



**UPR Submission: Serbia
June 2017**

Summary

Human Rights Watch's key human rights concerns on Serbia are reflected in the [2017 World Report chapter on Serbia](#). Accountability for war crimes is hampered by slow progress on prosecutions. Concerns over freedom of the media continue amid repeated threats against journalists and failure by authorities to investigate cases of threats and violence against investigative reporters. Roma also face discrimination, as do lesbian, gay, bisexual, and transgender (LGBT) people. Members of these communities face threats, discrimination and harassment. The situation for refugees, asylum seekers, and IDPs remains a concern, particularly inadequate asylum procedures, pushbacks, and limited capacity of reception centres. Moving children with disabilities out of institutions and into family-like environments has been a limited and slow process.

In light of the serious human rights concerns that persist in Kosovo, scrutiny by international human rights bodies is vital. We therefore urge the Human Rights Council to ensure that Kosovo is subject to the Universal Periodic Review process and other human rights monitoring in an appropriate and robust fashion. Our concerns on the human rights situation in Kosovo are available on our website: <https://www.hrw.org/europe/central-asia/serbia/kosovo>

1. Treatment of Migrants and Asylum seekers

While Serbia has seen a significant decrease in the number of asylum seekers and other migrants arriving since 2016, there continue to be serious obstacles to accessing protection and humane treatment including for unaccompanied asylum-seeking children. There are credible reports of on-going summary returns of asylum seekers from Serbia to Macedonia.

According to the UNHCR, partner organizations and the Serbian Commissariat for Refugees and Migration there were 6,600 asylum seekers, refugees and other migrants in Serbia at the time of writing.

According to the Serbian Ministry of Interior's Asylum Office, 2,922 individuals expressed intentions to seek asylum in the Republic of Serbia in the first five months of 2017. Most are Syrians, Afghans, Iraqis and Pakistanis. Asylum seekers are housed in overcrowded camps and often in unsuitable mixed accommodation with single males, families, single women and unaccompanied children sharing living space.

In 2012, Serbia accepted a recommendation to "Take all necessary measures to ensure the improvement of socio-economic conditions of refugees and internally displaced persons." Yet, as of June 9, 2017, Serbia had not granted anyone the status of a refugee. In 2016, Serbia granted refugee status to only 19 asylum seekers and subsidiary protection to 23. In addition to low recognition rates, and problems registering asylum claims, there are significant backlogs in the country's asylum procedure with thousands of pending claims.

During the first five months of 2017, the Ministry of Interior registered 46 unaccompanied children in Serbia, from Afghanistan and Pakistan. Serbia lacks formal age assessment procedures for unaccompanied children, putting older children at risk of being treated as adults instead of receiving child protection. Only three institutions exist in Serbia for unaccompanied children and have a total of 32 places. Other unaccompanied children stay in temporary shelters known as “refugee aid centers” together with unrelated adults or open reception centers, where in some cases unaccompanied children can be accommodated separately from unrelated adults. The number of unaccompanied children is, based on the observations of our researchers, likely much higher than the officially reported 46.

Progress in finding durable solutions for refugees and internally displaced persons (IDPs) from the Balkan wars living in Serbia was insignificant. According to UNHCR, as of June 2017, there were 29,414 refugees in Serbia, 20,334 from Croatia and 9,080 from Bosnia and Herzegovina while the Serbian government recorded 203,000 internally displaced people from Kosovo.

In an [April 2015 report](#), Human Rights Watch interviewed migrants and asylum seekers who described violent assaults, threats, insults, and extortion, denial of the required special protection for unaccompanied children, and summary returns to the Former Yugoslav Republic of Macedonia. There is credible evidence that summary returns from Serbia to Macedonia continue. Serbian authorities have not taken adequate steps to address halt these abuses.

Recommendations

- Issue clear guidance to police officers that they should treat asylum seekers and migrants with respect and in a manner consistent with Serbia’s human rights obligations, in particular the prohibitions on ill-treatment and non-refoulement, and ensure access to asylum procedures in Serbia;
- Ensure that anyone who expresses a wish to apply for asylum should have a meaningful opportunity to register their asylum claim and present their case;
- Ensure humane and suitable conditions for asylum seekers and migrants accommodated in asylum facilities across Serbia, with special attention given to vulnerable groups, including families with children, unaccompanied children, single women, older persons and people with medical conditions and/or disabilities;
- Issue clear guidance to police officers to provide unaccompanied children with special attention and care as required by domestic and international law.

2. Lack of Accountability for War Crimes

Despite accepting recommendations to take all necessary measures to end to impunity by prosecuting alleged perpetrators in accordance with international standards, war crimes prosecutions in Serbia are hampered by a lack of political support, resources or staff at the Office of the War Crimes Prosecutor and inadequate witness support.

Since the establishment of the War Crimes Prosecution Office in 2003, 110 judgments have been issued: 75 convictions and 37 acquittals. But few high-ranking officials have been prosecuted for war crimes in Serbian courts.

Despite the war crimes strategy adopted by the government in February 2016, which sets out criteria for prioritizing cases and commitment to prosecute high-ranking officials suspected of war crimes, progress appears to have stalled. Between January 2017 and June 2017, the War Crimes Prosecutor’s Office issued only 1 indictment against 1 person. During the same period, no one was convicted or acquitted by the first instance court for war crimes and two persons were acquitted at the appeals stage.

The most notable example of the lack of progress in war crimes accountability is the failure to bring charges in relation to the organized removal of more than 900 Albanian bodies from Kosovo to Serbia in 1999 and their reburial in mass graves, including on the grounds of a police training center. Some of the people allegedly involved in this crime were named in 2011 by the International Criminal Tribunal for the former Yugoslavia in its judgment against Serbian police chief Vlastimir Đorđević but, to date, no one has been indicted.

Another case involves the apparent execution in custody of three U.S. citizens – the brothers Ylli, Agron, and Mehmet Bytyqi – who were arrested in Serbia in June 1999, transferred to a police training center, and killed in July 1999. Despite assurances in June 2015 to US State Department officials by then Serbian Prime Minister Vucic that there would be progress in the case, no one has been brought to justice for this crime.

In June 2017, ICTY President Carmel Agius asked the UN Security Council to ensure that three members of the Serbian Radical Party, indicted for contempt of court, are extradited to the Tribunal. So far Serbian authorities have not obliged. During its previous UPR, Serbia accepted the recommendation to continue its cooperation with the ICTY and to ensure that other perpetrators are prosecuted in domestic courts in accordance with international standards.

Recommendations

- Ensure greater efficiency in war crimes investigations and prosecutions, particularly against higher ranking military and police officials who may bear command responsibility;
- Ensure an effective investigation into the 1999 transfer of bodies of hundreds of ethnic Albanians from Kosovo to Serbia; investigations should include the persons named in the 2011 ICTY decision against Vlastimir Đorđević;
- Ensure an effective investigation into the apparent extrajudicial executions of the three Bytyqi brothers, including responsible commanders;
- Ensure that the three indicted persons in the contempt case of Jojić et al. are extradited to the ICTY.

3. Restrictions on Media Freedom

Human Rights Watch research in Serbia shows that journalists and other media workers operate in a hostile environment where threats, smear campaigns and political interference with their work is commonplace. Media freedom is a critical precondition for the development of a democratic society, as well as a condition of closer ties to the European Union.

The Independent Journalists' Association of Serbia (NUNS) registered 69 incidents against journalists in 2016, and 40 in the first six months of 2017. The incidents in 2017 included 3 physical assaults, 12 verbal threats and 25 incidents involving pressure.

The work of a national commission established to investigate the murders of three prominent journalists, Slavko Curuvija in 1999, Dada Vujasinovic in 1994, and Milan Pantic in 2001, has made limited progress. The widow of Slavko Curuvija has criticized the slow progress of the trial against four state security officials suspected of alleged involvement in her husband's murder. The deaths of the remaining two journalists remained unsolved. In 2012, Serbia rejected a recommendation to establish an "International Commission for Investigation of Murders of Journalists".

Government officials and pro-government media have repeatedly criticized independent news organizations. The former Prime Minister Vucic, now President, was quoted in 2015 criticizing the

Balkans Investigative Reporting Network as liars funded by the EU to speak against the Serbian government.

In research carried out in 2015 and updated in 2016, Human Rights Watch found that journalists in Serbia face physical attacks and threats, including death threats, as a result of reporting on sensitive issues including war crimes and government corruption. The state response to attacks and threats against journalists appears to be weak, despite accepting recommendations during their previous UPR to create a climate in which journalists are able to report on sensitive issues without fear or harassment and reprisal.

Recommendations

- Publicly and unequivocally condemn all attacks against journalists and media outlets carried out in retaliation for their work and ensure swift and thorough investigations into all such incidents;
- Conduct prompt, effective, impartial, and thorough investigations into all attacks and threats against journalists and media outlets, including cybercrimes, and bring prosecutions as appropriate.

4. Treatment of Minorities

During the second cycle UPR, Serbia accepted all recommendations received relating to the treatment of minorities, including one recommendation to “Enforce legal safeguards to ensure fair and equal access to housing, education, employment and government services for Romani individuals and protection against arbitrary, forcible evictions and displacement from their homes or temporary residences”. Yet, Roma often live in informal squalid settlements lacking basic services such as schools, health care, water and proper sewage. Roma in such informal settlements are also vulnerable to forced evictions without offers for adequate alternative accommodation. Segregated education remains a problem, with Romani children often attending mainstream schools in separate classes and are overrepresented in schools for children with special needs.

Recommendations

- Ensure procedural safeguards and adequate alternative accommodation in cases of forced evictions of Roma;
- Ensure that everyone in Serbia, regardless of ethnicity, age, or employment status can access public services, including healthcare and education;
- End segregation of Romani children in mainstream schools and ensure that all children are provided quality education in an inclusive setting.

1. Disability Rights

Human Rights Watch documented in its 2016 report [‘It Is My Dream To Leave This Place’: Children with Disabilities in Serbian Institutions](#) that hundreds of children with disabilities in Serbia live in state institutions where they are likely to experience neglect and isolation, have no privacy and have little or no access to education. They also may be given inappropriate medication, and may not be allowed to make their own decisions even when they become adults. The majority of these children have at least one living parent, but given the dearth of community-based services, parents often do not have the support they need to care for their child with a disability. Instead, parents may be advised by health professionals to give up on their child with a disability.

Human Rights Watch research found that some young women with disabilities who live in institutions experienced invasive medical interventions without their free and informed consent, but rather based on the consent of their guardian. The interventions included the insertion of intrauterine devices (for birth control), administration of pap smear tests (Papanicolaou test, a screening procedure for cervical cancer) and termination of pregnancy. According to institution staff interviewed by Human Rights Watch, anaesthesia was used in every case so that the women would not resist the interventions.

Despite accepting all recommendations on the topic of disability rights during both previous UPR cycles, in April 2016, the UN Committee on the Rights of Persons with Disabilities expressed deep concerns about the number of children and adults with disabilities living in institutions and about the poor living conditions in institutions in Serbia. The committee urged Serbia to deinstitutionalize people with disabilities and to ensure access to inclusive and quality education. The committee also called on Serbia to replace its guardianship system and ensure all people with disabilities have access to services and support in the community of their own choice and preference.

In February 2017, the UN Committee on the Rights of Child adopted [concluding observations](#) on Serbia and urged the government to “urgently reduce placement of children under the age of 3 in residential care institutions, including those with disabilities, and expedite the placement in family-based care.” The Committee further raised concerns about segregation, neglect, limited privacy, exclusion from education and play, forced and inappropriate medical treatment that children with disabilities experience in orphanages in Serbia. The Committee urged Serbia to end such practices and to make sure children with disabilities are safe and have the right to live with their families or in other family-like environments.

Human Rights Watch is concerned that the Serbian government continues to invest in institutionalization despite ratifying the UN Convention on the Rights of Persons with Disabilities in 2009. This despite the fact that Serbia accepted a recommendation in 2012 to “Consolidate the constitutional and legislative framework to prevent discrimination against persons with disabilities”. In March 2014 and in April 2016, Serbia opened two newly built institutions for children and young people with disabilities. It cost the Serbian government 66 million Serbian dinars (or 600,000 EUROS) to build one of the two facilities.

As of June 2017, the Serbian government has not yet adopted a de-institutionalization plan or followed up with other previously expressed commitments to transition people from institutions into community-based living arrangements. According to UNICEF and local activists, Serbia has yet to take steps to end neglect of children living in institutions and hold those responsible for treatment of children to account. In a phone conversation with the Serbian Ministry of Education in March 2017, a representative of the Ministry told Human Rights Watch that no concrete steps have been taken to ensure children with disabilities who live in institutions have access to education.

Recommendations

- Protect children and young people with disabilities in institutions from harm and abuse;
- Provide necessary support and services to move children and adults with disabilities from institutions to communities, in line with Article 19 of the CRPD;
- Ensure all children and young people with disabilities enjoy their right to an inclusive, quality education, on an equal basis with others, in line with Article 24 of the CRPD;
- Protect the right to legal capacity and supported decision-making for persons with disabilities, in conformity with Article 12 of the CRPD.
- Ensure persons with disabilities enjoy their right to health, including the right to free and informed consent to medical treatment, is respected.