection in their extradition procedure.²⁰

Children deprived of liberty in pre-trial detention centres, correctional institutions or juvenile prison lack quality treatment programmes, effective access to education, health services and independent complaint mechanisms. Cases of violence by security guards are not properly addressed and investigated.²¹ Children with disabilities in residential institutions may face poor living conditions and inadequate access to health care, education and rehabilitation.

Recommendations:

1. Ensure that the definition of torture in the Serbian Criminal Code contains all elements included in Article 1 of the UN CAT
2. Harmonize legislation and introduce safeguards in laws and bylaws to ensure adherence to the principle of non-refoulement and that no individual is transferred to another country or territory, where they may be at risk of irreparable harm
3. Ensure that torture or ill-treatment, including against children, is promptly, independently and impartially investigated, with a view to bringing those responsible to justice and that independent complaint mechanisms are established to this effect

15. Trafficking in persons

Asylum seekers, refugees and migrants are at risk of trafficking and are sometimes forced to use services of human smugglers who abuse their vulnerable situation and place them at heightened risk of exploitation. Despite several years of positive work of the Anti-Trafficking Coordinator appointed by the Anti-trafficking Council of Serbia, in the past few months this position has remained vacant.

Out of the 155 children registered as victims of trafficking in Serbia in 2020, 76% were girls. Children are mainly trafficked for the purpose of sexual exploitation (29%), forced marriage (25%) and multiple exploitation (20.8%). These children still lack adequate prevention and treatment programmes, child-friendly shelters and effective identification system. Roma children, in particular, are trafficked for sexual exploitation, child labour, begging, and petty crime. According to an annual court case analysis, trafficking cases are not effectively prosecuted, victims are exposed to secondary victimisation and rarely compensated.

One emerging concern is that immigrant workers have been engaged in projects resulting from bilateral international agreements of Serbia, on which there is limited information and oversight. As a result of one such situation, in January 2021, UN Special Procedures raised serious concerns about human rights abuses faced by a group of Vietnamese migrant workers, for whom there were indications that they were victims of trafficking for the purpose of forced labour.²²

Recommendations:

1. Increase efforts to systematically identify, prevent and combat human trafficking among migrants, refugees and asylum seekers, especially among groups at heightened risk, such as unaccompanied and separated children.
2. Prevent, identify and combat child labour, including by children in street situations and ensure adequate capacities of services.
3. Ensure closer collaboration between the police and the Labour Inspectorate through the swift appointment of the new anti-trafficking coordinator in the Ministry of Interior and increase the transparency and oversight of bilateral international agreements of Serbia, ensuring that the Labour Inspectorate retains the ability to enforce Serbian labour legislation.

16. Enforced disappearances

Serbia is a party to ICPED and recognizes the competence of the UN Committee on Enforced Disappearances. It has not introduced enforced disappearance as a separate criminal offence, hampering the prosecution of individuals responsible for enforced disappearances during the wars of the 90s. Currently, enforced disappearance can only be prosecuted as a crime against humanity. According to the prevalent legal interpretation in Serbia, this excludes its applicability to crimes committed during the conflicts in the 90s.

In the past five years, Serbia's Commission on Missing Persons has resolved some cases of missing persons, including by identifying a mass grave in Southwest Serbia. The Commission is searching for over 2,000 individuals reported as missing, although their remains are believed to be largely on the territories of neighboring jurisdictions. Other countries of the region are seeking from Serbia information about the whereabouts of more than 1,000 missing persons.

A law on missing persons was drafted and is expected to be adopted by 2023. The draft law, prepared with the inclusion of Serbian missing persons families' representatives and international experts, provides for a number of reparatory rights,

Recommendations:

1. Introduce enforced disappearance as a separate crime in the Serbian Criminal Code.
2. Increase efforts to search for missing persons, including by proactively searching for potential mass grave locations in Serbia, declassifying relevant archives, encouraging individuals to share information about possible mass graves, and through effective regional cooperation
3. Adopt the draft law on missing persons and set up an effective mechanism to inform the families of the missing of their rights

17. Fight against corruption

The 2019 Law on Prevention of Corruption specified and extended the competencies of the Agency for the Prevention of Corruption.²³ The Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime, Terrorism and Corruption entered into force in March 2018. Special departments for corruption suppression were established within four higher Public Prosecutors' Offices and higher courts. The Prosecutor's Office for Organized Crime remains the main prosecutorial body dealing with high-level corruption cases.²⁴ The Law provides for the establishment of task forces to investigate complex cases. CSOs expressed some concerns on the recent changes in the legislation²⁵ and, according to some of them, new legislation did not resolve problems related to the prevention of abuses of public office for political promotion and the accumulation of functions.²⁶

In 2020, the Government adopted the Revised Action Plan for EU Accession Chapter 23, with a subchapter on the fight against corruption. In September 2021, the Government adopted the Operational Plan for the Prevention of Corruption in areas of particular risk.²⁷ It outlines a set of activities needed for the preparation of a new anti-corruption strategy,²⁸ providing for effective coordination and monitoring mechanisms following lessons learned in this field.²⁹

While the overall anti-corruption institutional framework is adequate, additional efforts are needed towards the identification of corruption practices in public tenders, the seizure and confiscation of criminal assets, and law enforcement and judiciary institutions would benefit from technical support to build their capacity to effectively investigate, prosecute and adjudicate in corruption cases.

Recommendations:

1. Develop a new anti-corruption strategic framework, with effective coordination and monitoring mechanisms, based on lessons learned in this area identified and elaborated in the “Starting Points for Drafting the Operational Plan for the Prevention of Corruption in areas of particular risk”³⁰
2. Ensure effective investigations and prosecutions in high-level corruption cases, including seizure and confiscation of criminal assets
3. Strengthen the capacities of anti-corruption institutions, including allocating adequate budget, appropriate infrastructure, and a legal and policy framework conducive to the fight against corruption and reflective of recommendations stemming from the Implementation Review Mechanism of the UN Convention against Corruption and other international instruments.

18. Climate change

The impact of air, water and soil pollution on people’s health and wellbeing, on the economy and on biodiversity, is better understood and valued. Since COVID-19 outbreak, health resilience represents a compass for economic growth anchored in the environmental rights for the green transition. Multiple laws and action plans have been drafted, pending adoption in the 2021/2022 period³¹, while citizens discontent had been a lot more visible with demands for more ambitious actions respecting both the people and nature.

Recommendations:

1. Prioritize evidence-based analysis in designing solutions and financing mechanisms, programmes and plans to address the specific harms and risks of climate change and environmental degradation for vulnerable groups, including children.
2. Accelerate the implementation of all Climate Change and Environmental Degradation laws, strengthen systems for planning, budgeting, procuring, implementing, monitoring, enforcing policies and programmes.
3. Extend meaningful public consultations for all critical plans, programmes, infrastructures with a possible negative impact on public health and the environment. Strengthen legal and judiciary mechanisms to address environment related cases.

¹ <https://www.a11initiative.org/en/conclusions-of-the-public-debate-on-the-ratification-of-the-optional-protocol/>

² A/HRC/40/59/Add.1

³ Referendum Observation Report, CRTA, 2022.

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- ⁴ Code of Good Practice in Electoral Matters of the European Commission for Democracy through Law (Venice Commission).
- ⁵ Global Alliance of National Human Rights Institutions (GANHRI): [Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation \(SCA\)](#), 18-29 October 2021, pg. 24-27
- ⁶ Committee against Torture: Concluding observations on the third periodic report of Serbia, [CAT/C/SRB/CO/R.3](#)
- ⁷ AL SRB 3/2020
- ⁸ https://www.mpravde.gov.rs/files/DATA%20SECURITY%20LAW_180411.doc
- ⁹ <https://www.srbija.gov.rs/vest/en/164777/government-passes-decision-on-formation-of-working-group-for-protection-of-journalists.php>
- ¹⁰ Available at: <https://bit.ly/3cHhS25>
- ¹¹ Mapping of Substandard Roma Settlements According to Risks and Access to Rights in the Republic of Serbia, with Particular Attention to the COVID-19 epidemic, available at: <https://serbia.un.org/en/103706-mapping-substandard-roma-settlements-according-to-risks-and-access-rights-republic-serbia>
- ¹² All references to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999)
- ¹³ For more than 75% households according to the SCRM, Situation and Needs of Internally Displaced Persons in Serbia, https://kirs.gov.rs/media/uploads/Migracije/Publikacije/Eng/Situation_and_Needs_of_IDPs_2018.pdf.
- ¹⁴ UNICEF Serbia SitAn [Situation analysis of children and adolescents in Serbia | UNICEF](#)
- ¹⁵ Available at: <https://bit.ly/3qbuz8g>
- ¹⁶ Including in merit assessment of all asylum claims (comparing to the previous automatic application of the ‘safe third country’ concept), introduction of improved procedural guarantees for categories with specific needs, recognition of gender-based refugee claims, child specific claims, etc
- ¹⁷ Law on Employment of Foreign Citizens [Zakon o zapošljavanju stranaca], Official Gazette of the RS, no. 128/14, 113/17, 50/18 i 31/19. Art. 13, para. 3: “A personal work permit may be issued to a person requesting asylum upon the expiry of a nine-month period following their application for asylum, if the decision on such application has not been made through no fault of their own, for a period of six months with a possibility for extension, for the duration of such person’s status as person requesting asylum.”
- ¹⁸ According to the current legislation on foreigners and asylum, persons accorded international protection, do not have access to citizenship due to the sui generis nature of their residence in Serbia which does not provide for permanent residence. Law on Nationality [Zakon o državljanstvu], Official Gazette of the RS, no. 135/04, 90/07 i 24/18, Art. 14 allows for acquisition of Serbian nationality by admission, conditioning it with permanent residence: “A foreigner who, in line with the regulations on movement and residence of foreigners, was allowed to permanently reside in the Republic of Serbia can, upon his own request, be admitted to citizenship of the Republic of Serbia if: 3) That until submitting of application for at least three years he has had uninterrupted residence in the territory of the Republic of Serbia.”
- ¹⁹ AL SRB 2/2020 and AL SRB 2/2022
- ²⁰ See case C.A. - Committee against Torture, Decision adopted by the Committee under article 22 of the Convention, concerning Communication No. 857/2017, CAT/C/67/D/857/2017, 16 August 2019; Interim measure imposed by the European Court of Human Rights (ECtHR) regarding extradition to Bahrain its national by the Republic of Serbia <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2022/01/ECHR-Interim-measure-1.pdf>
- ²¹ Research on Conditions and Quality of Treatment of Children in Conflict with the Law in Serbia, Republic Institute for Social Protection and UNICEF, 2022
- ²² JUA SRB 1/2022
- ²³ See European Commission, Serbia 2021 Report, October 2021, p 29, available at https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2021_en
- ²⁴ For more details, see http://www.tok.jt.rs/html_tok/pocetna_eng.htm
- ²⁵ See Coalition prEUgovor, PrEUgovor Alarm Report on the Progress of Serbia in Chapters 23 and 24, May 2020, p 58, available at preugovor.org/Alarm-Reports/1596/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml
- ²⁶ For example, Transparency Serbia, Law on Prevention of Corruption does not resolve important issues, May 2019, available at <https://transparentnost.org.rs/index.php/en/ts-and-media/press-issues/10550-law-on-preventing-corruption-does-not-resolve-important-issues>
- ²⁷ Available at <https://www.mpravde.gov.rs/sr/tekst/33794/nacrt-operativnog-plana-za-sprecavanje-korupcije-u-oblastima-od-posebnog-rizika.php>
- ²⁸ Implementation of the previous strategic anti-corruption framework has been fraught with delays, and relevant authorities did not implement a number of planned activities. The problems in implementation were related to the insufficient coordination and capacity of the responsible entities for the implementation of complex measures. Also, there were problems related to the effectiveness of the monitoring and supervising mechanisms of the implementation of these documents.
- ²⁹ These activities follow the lessons learned related to previous strategic documents and recommendations from the Starting Points for drafting the Operational Plan, available at <https://www.mpravde.gov.rs/sr/tekst/33766/polazne-osnove-za-izradu-operativnog-plana-za-sprecavanje-korupcije-u-oblastima-od-posebnog-rizika.php>
- ³⁰ The Starting Points for drafting the Operational Plan, available at <https://www.mpravde.gov.rs/sr/tekst/33766/polazne-osnove-za-izradu-operativnog-plana-za-sprecavanje-korupcije-u-oblastima-od-posebnog-rizika.php>
- ³¹ See list in green thematic update