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SERBIA: HUMAN RIGHTS DEFENDERS AT RISK

‘In Serbia today, if you campaign for accountability for abuses from the past, for gay or women’s rights or if, as a journalist, you write about the links between government and organized crime, then you quite literally put your life on the line. We are safe only so long as we are protected by the international community.’

Biljana Kovačević-Vučo, Director of YUCOM, 2008

Human rights defenders (HRDs) in Serbia continue to be at risk from attack by both state and non-state actors, including the media. The Serbian authorities are failing to protect them from physical attacks and threats to their lives and property. Amnesty International is extremely concerned at the impact of these attacks on the rights of HRDs and the right to freedom of expression and assembly in Serbia.

On 31 May 2009, following the adoption by the Serbian parliament of a draft Law on Civic Associations, the influential pro-government Serbian daily *Večernje novosti* published a two-page article headlined “Sebe uzdižu, Srbe urnišu” (“They praise themselves, and reduce Serbs to ashes”). Ostensibly concerning the new law, the article targeted three Serbian women human rights defenders: Nataša Kandić, Director of the Humanitarian Law Centre (Fond za Humanitarno pravo, HLC); Sonja Biserko of the Serbian Helsinki Committee for Human Rights (Helsinški Odbor za ljudska prava u Srbiji, Helsinki Committee); and Biljana Kovačević-Vučo of the Lawyers’



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Committee for Human Rights (Komitet pravnika za ljudska prava, YUCOM).

The article claimed that the three women were aiming to destroy the Serbian state through their support for Serbia’s membership of the European Union (EU) and Kosovo’s independence. They were accused of

Sonja Biserko, Director of the Serbian Helsinki Committee for Human Rights.

abusing state funds and of receiving money from dubious foreign sources. Their main offence, according to their critics, was to demand accountability for war crimes committed in Croatia, Bosnia and Herzegovina and Kosovo in the 1990s



and to call for all those suspected of war crimes to be brought to justice. The article also targeted the feminist, anti-militarist NGO Women in Black (*Žene u crnom*), claiming that they used state funds for their “anti-Serbian” demonstrations.

The *Večernje novosti* article was no isolated attack: all four NGOs and the women heading them have long been subject to hostile media campaigns and threats to their physical and mental integrity. Such threats have intensified since Kosovo declared its independence from Serbia in February 2008, and since the subsequent election in May 2008 of a government coalition including the Socialist Party of Serbia (Socijalistička partija Srbije, SPS), Slobodan Milošević’s former party. According to Sonja Biserko, “These threats continue in a political climate where the choice between EU membership and the retention of Kosovo is increasingly polarized.”

THREATENED AND ATTACKED

On 17 February 2008, Nataša Kandić attended the Kosovo Parliament to celebrate Kosovo’s declaration of independence from Serbia. She was attacked by the Serbian media and threatened with lynching as a result. The SPS launched a petition in the Serbian parliament calling for criminal proceedings to be opened against her for “compromising the territorial integrity of Serbia”. Ivica Dačić, then leader of the SPS, (and Minister of Interior and Deputy Prime Minister since May 2008), called for political parties and NGOs that recognized an independent Kosovo to be banned.

On 21 February 2008, following a demonstration against Kosovo’s independence, unidentified persons tried to set fire to the offices of the HLC. Although the HLC had previously asked for police protection, there was no police presence in the vicinity during or after the demonstration. The police reportedly

arrived around midnight to conduct an investigation.

From September to October 2008, Sonja Biserko was subject to a series of personal and abusive attacks in the Serbian media, after the Helsinki Committee annual report named prominent academics opposed to Serbia’s cooperation with the International Criminal Tribunal for the former Yugoslavia (Tribunal). The media coverage appeared to encourage physical attacks on the NGO and on Sonja Biserko.

‘They [the state] are eager to silence people because they don’t want us to remind them what they have done.’

Sonja Biserko, Helsinki Committee, 2009.

On 30 September 2008, around 130 members of Movement 1389 (Pokret 1389) gathered outside the Helsinki Committee’s office in Belgrade. They shouted verbal abuse against Sonja Biserko and left a large cardboard swastika outside the building. On 2 October 2008, the newspaper *Tabloid* described Sonja Biserko as a traitor and published her home address and other personal information. Three days later, she saw two unidentified men dressed in black: one was outside the entrance to the building in which she lives; the other outside the door to her apartment. They ran away when a friend came to her assistance.

This series of threats and attacks stopped only after international organizations intervened. The Helsinki Committee subsequently asked for police protection for Sonja Biserko. A police officer was posted outside her office for a short period, but when Amnesty International visited her in February 2009, no police were present.

Other NGOs in Serbia are also subject to attack. For 15 years the Dah theatre group has collaborated with Women in Black in protests advocating human rights and challenging militarism, nationalism, gender inequality and the clericalization of Serbian society. In November 2008, computers and equipment were stolen from the group’s offices; a month later, its premises were set on fire.

The NGO Peščanik (Serbian for “sandglass”) is run by journalists Svetlana Lukić and Svetlana Vuković and aims to promote debate about human rights. On 22 January 2009 the NGO’s website was hacked; it remained blocked for over a week. The next day, the signal for Peščanik’s radio programme, broadcast on the independent radio station B92, was jammed. On 24 January 2009, the repeat broadcast was also blocked. At the same time, Svetlana Lukić’s car, parked outside B92, was repeatedly rammed and its wheels forced over a kerb.

Peščanik has filed criminal charges for cybercrime and the destruction of Svetlana Lukić’s car. B92 has filed a complaint with the Republic Telecommunications Agency in relation to the jamming of its signal.

Serbian state institutions, including members of the government, parliament and leading public figures, use litigation as a tool to intimidate human rights defenders. In November 2008, Biljana Kovačević-Vučo and YUCOM were sued by Aleksandar Tijanić for €100,000 in a defamation case after YUCOM published a book titled *The Case of Civil Servant Aleksandar Tijanić*. The book was based on statements by Aleksandar Tijanić, director of the state-run Radio-Television Serbia and a former minister in Slobodan Milošević’s government.

Threats also come from those suspected of war crimes: in June 2009, members of the

Serbian police force trade union initiated 10 civil and two criminal cases against Nataša Kandić after she alleged that some of their officials had committed war crimes. On 20 June 2009, in a defamation case brought by former SPS politician Tomislav Nikolić against Nataša Kandić, the Belgrade District Court overturned the Municipal Court's decision which had been in favour of Tomislav Nikolić.

In April 2008, Vojislav Šešelj, leader of the Serbian Radical Party, indicted for war crimes by the Tribunal, accused a protected prosecution witness "of having been prepared by the HLC, [and] of having been paid by the HLC to give testimony against him". On 3 April 2008 Vojislav Šešelj's remarks were given extensive coverage in the dailies *Politika*, *Pravda* and *Glas javnosti*, which reinforced his message.

This ongoing campaign of intimidation and harassment particularly targets those who seek to challenge the climate of impunity for war crimes in Serbia. Amnesty International's 2005 report *Serbia and Montenegro: the writing on the wall, Serbian human rights defenders at risk* (EUR 70/016/2005) documents similar attacks on the Facing the Past coalition in the period around the 10th anniversary of the massacre of Srebrenica. Most of the NGOs featured in this briefing are members of the Facing the Past coalition.

HRDs who advocate for women's human rights and the rights of lesbian, gay, bisexual and transgender (LGBT) people also come under attack, including from the Serbian Orthodox Church, whose influence over the government has helped create an anti-feminist, homophobic and Islamophobic public discourse. The church is also believed to be associated with neo-Nazi groups suspected of attacks on HRDs, LGBT people and minorities, including Albanians and Roma.



ATTACKS ON WOMEN HRDS

The Serbian media attempts to intimidate women leaders of NGOs by using discriminatory, derogatory and misogynist rhetoric, relating specifically to their gender. Women HRDs have been branded "witches", "snakes" and "whores". Headlines include: "Nataša, the woman who does not exist"; "Biserko and the Black Widows"; "Sonja Biserko's witch hunt"; and "Those witches from NGOs work on orders of those who wish harm to Serbia". In addition, because the process of Serbia's accession to the EU demands accountability for war crimes, women HRDs have been called "whores of the EU", and "witches who work in line with orders of their [EU] superiors".

The right to freedom of expression is not an unlimited right. Under international human rights law, it may be restricted by law where such a measure is necessary and proportionate for, among other things, protection of the rights of others, including by prohibiting advocacy of hatred which amounts to incitement to discrimination, hostility or violence. Amnesty International

Nataša Kandić, Director of the Humanitarian Law Centre.

considers that the abuse described above by sections of the media goes beyond the bounds of freedom of expression which is protected under international human rights law, and also appears to breach Article 38 of the Serbian Public Information Law which prohibits "the publishing of ideas, information and opinions which incite racial discrimination, hatred and violence against persons or a group of people due to their being a part of a certain race, religion, nation, ethnic group, sex or their sexual orientation".

Women in Black have described such attacks as "a low intensity war, which has included the production of women as scapegoats, their repression through the media and by individual citizens, the stigmatization and repression of private lives with the aim of generating greater vulnerability, emotional instability, personal insecurity and lack of safety, affecting their capacity to act as autonomous agents for change".

SPECIAL REPRESENTATIVE OF THE UN ON HUMAN RIGHTS DEFENDERS

In November 2007, following her visit to Serbia, Hina Jilani, the then Special Representative of the UN Secretary-General on the situation of human rights defenders stated: "the presence and support of the international community to State institutions and civil society is critical for countries in transition. The role of international organizations has been crucial to support defenders in Serbia and to build their capacity."

The Special Representative called on the government and relevant state actors to:

- take concrete steps to give political recognition and legitimacy to human rights defenders and their work. Steps should include firmly condemning attacks and campaigns against defenders, and acknowledging the importance of their work.
- institutionalize interaction and consultation processes with civil society.
- adopt a national plan or strategy on human rights with specific measures for the protection of human rights defenders and their activities.
- take more forceful action on investigating, prosecuting and sentencing cases regarding violations against human rights defenders and provide adequate protection and redress to human rights defenders affected by these violations.

ATTACKS ON LESBIAN, GAY, BISexual AND TRANSGENDER PEOPLE

LGBT activists who protect the rights of LGBT people, and who are themselves marginalized within civil society, experience similar discriminatory attacks by state and non-state actors. They are subject to physical assaults as well as attacks by the media. Few perpetrators are brought to justice.

The NGO Labris has also documented the ill-treatment of, or discrimination against, LGBT people by the police. According to Jelena Đorđević from the Anti-Trafficking Centre (Anti-Trafiking Centar), the police fail to take into account the vulnerability of LGBT people to attacks and the discriminatory nature of such attacks. In January 2009, Minja Kochis, a transsexual person working in the sex industry, was killed in her Belgrade apartment. The police considered the theft of around €30 to be the motive for the killing. Two suspects remain in detention awaiting trial in October 2009.

On 19 September 2008, a group of 10 people attacked and injured four participants at the Belgrade Queer Festival, leaving them requiring urgent medical attention. The police arrested two of the alleged perpetrators. On 22 September 2008 the Queer Belgrade Collective condemned the attack and called on the government to implement the rule of law to counter the rising number of homophobic attacks.

On 29 May 2009, the district prosecutor's office dismissed criminal charges of discrimination brought by the NGO Labris on behalf of the victims of the attack, on the basis that there was no evidence that the assaults involved "racial or other discrimination" or "violations of equality" as set out in Articles 387 and 128 of the Serbian Criminal Code. In response, Labris issued in July a private complaint on behalf

of one of the victims for "racial and other discrimination" and "violation of equality". The case is ongoing.

LGBT people in Serbia are not guaranteed the right to freedom of expression. There has not been a Gay Pride Parade in Belgrade since 2001 when the police failed to protect participants from attacks by members of the Serbian Orthodox Church and right-wing organizations.

In June 2008, LGBT activists announced that the Pride Parade would not take place because of security risks and continued discrimination and called on the government to guarantee the LGBT population's right to freedom of assembly.

On 22 July 2009, following an announcement that a Pride Parade would be held on 23 September, right-wing and religious organizations immediately threatened to prevent the march. In August, the Mayor of Belgrade Dragan Đilas, while promising that police would protect the participants, claimed that sexual orientation was a personal matter that should be kept "within four walls". His statement was made despite the Ministry of Human Rights' support of the Parade in March.

In early 2009, members of LGBT NGOs, including Labris and Queeria, told Amnesty International that they were optimistic about the imminent adoption of anti-discrimination legislation although LGBT organizations and individuals continued to be at risk. The legislation is one of the reforms demanded by the EU accession process and is consistent with the government's obligations under international treaties to which Serbia is party.

On 4 March 2009, the day before the draft law was due to be debated in the parliament and despite six months' consultation with civil society, it was

withdrawn under pressure from the Serbian Orthodox Church, the Catholic Church and the Muslim community.

Ostensibly objecting to an article which sought to guarantee freedom of religion, their primary objection was to an article that provided for the right to freedom from discrimination on the grounds of sexual orientation and the right to determine gender identity.

After much negotiation, the draft law, including both articles, was returned to parliament on 18 March, and following several days of debate was passed by a small majority on 26 March.

IMPUNITY FOR ATTACKS ON HRDs

Amnesty International is concerned about the failure of the Serbian authorities to conduct prompt and impartial investigations into physical attacks and death threats made against HRDs, resulting in impunity for the perpetrators.

No one has been brought to justice for the attacks on the premises of YUCOM, HLC or the Dah theatre group, or for the threats to the lives of Nataša Kandić and Sonja Biserko. Nor has anyone been brought to justice for the almost fatal attack in April 2007 on Dejan Anastasijević, a journalist for the weekly *Vreme*, when a hand grenade was thrown through the window of his flat after the publication of an article about impunity for war crimes.

On 1 March 2009, Biljana Srbljanović, a speaker at a Pešćanik meeting in Pančevo, was charged with disorderly conduct after members of the right-wing and nationalist organization Dveri srpske ("Serbian gate") attempted to break up the meeting violently. The manager of the building claimed they had received an



anonymous bomb threat during the meeting. None of those who disrupted the meeting were charged with an offence.

Research by international and local NGOs has shown that the perpetrators of more than 70 per cent of assaults on HRDs are never identified. Investigations into alleged ill-treatment by the police or assaults on HRDs (including LGBT people) by non-state actors, in which the perpetrators have been identified, are rarely resolved. In December 2008, in the first case of its kind, a person was convicted and fined 10,000 dinars for threatening a member of Gay-Straight Alliance.

However, since 2008 the government has acknowledged the existence of right-wing groups whose members are suspected of attacks on HRDs, LGBT people and on

Lesbian activists protesting against the leader of a Serbian fascist group who attacked gay activists in Belgrade.

‘The tension between civil society associations, the media and politics, especially as concerns NGOs dealing with war crimes, reconciliation or “facing the past” issues, goes beyond the level of tension which is natural to most societies.’

Council of Europe, Serbia: Compliance with obligations and commitments and implementation of the post-accession co-operation programme, 2007, para.VI.

UN DECLARATION ON HUMAN RIGHTS DEFENDERS

The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on human rights defenders) was adopted by the UN General Assembly by consensus on 9 December 1998.

The Declaration calls on governments to explicitly commit themselves to the promotion of human rights and the protection of HRDs. Article 12, for example, provides that:

“1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.”



Women in Black activists marking International Women's Day, March 2009.

minorities, including Albanians and Roma. In 2008 Željko Nikač, a Ministry of Interior Assistant Police Director, publicly acknowledged the existence of “six or seven groups that have neo-Nazi features” and added that “they cannot endanger the country’s security, but they are not to be underestimated”. They included the Serbian chapter of Stormfront (Nacionalni stroj), Blood and Honour (Krv i čast), Honour (Obraz), Skinheads (Skinheds), and a group of football fans, known as Red United Force.

In some cases the police have sought to prevent attacks by such groups, and have taken measures to guarantee the right to freedom of assembly and to freedom of expression. On 11 October 2008, 2,500 riot and gendarmerie police were deployed to a demonstration of right-wing groups in Novi Sad. They were also instructed to protect a counter-demonstration organized by a coalition of anti-fascist NGOs. Thirty-four

people were arrested, some wearing Nazi insignia, and detained for provoking the police and the counter-demonstrators. Amnesty International welcomes such developments.

INTERNATIONAL CONCERN

In November 2008, the European Commission’s progress report on Serbia’s accession to the EU expressed concerns about political attacks on HRDs, stating that “offensive and inflammatory language against political opponents and human rights defenders recurred in parliament.” The Commission noted the impact of Kosovo’s independence on freedom of speech in Serbia and subsequent “numerous reports of incidents involving offensive language, hate speech and violence against organizations and individuals, mainly journalists and human rights defenders”. The Commission also noted that the media and journalists’ associations complained of repeated verbal and physical abuse and that they faced accusations of unpatriotic reporting. The Commission also expressed concerns

about freedom of association in the continued absence of an NGO law and the “restrictive and unfavourable fiscal conditions applied [on NGOs] on an ad hoc and arbitrary basis.”

Also in November 2008, the UN Committee against Torture (CAT) expressed concerns about the “hostile environment for human rights defenders, particularly those working on transitional justice and minority rights and the lack of fair trials on cases filed against human rights defenders for alleged political reasons.” CAT recommended that Serbia “take concrete steps to give legitimate recognition to human rights defenders and their work, and ensure that when cases are brought against them, such cases are conducted in conformity with international standards relating to fair trial.” That same month, the UN Human Rights Council recommended in their Universal Periodic Review that Serbia promote the work of human rights defenders and ensure their protection, including those working for LGBT rights; follow up on the recommendations of the UN Special Representative; and adopt a national plan of action to enhance the protection of HRDs and independent journalists.

In his March 2009 report, Thomas Hammarberg, the Council of Europe Commissioner for Human Rights, urged the authorities, “to send without delay a clear message from the highest political authority unambiguously condemning all sorts of attacks or threats against human rights defenders whenever they occur.” He also recommended that the Serbian government provide protection for HRDs under threat of attack and that it do more to “prevent hate speech and activities of extremist organizations.” The Commissioner urged the authorities “to ensure that the provisions in the Criminal Code concerning hate crime are relied on in prosecutions and that the punishment is appropriate. Hate speech by politicians is not acceptable in a functioning

democracy and the government’s reaction should be firm and immediate.”

ENSURING PROTECTION

The EU has set out guidelines for its member states to assist them in the protection and support of HRDs. The guidelines *Ensuring Protection: European Union Guidelines on Human Rights Defenders* were adopted in 2004 to assist member states’ embassies and EU delegations to “formulate local implementation strategies for the promotion of the guidelines and for practical measures to support human rights defenders”. These may include a rapid response or early warning mechanism to provide international support to HRDs at risk. Embassies are also expected to coordinate and maintain contacts with HRDs; provide, where appropriate, visible recognition to HRDs; and attend and observe trials of HRDs. Few EU member states’ embassies in Serbia have implemented these guidelines.

To date, the Serbian government has not implemented the UN Declaration on HRDs nor formally incorporated its principles into law. However, on 30 October 2008 at a conference on Women, Peace and Security, organized by Women in Black and YUCOM, a Ministry of Justice representative gave her support to the implementation of the Declaration.

On 20 February 2009, the Ministry of Human Rights signed a Memorandum of Understanding (MoU) with more than 120 NGOs, including some of those mentioned in this briefing. According to the Minister, the MoU aims to establish formal collaboration with NGOs addressing discrimination against Roma, women, children, disabled persons and LGBT people. No measures have been taken by the Ministry to promote and support the UN Declaration.



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Biljana Kovačević-Vučo, Director of YUCOM.

On 9 July 2009, the Law on Civic Associations was finally adopted. Amended in 2008 after pressure from the Organization for Security and Co-operation in Europe (OSCE), the Council of Europe and the EU, it provides a framework for the creation, status and operation of associations, including NGOs. This law does not, however, protect their members’ rights to freedom of expression and to freedom of association.

Amnesty International believes that Serbian HRDs must be able to conduct their work freely and without risk. The Serbian government, the EU and EU member states need to take immediate measures to ensure that individuals, groups and organizations are able to defend human rights in Serbia.



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Women in Black campaigning for 11 July to be proclaimed as an official day of remembrance for the Srebrenica massacre, Belgrade, March 2009.

RECOMMENDATIONS

Amnesty International calls on the Serbian government to:

- implement immediately in law, policy and in practice the provisions of the UN Declaration on human rights defenders;
- draw up, in conjunction with HRDs, a plan of action on implementation of the Declaration, including a national action plan for the support and protection of HRDs;
- condemn publicly all attacks on and threats to HRDs;

- conduct prompt, impartial and effective investigations into all attacks on HRDs, and ensure that the perpetrators are brought to justice;
- ensure the effective protection of the 2009 Belgrade Pride.

Amnesty International calls on the EU and EU member states' missions in Serbia to:

- urge the Serbian government to adopt the UN Declaration on human rights defenders, and adopt and implement a national action plan for the support and protection of HRDs;

- condemn publicly all attacks on and threats to HRDs, in addition to diplomatic approaches;
- meet regularly with HRDs at risk;
- implement in Serbia the provisions set out in *Ensuring Protection: European Union Guidelines on Human Rights Defenders*, including the formulation of local implementation strategies, practical measures to support human rights defenders and funding for emergency protection measures.

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