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Submission to the UN Universal Periodic Review

**Third session of the UPR Working Group of
the Human Rights Council**

December 2008



Executive summary

In this submission, Amnesty International provides information under sections B, C and D as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

Under section B, Amnesty International raises concern over the yet to be fully established Ombudsperson's Office in Serbia.

Section C highlights Amnesty International's concerns related to impunity for war crimes, discrimination against Roma, attacks on human rights defenders, members of the lesbian, gay, bisexual and transgender community, and the right to freedom of expression in Serbia.

In section D, Amnesty International makes a number of recommendations for action by the government to address the issues of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

Serbia

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B. Normative and institutional framework of the State

Serbia established the institution of an Ombudsperson in 2003. Offices have been created at the municipality level; however, the process is not yet completed. Only twelve of the 168 municipalities have established local Ombudspersons.

In 2007, the Serbian Parliament elected a republican protector of citizens' rights (Ombudsperson) tasked with protecting constitutional rights as well as rights guaranteed by international standards.

In the first year, more than 2,500 requests for assistance were addressed to the Ombudsperson. However, the Ombudsperson's Office faces many obstacles to its ability to oversee human rights and corruption issues in Serbia. Local non-governmental organizations point to problems related to lack of staffing and other resources in the Ombudsperson's Office.

As of July 2008, the Ombudsperson's Office is not yet accommodated in suitable premises; it is currently located in small premises rented from the Republic of Serbia and has a staff of 12.

A so-called "Systematization Act", passed on the day of the appointment of the Ombudsperson by the Serbian Parliament, foresees the provision of proper premises, the recruitment of more than 100 people, and also the establishment of four deputy Ombudspersons, responsible for specific areas such as gender-based issues, minority rights and children's rights. To date, none of these measures have been implemented. The Serbian Ombudsperson does not even have a web-site on the Internet as of July 2008.

Local human rights organizations have advocated for the speeding-up of the full establishment of the Ombudsperson's Office, arguing that the slow proceedings mirror a lack of political will to establish this independent body.

C. Promotion and protection of human rights on the ground

Impunity for war crimes

Impunity for war crimes committed in the former Yugoslavia during the conflict in the 1990s remains a critical concern. The general political instability is not conducive to progressing the prosecutions of war crimes. Witnesses to war crimes are not adequately protected to ensure their testimonies are delivered in court. According to observers, the Belgrade War Crimes Chamber, established in 2003, did make some progress in the field of witness protection; however, witnesses do not yet feel completely safe. The War Chamber's Chief Prosecutor continues to receive death threats.

Yet, some progress has been made. On 10 June 2008, Stojan Župljanin was arrested in a city close to Belgrade. Stojan Župljanin is indicted for leading and participating in crimes against humanity and war

crimes, including ethnic cleansing of non-Serbs in the Banja Luka region, persecution on ethnic grounds, and destruction of cities and villages.

Damir Sireta, one of the men wanted by Serbia for allegedly executing some 200 Croat prisoners of war on Ovčara farm near Vukovar, Croatia in 1991, was extradited to Serbia by Norway in May 2008. The decision to extradite Damir Sireta has set an important precedent as it is the first time that a Norwegian court has agreed to extradite anyone suspected of war crimes to a national court in the region.

Investigations are still not opened into serious crimes committed more than 15 years ago, which indicates that a hostile atmosphere in large parts of society in Serbia towards war crimes prosecutions. In the parliamentary and local elections in May 2008, there was strong political support for the Serb Radical Party (SRS), whose leader Vojislav Šešelj is currently on trial in The Hague for war crimes and crimes against humanity. Impunity continues sixteen years after the forced exodus of hundreds of Vojvodina Croats in May 1992, which left 14 people dead, as the Serbian judiciary has not taken action to investigate those events. The only alleged perpetrator of the above-mentioned operation in Vojvodina standing trial at the International Criminal Tribunal for the former Yugoslavia (hereafter, the Tribunal) is Vojislav Šešelj.

In early summer 2008, the Croatian association *Vukovar 1991* pressed charges against unknown persons who allegedly committed war crimes during 1991 against Croatian civilians and POWs in five prisoner camps in Serbia. In doing so, the group shed light on these alleged crimes, which have not been brought to justice yet and which are largely ignored in Serbia. The War Crimes Prosecution have confirmed, however, that it has already conducted preliminary investigations in co-operation with its Croatian counterparts.

Investigations continue at a slow a pace into the disappearance of ethnic Albanians, who are believed to have been killed in Kosovo and whose bodies were subsequently exhumed from mass graves in Kosovo, transported in refrigerated trucks, and reburied in mass graves at Batajnica outside Belgrade. No indictments have been issued, and those responsible for the murders and the disposal of the bodies have still not been brought to justice. In addition, there are still no indictments in relation to the alleged incineration in 1999 of Kosovo Albanian bodies in industrial furnaces at Surdulica in Southern Serbia on the border with Kosovo.

Discrimination against Roma

Serbia has committed itself to improving the overall situation of Roma in the country as well as addressing the most pressing violations of their human rights. Serbia is part of the regional initiative “Decade of Roma Integration” which aims at empowering the Romani community to realize their human rights and at introducing systemic measures to reduce poverty.

Of all of Serbia’s minority groups, the Romani community remains the most vulnerable. Their difficult situation is compounded by the recent wars, growing poverty, and the almost total neglect of Roma language, culture and communities. In particular, Roma who fled Kosovo and now live in Serbia as internally displaced persons often lack identification papers, because birth registers were damaged or went missing during the conflict. Others suffer the effects of poverty, discrimination and marginalization. Those without identification papers are denied access to shelter, health care and social welfare. In many cases, documentation is refused because they live in unregistered or temporary settlements. It is estimated that around 23,000 Roma in Serbia are displaced from Kosovo. According to the official census in 2002, there were 108,193 Roma in Serbia; however, according to Roma NGO experts, the number of Roma living in Serbia could easily range between 200,000 and 500,000 persons.

According to the European Roma Rights Centre, almost 70 per cent of Serbia’s Romani community are believed to be poor. Only 21 per cent of Roma children have finished elementary school, and 10 per cent have graduated from high school, where they often face prejudice from classmates and teachers. The rate of illiteracy among Roma children and adults is alarming. Only 18.6 per cent of heads of family hold a steady job, and these jobs are at the lowest level of skill and income; 68.4 per cent are unemployed, while 8.3 per

cent work as seasonal labourers. The average life expectancy of Roma in Serbia is 47 years, 20 years less than the rest of the population.

Attacks on human rights defenders; members of the lesbian, gay, bisexual and transgender community; and the right to freedom of expression

Although the situation for human rights defenders in Serbia clearly improved following the end of the reign of President Slobodan Milošević in 2000, Amnesty International is concerned about the deterioration in their situation over the past two years. Human rights defenders face a hostile environment, particularly for those working on transitional justice and minority rights. Attacks intensified following the unilateral declaration of independence of Kosovo on 17 February 2008. For instance, prominent human rights defender Nataša Kandić, Director of the NGO, Humanitarian Law Centre, once again became the target of hate speech in an article published on 18 February 2008, calling her, among other things, a person that “does not exist”.

One year after the attempted murder in April 2007 of well-known journalist Dejan Anastasijević, investigations have not yet resulted in the identification of the perpetrators. Mr Anastasijević regularly reports on war crimes cases and has testified before the Tribunal in the Milošević trial. Impunity also remains in the cases of the murdered journalists Slavko Ćuruvija (murdered in 1999) and Milan Pantić (murdered in 2001). In the first case, a new investigation was launched in January 2007, and over 50 witnesses were heard. Previous investigations did not bring about indictments and did not result in a trial. In the case of Milan Pantić, the police is still investigating the case with ‘unmitigated intensity’. Yet, for more than two years now, police and investigators have informed neither Milan Pantić’s widow nor the public of progress of the case.

In a controversial judgment, Marko Milošević, the son of former President Slobodan Milošević, was cleared of charges of battery for events that occurred in May 2000. He was accused of having violently beaten up and seriously injured three members of the “Otpor” movement, but was acquitted in June 2008 due to “lack of evidence, outdating of the crime and a lack of intent to harm people”, according to the court which tried him in absentia. His acquittal is seen by analysts as well by the victims of the beatings as a political decision handed down through the court.

Hate speech, insults, and physical violence continue to be a common experience for Serbia’s lesbian, gay, bisexual and transgender community (LGBT), as highlighted in connection with this year’s Eurovision Song Contest, held in Belgrade in May, when Serbian LGBT activists warned international gay and lesbian visitors not to publicly display their sexual orientation, because of possible violent attacks. The attitude of the authorities towards hate speech and discrimination against LGBT people in Serbia is illustrated by an incident in April 2008 in Belgrade, when a gay man tried to report continued threats against his person (written on the walls of his house, expressed verbally and via text messages) because of his sexual orientation. The police refused to register his complaint.

On the eve of the International Pride Day on 27 June 2008, representatives of LGBT rights organizations in Serbia stated that conditions in the country were not conducive to celebrating this day publicly. There have been no attempts to organize Pride Day in Serbia for seven years, since the police failed to stop violent incidents in which participants in a Gay Pride March in 2001 were severely beaten up on the streets of the Serbian capital.

D. Recommendations for action by the State under review

Amnesty International calls on the government of Serbia to:

Ombudsman Institution

Ensure that the Serbian Ombudsperson Institution is accommodated in premises in accordance with the “Systematization Act”, fully equipped and properly staffed with no further delay;

Appoint as soon as possible the four deputies of the Ombudsperson and create appropriate conditions for their work;

Impunity for war crimes

Ensure that all persons, including senior police, military personnel, and political officials, suspected of complicity in war crimes, are brought to justice in proceedings that meet international standards for fair trial;

Discrimination against Roma

Take urgent measures to ensure the registration of all Romani persons in Serbia, whether internally displaced or domiciled Roma, and further ensure that relevant ministries and local authorities take measures to ensure the legalization of Romani settlements;

Attacks on human rights defenders, LGBT people and the right to freedom of expression

Take concrete steps to give political recognition and legitimacy to human rights defenders and their work and to protect them against threats and assaults;

Undertake thorough investigations into all attacks against human rights defenders without delay and ensure that the perpetrators are identified and brought to justice;

Create a climate in which LGBT people feel safe to report violent incidents or threats against them;

Offer protection to members of the LGBT community where necessary to protect their rights of freedom of assembly and freedom of expression.