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1. This submission was prepared by Serbian CSOs rallied in the Platform of Organizations for Cooperation with UN Human Rights Mechanisms (hereinafter: Platform).¹
2. The Platform was founded in June 2018 by civil society organizations with ample experience in reporting to UN human rights mechanisms. These CSOs recognized the need for and relevance of the continuous evidence-based reporting process, monitoring of the implementation of the recommendations these mechanisms have been issuing to Serbia and interaction with Serbian Government bodies for monitoring the implementation of UN human rights recommendations. The Platform's activities are guided by the CSOs' recognition of their common interest in systematically engaging in interaction with UN human rights mechanisms.
3. The Report is based on the findings of human rights monitoring and reporting projects and activities implemented by the Platform members and their experience and conclusions drawn through direct work with the victims of human rights violations.
4. The following CSOs are members of the Platform: Astra; Atina; A11 – Initiative for Economic and Social Rights; Belgrade Centre for Human Rights - BCHR; Centre for Independent Living of Persons with Disabilities of Serbia; Center for Dignified Work; Center for Democracy Foundation; Child Rights Centre; ERA – LGBTI Equal Rights Association for the Western Balkans and Turkey; FemPlatz; Centre for LGBTIQ People's Rights - GETEN; Group 484; Mental Disability Rights Initiative – Serbia; Lawyer's Committee for Human Rights – YUCOM; International Aid Network – IAN; Network of Organizations for Children – MODS; National Organization of Persons with Disabilities – NOOIS; Psychosocial Innovation Network – PIN; SOS Network Vojvodina; Standing



Conference of Roma Civic Associations and XY Spectrum.

Access to Justice

5. In 2016, Serbia vowed within the EU accession process to implement activities to strengthen judicial independence, access to justice, and the efficiency of the system chronically staggering under a heavy backlog.² Their implementation has suffered from significant delays and seen only limited success. As per multiple recommendations given during the third UPR cycle in 2018, constitutional changes regarding judicial independence were only partially completed in January 2022, failing to eliminate political pressures on the judiciary and leaving too many issues to be regulated by a set of easily amendable judicial laws, which are yet to be adopted.
6. The critical issue seriously impeding the citizens' ability to seek human rights protection arises from numerous problems in enjoying the right to a fair trial, most notably the right to a trial within a reasonable time.³ The Reasonable Time Act⁴ was meant to ensure the expedition of trials. However, in practice, it serves to further delay the proceedings through the introduction of several formal and time-consuming steps. In addition to exacerbating the heavy backlog, this Act has also led to the freezing of court accounts due to the execution of damage awards for breaches of the right to trial within a reasonable time, which has, in turn, impeded the courts' operations (e.g., their payment of utilities).
7. Although the Reasonable Time Act has been implemented for seven years now, the Constitutional Court of Serbia remains heavily clogged⁵ and unable to provide timely protection of citizens' human rights. The Serbian court system, including the Constitutional Court, is seen by many legal practitioners as simply a necessary step before complaining to the European Court of Human Rights (ECtHR). The non-implementation of repetitive ECtHR judgments⁶ has contributed substantially to the



current situation. The Government's failure to promptly and adequately address systemic issues has greatly undermined judicial efficiency and citizens' access to justice.

8. Recommendations:

- ◆ **Ensure the prompt adoption of judicial laws properly reflecting the intention to strengthen judicial independence and eliminate political pressures on the judiciary.**
- ◆ **Strengthen judicial efficiency to ensure the citizens' right to a trial within a reasonable time, including the execution of court decisions.**
- ◆ **Implement effective measures to reduce the heavy backlogs, including of the Constitutional Court.**
- ◆ **Establish an efficient mechanism, also rallying independent bodies and civil society, to monitor and coordinate the state bodies' implementation of ECtHR judgments.**

Availability of Universal Human Rights Protection Mechanisms to Individuals and Groups of Individuals

9. Serbia has not yet made effective universal human rights protection mechanisms available to individuals and groups of individuals within its jurisdiction enabling them to submit individual communications to UN treaty bodies. Nor has it begun implementing decisions on individual communications issued by Committees the jurisdiction of which it has accepted.⁷
10. Serbia has not yet ratified either the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, or the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; nor has it provided a reasoned explanation for its failure to ratify the Protocols.
11. This form of human rights protection is ineffective due to Serbia's ad hoc approach to implementing the treaty bodies' decisions on individual communications, arbitrary compliance with these decisions and lack of a clear legal mechanism for their implementation. This problem is best illustrated by the case of Cevdet Ayaz, whom Serbia extradited to Turkey despite the interim measure indicated by the Committee



against Torture and requesting of it to refrain from his extradition. Furthermore, Serbia did not fulfil by September 2022 any of the recommendations the Committee against Torture issued in its decision in the case of Ayaz v. Serbia, (No. 857/2017 of 2 August 2019), in which it found Serbia in violation of Articles 3 and 22 of the Convention against Torture. Serbia has not provided redress to Mr. Ayaz, including adequate compensation of non-pecuniary damage; nor has it explored ways and means of monitoring the conditions under which Mr. Ayaz is in detention in Turkey in order to ensure that he is not subjected to inhuman or degrading treatment or punishment.

12. Recommendations:

- ◆ **Ratify the Optional Protocols to the Convention on the Rights of the Child and the Covenant on Economic, Social and Cultural Rights**
- ◆ **Establish an efficient mechanism for implementing UN treaty bodies' decisions on individual communications and a functional mechanism for monitoring their implementation.**

Labor Rights

13. The Draft Act on Seasonal and Other Occasional Employment in Specific Business Activities proposed in 2021 broadens the scope of non-standard forms of employment, whilst doing away with the protections provided by the employment relationship and reducing the level of guaranteed rights. Workers hired under this law shall not be entitled to sick, maternity, childcare or annual leave, to a decent salary or to unionize.



14. An overview of the jobs covered by the draft law clearly shows that it regulates low-paying jobs and those mostly performed by women. It provides for seasonal and occasional employment of aliens without first issuing them a work permit in a regular administrative procedure, which may result in greater abuse and substantially increase the risk of labor trafficking. The Ministry of Labor, Employment and Veteran and Social Affairs (MLEVSA) did not take on board the experts' numerous arguments⁸ for withdrawing the impugned draft during the public debate, but it did promise to consult further with the International Labor Organization (ILO) on the draft's compliance with ILO conventions. UN Special rapporteurs noted that the draft was not in compliance with international conventions and risked to violate the right to freedom of association and other rights enshrined in the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and ILO Conventions 11, 87, 98, 143, 155 and 187.⁹
15. Large-scale violations of the human rights of Vietnamese workers building the Linglong factory, potential victims of human trafficking and labor exploitation, occurred in 2021. Around 400 workers were living in barracks unfit for life and falling short of the criteria under the right to adequate housing enshrined in Article 11 of the ICESCR. The relevant state authorities were called upon to investigate reports that most workers did not have work permits or any personal documents and numerous indications that they were victims of human trafficking, and to extend protection to the workers.¹⁰ However, the institutions did not exercise their powers to protect the workers and the results of investigations into this case have not been made public yet.¹¹ The European Parliament adopted a joint resolution calling for an investigation into forced labor at the factory.¹²
16. In addition, refugees, asylum seekers and specific categories of aliens still face challenges in accessing the right to work. The Aliens Act¹³ does not entitle aliens granted temporary residence on humanitarian grounds to work permits. Both the Asylum and Temporary Protection Act¹⁴ and the Aliens' Employment Act¹⁵ need to be amended to automatically recognize successful asylees the right to work, without the need to apply for personal work permits, and to provide asylum seekers with access to the labor market as soon as they apply for asylum.¹⁶
17. Recommendations:
 - ◆ **Take measures to improve labor rights and the status of workers and minimize work outside the employment relationship and employment**



not governed by the Labor Act.

- ◆ **Urgently investigate allegations of labor exploitation and trafficking in persons and extend support to all victims of labor exploitation.**
- ◆ **Amend the law to provide asylum seekers with efficient access to the labor market.**

Prohibition of Torture

18. **Victims of torture**, be they war torture victims, refugees, asylum seekers, migrants or institutionalized persons, including children, cannot obtain rehabilitation that is specialized, accessible and holistic.¹⁷ Serbia does not have a specialized center for victims of torture providing prompt and adequate comprehensive rehabilitation services, established and financed by the State.
19. Torture leaves severe consequences on the victims' physical and mental health, family, social and professional life. Torture survivors are at greater risk of developing chronic somatic and psychiatric disorders, especially when they are left untreated.
20. Torture victims in Serbia are not recognized as a special group that needs prompt and specialized services. Public health institutions lack the holistic approach to services, which is needed to ensure appropriate rehabilitation. Health professionals are not fully sensitized or trained to identify and work with torture victims. Free-of-charge psychotherapy, legal aid and forensic examinations are not available to torture victims.
21. Recommendation:
 - ◆ **Fully implement the right to rehabilitation for victims of torture and ill-treatment by ensuring that specialized rehabilitation services are available, appropriate and promptly accessible to all of them without discrimination.**
22. **Medical examinations of victims of torture.** Serbian doctors outside the prison system are unaware of their duty to comprehensively document evidence of ill-treatment in accordance with the Istanbul Protocol,¹⁸ especially to record their patients' detailed statements about how they had obtained the injuries, photo-document the injuries and forward all the collected data to the relevant public prosecutor. Irregularities, primarily in the work of doctors, facilitate the public



officials' impunity for torture and ill-treatment. Medical examinations of detainees are most often attended by police officers. Doctors report ill-treatment allegations to the police stations and departments in which the implicated officers work, increasing the risks of retaliation and pressures against individuals alleging ill-treatment. Inadequate medical protocols and legal regulations not emphasizing the duties to document traces of ill-treatment or laying down any penalties for their non-fulfilment also exacerbate the situation.

23. Recommendation:

- ♦ **Explicitly prescribe in regulations governing the work of health institutions the medical staff's obligations to document evidence of torture and ill-treatment, in accordance with the Istanbul Protocol and international human rights standards.**

24. **Police interrogations.** Inadequate police treatment of citizens (extortion of confessions and physical ill-treatment that in some cases reaches the severity of torture) is particularly present during police interrogations. Some suspects have even been exposed to electric shocks.¹⁹

25. In 2016, the Serbian Protector of Citizens submitted a legislative initiative to the Government and the National Assembly to amend the domestic legislation and obligate the police to ensure the audio and video recording of all interrogations of suspects in police stations.²⁰ The same recommendation was issued to Serbia by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT),²¹ but there is not enough political will to change the current practice.

26. Recommendation:

- ♦ **Prescribe mandatory audio and video recording of all interviews of citizens, especially interrogations of suspects, in designated police premises.**

Women's Rights

27. **Participation of women in the labor market**²² The COVID-19 pandemic deepened the prominent labor gender gap in Serbia. The gender gap in employment rates and income persisted, while the labor market remained characterized by gender



segregation by sector and occupation. Women are exposed to substandard working conditions, while the pandemic took a major toll on women working in frontline services (e.g. retail, health and social services),²³ further exacerbating the gender inequalities.

28. 2021 data show persisting major differences between women and men with respect to economic activity and employment. The out of labor force rate of men stood at 37.1% and of women at 53%, while the out of labor force rate of younger women stood at 76.4%.²⁴ The activity rates of men and women stood at 62.9% and 47% respectively, while the employment rates of men and women stood at 56.6% and 41.3% respectively.²⁵ Childcare leave is predominantly taken by women (82% v. 14%) and there is a disproportionate difference between the time women and men spend caring for their children every week. Sixty-four percent of the women spend between two and six hours a day doing unpaid housework, while 76% of the men spend up to an hour a day doing such work.²⁶ This was also recognized by the European Commission in its Serbia 2021 Report, in which it set out the results of a gender analysis showing that the monetary value of unpaid care work, which is mostly performed by women, stands at 21.5% of Serbia's GDP.²⁷ The Gender Equality Index for the work domain shows progress, but the headway can be ascribed to an increase in employment of both women and men, rather than the reduction of the gender gap, which is on the rise.²⁸
29. Women face problems and gender-based discrimination both when they are looking for a job and at work. Most of the complaints of discrimination on grounds of sex and marital and family status filed with the Commissioner for the Protection of Equality (CPF) concerned work, employment and treatment by public authorities.²⁹ Specific groups of women³⁰ are at risk of multiple discrimination and their status on the labor market is even more unfavorable. For instance, there are no available data on the employment of victims of human trafficking, who are recognized as a difficult to employ category,³¹ except for those who benefited from NGO Atina's economic empowerment programs. Nearly 80% of women victims lost their jobs during the first three months of the pandemic,³² while CSOs fulfilled 70% of all the needs of this group.³³
30. Recommendations:
- ◆ **Take measures to eliminate gender stereotypes of "female" and "male" educational profiles and occupations.**



- ♦ **Put in place a set of measures that will ensure a fairer and more equitable division of household chores, including care for children and old family members.**
- ♦ **Take targeted measures to increase the economic activity and employment of women, particularly younger women and women from multiply marginalized social groups, especially Roma women, women with disabilities and rural women.**

31. **Violence against women**³⁴ Despite the good legislative framework and constitutional guarantees of gender equality, discrimination and violence against women are quite widespread in Serbia. Public discourse is awash with sexism and misogyny, while media portrayals of women, especially successful women, are often inappropriate and disrespectful.³⁵ The situation further deteriorated during the COVID-19 pandemic.³⁶ Female journalists are often victims of attacks while women politicians are exposed to various forms of violence.³⁷ Stereotypical and discriminatory portrayals of women in the media perpetuate the deeply-rooted gender roles in which women are passive, inferior and incompetent to offer expertise on issues of public interest. The CPF reported large numbers of complaints of gender-based discrimination occasioned by misogynous and sexist statements and comments, mostly on social media, specifying that most of her recommendations that have gone unheeded concerned discriminatory speech based on sex, gender identity and sexual orientation.³⁸ Civil society organizations have been alerting for years to discriminatory gender stereotypes, sexism and misogyny in the public sphere, especially to the adverse and far-reaching consequences of such statements by senior state officials,³⁹ albeit to no avail.

32. Violence against women remains extremely widespread while monitoring of the Domestic Violence Act⁴⁰ has been obstructed by the absence of publicly available, reliable and consolidated data and a central register of violence cases.⁴¹ The adoption of the 2021-2025 Strategy for Preventing and Combatting Gender-Based Violence against Women and Domestic Violence⁴² was a step in the right direction, but it remains a dead letter, because the Action Plan for its implementation has not been adopted yet. Serbia still lacks reliable official statistics on femicide. A body that would be charged with monitoring femicide has not been established yet although media reported that 48 women were killed in 2020 and 2021.⁴³



33. Recommendations:

- ◆ **Conduct a national campaign on the harmfulness of gender stereotypes**
- ◆ **Ensure that misogynous and sexist statements are penalized adequately, regardless of who makes them**
- ◆ **Secure reliable and disaggregated official data on violence against women, including femicide**
- ◆ **Urgently form a body that will monitor femicide (Femicide Watch)**

LGBTI+ State of Play

34. **Position of trans individuals.** The legal gender recognition process (LGR) in Serbia is regulated by law, but remains inadequate, complicated and lengthy. The bodies responsible for its implementation lack clear guidance on implementation or they appear to be ignoring the prescribed timelines. There is no recognition of the third gender marker, leaving intersex and gender non-conforming people without protection. Only birth certificates may be legally amended without undergoing gender affirming surgery. However, transgender people are pathologized as they are required to undergo hormone therapy and psychiatric evaluation.⁴⁴
35. LGR is regulated in Serbia by the Civil Registers Act⁴⁵ and the Gender Reassignment Rulebook⁴⁶. The latter regulates the complex issue of determining the moment of “sex change”,⁴⁷ that is, which documents individuals need to submit in order to legally change their gender marker in their personal documents. Under the Rulebook, a person must have medical documentation, including the psychiatrist’s report after year-long monitoring, and an endocrinologist’s report after administered hormone therapy, in order to be able to change their legal gender marker. This is not in line with the total depathologization of trans identities and simplifying and speeding up the procedures for obtaining appropriate documents.
36. Although hormone therapy is a mandatory precondition for LGR, access to it is limited at best. A limited number of oral and intradermal types of hormones exist, but they are not efficient in the hormone therapy for trans women. Medications/hormones for trans women in the form of injections, which are efficient and primarily used in the hormone therapy of trans persons, are not listed in the State register of prescription drugs and can be found only in some private



pharmacies.⁴⁸ Testosterone is cheaper and locally produced, wherefore trans men can (in most cases) receive it for free. The COVID-19 pandemic exacerbated the situation.

37. When it comes to trans children, they are affected in different ways: they are not recognized by the national Commission for Transgender Conditions; they cannot access hormone therapy on their own before the age of 18; the hormone blockers used by trans children are expensive.⁴⁹

38. The costs of hormonal treatment of trans persons are not yet covered by compulsory health insurance, despite the fact that the national Health Insurance Act⁵⁰ lays down that at least 65% of medical services of "sex change for medical reasons" shall be funded from the compulsory health insurance fund of the Republic of Serbia.

39. Recommendation:

- ◆ **Adopt a comprehensive law on legal gender recognition and secure trans and intersex affirming healthcare, based on the principles of depathologization, self-determination and non-discrimination, in line with international human rights standards, ICD-11 and best practices.**

40. **Position of intersex individuals.** The amended Anti-Discrimination Act⁵¹ is the first Serbian law to recognize sex characteristics as a protected ground of discrimination.⁵²

41. The Civil Registers Act⁵³ stipulates that the birth of a child must be reported within 15 days from the day of birth. Considering that the sex of the child must be entered in the birth register and the lack of recognition of the third gender marker, such a provision produces negative consequences for intersex children. The competent authority must register the sex of the child, which in practice results in the parents deciding on urgent and harmful medical procedures.

42. Serbia lacks by-laws and precise medical protocols and administrative procedures and guidance addressing the status of intersex newborns and their status during growth and development.

43. Recommendation:

- ◆ **Introduce precise medical and administrative protocols, procedure and guidance on the position of intersex newborns, ending all physically harmful practices and ensuring adequate birth registration.**

44. **Freedoms of expression and peaceful assembly.** The EuroPride 2022 was hosted in Belgrade on 12-18 September 2022,⁵⁴ but the march scheduled for 17 September was



banned by the Ministry of Interior.⁵⁵ The organizers' complaints against the decision submitted to this Ministry and consequently to the Administrative Court were dismissed. The march took place despite the ban, but not along the original route. Incidents were documented.⁵⁶

45. Several people were attacked and hurt after the march.⁵⁷ Some people are 'under investigation' of the Serbian authorities for what they wore and how they looked during the march. The Minister of the Interior still insists that there was no march at all. The ban was condemned by the international community.⁵⁸

46. Recommendation:

- ♦ **Ensure freedoms of peaceful assembly and of expression for LGBTI+ persons and CSOs and secure protection of both the public events and gatherings they organize and of LGBTI+ human rights defenders and the LGBTI+ community from hate speech, hate crimes and discrimination.**

Rights of Persons with Disabilities

47. **Deinstitutionalization.**⁵⁹ Article 52 of the Social Protection Act⁶⁰ prohibits the institutionalization of children under three. However, paragraph 3 of that Article relativizes the ban, allowing their institutionalization for justified reasons and with the consent of the relevant Minister. According to data from 2021 512 children were institutionalized - 345 (67.38%) of whom with disabilities - and that 29 of them (21 with disabilities) were under three.⁶¹ The data lead to the conclusion that children under three are still institutionalized and that most of them - 72.41% - are children with disabilities. Despite positive experiences with foster care, an insufficient number of foster families has been trained in caring for children with disabilities. This is the main reason why children with disabilities are overrepresented in residential care.⁶²

48. The 2022-2026 Strategy on Deinstitutionalization and Development of Community-Based Services,⁶³ but not the Action Plan for its implementation, was adopted in January 2022. In the spring of 2022, the relevant ministry formed a working group to



draft the action plan, which was not adopted by the end of September 2022, as announced. Despite its numerous flaws, the Strategy commendably raises the minimum age for institutionalization to seven. The Strategy also recognizes the necessity of developing specialized, occasional and urgent forms of foster care, which have not been developed in practice yet, wherefore children and youths with disabilities are at greater risk of institutionalization.

49. The Act on the Protection of the Rights of Beneficiaries of Temporary Accommodation in Residential Institutions⁶⁴ adopted in late 2021 marks a turning point in the comprehension of deinstitutionalization and the rights of the beneficiaries.
50. Although the Act does not explicitly mention children under three, it recognizes the importance of the children's life and development in the family. Under the Act, children may be institutionalized in exceptional cases, for particularly justified reasons and for up to six months; the period may be extended. Article 38 of the Act also provides for independent monitoring by human rights CSOs.
51. Although deinstitutionalization and community living are international standards included in Serbia's laws and strategies, the State has continued investing in the infrastructure of residential institutions. The Ministry of Labor, Employment and Veteran and Social Affairs invested 750 million RSD (circa €6,370,000) in the construction of new and the reconstruction of existing facilities within the Subotica Home for Children with Disabilities "Kolevka"⁶⁵ and 78 million RSD (over €660,000) in the renovation of the Sremčica Home for Children and Youths.⁶⁶ The Serbian Office of Public Works reported on its website that renovation worth over 403 million RSD (over €3.4 million) was under way on the Veternik Home.⁶⁷
52. Recommendations:
 - ◆ **Make the necessary legal adjustments that guarantee children's right to family life in accordance with General Comment no. 5 to Article 19 of the Convention on the Rights of Persons with Disabilities and Guidelines on Deinstitutionalization, including emergency situations.**
 - ◆ **Secure adequate support to families to prevent the children's separation from their families and their institutionalization. Provide all children with equal opportunities to live with their extended, wider or foster families when their parents are unable to care for them.**



- ◆ **Limit investments in residential institutions to those necessary to protect the beneficiaries' lives and health and redirect the funds to the development of diverse community services.**

Integration of Refugees

53. As noted in UPR Cycle III recommendations⁶⁸ Serbia still lacks an efficient and coordinated system for the integration of refugees into Serbian society.⁶⁹ The number of applicants granted refuge is still low.⁷⁰ Available data indicate that the authorities have upheld the asylum applications of 216 aliens since 2008. They have granted refugee status to 98 and subsidiary protection to 118 applicants to date.⁷¹
54. Asylees still do not have access to citizenship, or travel documents, rendering Serbia one of the few countries in the Europe withholding this right. The Interior Minister's (in)action de facto continued restricting the refugees' freedom of movement, although 14 years have passed since Serbia established the asylum system.⁷²
55. The IDs for asylum seekers and foreigners granted asylum still lack all the requisite elements as those issued to Serbian nationals.⁷³ The paper IDs are simple in format, handwritten and laminated, lacking biometric data. Furthermore, such documents often lead to their holders' discrimination when they attempt to open bank accounts,⁷⁴ access healthcare, etc.
56. The greatest challenges still arise in the field of healthcare. The Ministry of Health (MoH) should disseminate guidance to all health institutions in the country about the health rights of this category, while the National Health Insurance Fund (NHIF) should supply unemployed refugees and asylum seekers with health cards, on an equal footing with Serbian nationals.
57. Another concern is the lack of access to specific services for migrant women and children, victims of gender-based violence and human trafficking.⁷⁵ This shortcoming is reflected in unclear procedures and responsibilities for reporting the violence, the inability to provide adequate and safe accommodation for the victims, insufficient psychological support, and the victims' difficulties in accessing justice.
58. Serbia needs to increase efforts to finalize the ratification of the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.⁷⁶



59. Recommendations:

- ◆ **Provide refugees with access to citizenship.**
- ◆ **Adopt a by-law governing the format of the travel document for refugees.**
- ◆ **Provide adequate biometric ID cards for asylum seekers and refugees.**
- ◆ **The MoH and the NHIF should supply unemployed refugees and asylum seekers with health cards, on an equal footing with Serbian nationals.**
- ◆ **Ensure access to necessary protection and support services for all migrant women and children who are victims of gender-based violence and human trafficking.**
- ◆ **Ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.**

Rights of the Child

60. **Act on the Rights of the Child and Ombudsman for Children.**⁷⁷ The adoption of the Act on the Rights of the Child and Ombudsman for Children remains pending, although the public debate stage was completed in June 2019. The Act would facilitate alignment with numerous laws partially governing child rights and harmonization of national law with ratified international treaties. Serbia still lacks an independent institution for the protection of child rights, which would be established and operate in accordance with the Paris Principles and the Committee on the Rights of the Child General Comment No. 2.⁷⁸ The Act would secure such an independent mechanism for protecting, promoting and monitoring the realization of child rights in Serbia.
61. The complaints review procedure of the Protector of Citizens is not tailored to children. Rather than providing for a Deputy Protector of Child Rights, the Protector of Citizens Act⁷⁹ sets out that the Protector of Citizens shall have up to four deputies assisting him/her in performing the duties laid down in that law. Due to this major deficiency, the Act does not facilitate separate and independent protection of child rights; instead, it leaves it to the Protector of Citizens to determine which human rights fields his/her Deputies will focus on, rendering the Deputies invisible, unrecognizable and inaccessible to the children themselves and their representatives.



62. Children's developmental abilities render them extremely susceptible to human rights violations; their opinions are rarely taken into account and they face major problems in using the justice system to protect their rights or availing themselves of legal remedies for violations of their rights.⁸⁰
63. Children with disabilities and without parental care living in closed systems, such as residential institutions, are in a particularly precarious situation since they have no access to protection mechanisms. Research⁸¹ clearly shows that the right to life, as well as other rights of institutionalized children with disabilities are jeopardized, pointing to the necessity of taking seriously and prosecuting the reported cases of systemic torture.
64. This is why Recommendation 114.17 issued during the third cycle of the UPR should be reiterated:
- ◆ **Adopt a comprehensive law on children's rights and establish an office of the Ombudsman for Children.**
65. **Corporal punishment of children.**⁸² Corporal punishment of children is still not explicitly prohibited by law, because the Family Act⁸³ has not been amended adequately yet. The Draft Act on the Rights of the Child and Ombudsman for Children defines and prohibits corporal punishment. Once adopted, this law will definitely be the main source for fully banning this form of disciplining children.
66. The 2020-2023 Strategy for the Prevention and Protection of Children from Violence and its 2020-2021 Action Plan, adopted by the Serbian Government in May 2020, have not been implemented. Serbia has not set up a working group to implement and monitor this important step for the strategic improvement of protection of children from violence in Serbia. Nor have the CSOs that should take part in monitoring and reporting on the implementation of the Strategy been named.
67. The MICS survey conducted in 2019 by UNICEF in cooperation with the Statistical Office of the Republic of Serbia and the UN Population Fund with EU support shows devastating results: 45% of children aged between 1 and 14 are subjected to violent disciplining at home; the share of children exposed to such disciplining in Roma settlements is even higher – 67%.⁸⁴
68. This is why Recommendation 114.92 issued within the third cycle of the UPR should be reiterated:



◆ **Explicitly prohibit corporal punishment of children by law.**

69. **Human trafficking.**⁸⁵ Serbia is a country of origin, transit and destination for victims of trafficking in persons. A large share of the identified victims are children (64% in 2019, 42% in 2020 and 37% in 2021), and the vast majority of them are girls (59% in 2019, 49% in 2020, 94% in 2021). Most of the victims of human trafficking were subjected to sexual exploitation (59% in 2019, 37% in 2020, 50% in 2021).⁸⁶
70. Most of the human trafficking victims - 52 (91%) - officially identified in 2020 were nationals of Serbia; 23 (44%) of them were children (18 girls and five boys). 2021 data are also discouraging – 37 of the 46 formally identified victims were under age and girls accounted for 94% of human trafficking victims.
71. The Anti-Trafficking Council, an important body charged with managing, coordinating and supporting the inter-sectoral response to human trafficking and adopting the Action Plan, has not met for three years.⁸⁷ The Government has thus not provided any answers to important issues, such as: the increase in the number of identified victims in 2020, during the COVID-19 curfew; a potential human trafficking case with elements of sexual exploitation of women and girls facilitated by state officials in Jagodina in 2021; the crisis caused by the wave of refugees from Ukraine, Russia and other countries involved in the conflict and the potential victims, the most vulnerable of whom are women and children.
72. The 2021-2022 Action Plan for the Implementation of the 2017-2022 Anti-Trafficking Strategy⁸⁸, which was to have been adopted in 2020, was at long last drafted in July 2021 but it has never been officially adopted.
73. Among other things, the State needs to continuously endeavor to improve the referral mechanisms for victims of human trafficking and engage and acknowledge CSOs to a greater extent. Efforts should also be made to build the capacities and links among various stakeholders to address the exploitation of children both on the Internet and outside it, with emphasis on the fact that some children are at great risk of abuse and exploitation.
74. This is why Recommendation 114.008 issued within the third cycle of the UPR needs to be reiterated:
- ◆ **Continue increasing actions to combat trafficking in persons, especially women and children, and reinforce measures to prevent and improve the detection of these cases**



¹ <https://platforma.org.rs/>.

² Chapter 23 Action Plan, Government of Serbia, April 2016.

³ 79% of ECtHR applications against Serbia allege breaches of the right to a fair trial.

⁴ Official Gazette of the RS, No. 40/2015.

⁵ The number of pending cases before the Constitutional Court of Serbia, serving 6.9 million people, stood at 41,120 in 2021, or slightly more than half of the 70,150 cases pending before the ECtHR, serving circa 675 million people living in Council of Europe countries.

⁶ For example: 1. *Kačapor and Others v. Serbia* (2269/06, 3041/06, 3042/06, 3043/06, 3045/06, and 3046/06) is a leading ECtHR case in a group regarding, among other things, the non-execution of judgments ordering socially-owned enterprises to pay their debts to their employees. Although more than 14 years have passed since the *Kačapor* judgment became final, Serbia has yet to adequately redress the workers and put in place effective measures to prevent similar breaches of the right to a trial within a reasonable time as the ones suffered by the claimants in the *Kačapor* group. Serbia has so far paid only a tiny portion of the total debt owed to date;

2. *Zorica Jovanović v. Serbia* (21794/08) is a leading ECtHR case in this group. In its judgment, the ECtHR obliged Serbia to create a mechanism providing individual redress to parents enabling them to learn the truth about the fate of their children who had gone missing in maternity wards. The Act on Establishing Facts on the Status of Newborns Suspected to Have Disappeared in Maternity Wards in the Republic of Serbia adopted in 2020, seven years after the *Jovanović* judgment, compensates the parents for the breach of their right to family life, but has failed to discover the truth in any of the 700 cases filed by the parents.

⁷ The Human Rights Committee stated in paragraph 6 of its 2017 Concluding Observations (CCPR/C/SRB/CO/3) that it “...remains concerned about the lack of clear legal mechanisms for implementing and monitoring the implementation of the Views adopted by the Committee under the Optional Protocol.”

⁸ The “I Live Out of Season Too” initiative called for the withdrawal of the draft law from the procedure; 162 signatories sent an identical request to the Ministry, which had proposed the law.

⁹ See more at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27193>. See also, American Bar Association [Commentary on the Impact of the Draft Law on Seasonal and Other Occasional Employment in Specific Business Activities in Serbia on Migrant Workers and the Right to Unionize](#).

¹⁰ A11 Initiative and Astra, [Living and labor conditions of the Linglong factory construction workers from Vietnam](#), 2021.

¹¹ See also: USA, Department of State, [Trafficking in Persons Report 2022](#), p. 482.

¹² European Parliament, [Resolution on forced labor in the Linglong factory and environmental protests in Serbia](#), 16 December 2021; the UN Special rapporteur on trafficking in persons and other Special rapporteurs expressed their concern about the Linglong situation in their [letter](#) of 22 January 2022 to the relevant Serbian authorities; the Committee on Economic, Social and Cultural Rights recommended that Serbia expand the scope of labor inspections, strengthen the capacity and powers of the Labour Inspectorate and improve the quality of labor inspections, Concluding observations on the third periodic report of Serbia, UN Doc. no. E/C.12/SRB/CO/3, paras. 46-47.

¹³ Official Gazette of the RS, Nos. 24/2018 and 31/2019.

¹⁴ Official Gazette of the RS, No. 24/2018.

¹⁵ Official Gazette of the RS, Nos. 128/2014, 113/2017, 50/2018 and 31/2019.

¹⁶ The Asylum Act entitles asylum seekers to apply for personal work permits nine months after they applied for asylum; the application fees are still very high (€140).

¹⁷ Article 14 of the UN CAT provides victims of torture and ill-treatment a right to rehabilitation, which encompasses the States’ obligation to ensure that specialized rehabilitation services are available, appropriate and promptly accessible to all victims without discrimination.

¹⁸ [Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#).

¹⁹ These findings are stated in the latest reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment ([2022 CPT Report](#), paras. 15-19) and the UN Special Rapporteur on Torture, who visited Serbia in 2017 ([Report A/HRC/40/59/Add.1](#), paras. 20-23).



²⁰ In accordance with the State's obligations under Articles 2 and 11 of the UN CAT

²¹ [2022 CPT Report](#), para. 40.

²² Follow up to Recommendation 113.18 of the Report of the Working Group on the Universal Periodic Review A/HRC/38/17 *Take the necessary measures to promote the participation of women in the labour market in a wider range of occupations, including through awareness-raising to overcome gender stereotypes (Iceland)*.

²³ Femplatz, [Report on women's rights and gender equality in Serbia in 2020](#), Pančevo, 2021, p. 21.

²⁴ Statistical Office of the Republic of Serbia, [Labor Force Survey 2021](#), Belgrade, 2022, pp. 18-19.

²⁵ *Ibid.*

²⁶ Commissioner for the Protection of Equality, [Gender Equality and Work-Life Balance](#), Belgrade, 2021, p. 9.

²⁷ European Commission, [Serbia 2021 Report](#), p. 101.

²⁸ Serbian Government Social Inclusion and Poverty Reduction Unit, Marija Babović and Marijana Petrović, [Gender Equality Index for the Republic of Serbia 2021](#), Belgrade, 2021, p. 25.

²⁹ Commissioner for the Protection of Equality, [2021 Annual Report](#), Belgrade, 2022, p. 188.

³⁰ Roma women, women with disabilities, rural women.

³¹ National Employment Service, Assistance in Economic Empowerment of Victims of Violence, Belgrade, 2017, available in Serbian at: http://www1.nsz.gov.rs/live/info/vesti/pomo_u_ekonomskom_osna_ivanju_rtava_nasilja.cid32889.

³² Atina, [Vicinity - Jelena Hrnjak, Belgrade: The loudest voices are the ones justifying violence](#), Belgrade.

³³ Atina, [Promising practices: Atina's response to the crisis caused by the COVID-19 pandemic](#), Belgrade.

³⁴ Follow up to Recommendation 113.44 of the Report of the Working Group on the Universal Periodic Review A/HRC/38/17 *Formulate and implement systematic measures towards the eradication of stereotypes of women in society, creating a climate of zero tolerance for violence against women (Slovenia)*.

³⁵ Femplatz, Kosana Beker, Biljana Janjić and Monika Husar Tokin, *Media and Information Literacy and Gender Equality*, Pančevo, 2020, p. 9, available in Serbian at: https://www.femplatz.org/library/MIP_i_RR_e-Bilten.pdf.

³⁶ Femplatz, [Report on women's rights and gender equality in Serbia in 2020](#), Pančevo, 2021, pp. 24-25.

³⁷ OSCE Mission to Serbia, Marija Babović et al, [Violence against women politicians in Serbia: women in politics at the tripoint of gender, power and political culture - Brief report](#), Belgrade, 2021.

³⁸ Commissioner for the Protection of Equality, [2021 Annual Report](#), Belgrade, 2022, pp. 8 and 158.

³⁹ [Shadow Report to the Committee for the Elimination of All Forms of Discrimination against Women regarding the fourth reporting cycle of Serbia, Report submitted by the Platform of Organizations for Cooperation with UN Human Rights Mechanisms](#), January 2019, pp. 6-7.

⁴⁰ Official Gazette of the RS, No. 94/2016.

⁴¹ Femplatz, [Report on women's rights and gender equality in Serbia in 2020](#), Pančevo, 2021, p. 68.

⁴² Official Gazette of the RS, No. 47/2021

⁴³ The number of victims may be higher since the media may not have reported all the femicide cases.

⁴⁴ This is a mandatory requirement before accessing LGR. In addition, the State has not begun the final revision of the International Classification of Diseases – ICD11, an issue alerted to also by the Protector of Citizens in his [2021 Annual Report](#), pp. 19 and 70.

⁴⁵ Official Gazette of the RS, Nos. 20/2009, 145/2014 and 47/2018.

⁴⁶ Official Gazette of the RS, No. 103/2018.

⁴⁷ Pursuant to Article 45b of the Civil Registers Act.

⁴⁸ The National Health Insurance Fund only recently included medicines for establishing the appropriate hormonal status of trans women in the list of prescription drugs.

⁴⁹ Monthly treatment costs circa €300.

⁵⁰ Official Gazette of the RS No. 25/2019.

⁵¹ Official Gazette of the RS, Nos. 22/2009 and 52/2021.

⁵² As recommended within the 3rd UPR Cycle.

⁵³ Official Gazette of the RS, Nos. 20/2009, 145/2014 and 47/2018.

⁵⁴ <https://euopr2022.com/>



⁵⁵ <https://www.epoa.eu/ban-on-europride-demonstrates-failure-of-serbian-leadership/>
<https://rs.n1info.com/english/news/europride-coordinator-i-am-sad-and-disappointed/>

⁵⁶ More in Annex 1.

⁵⁷ <https://rs.n1info.com/english/news/large-and-small-incidents-during-europride/>
<https://rs.n1info.com/english/news/n1-reporter-verbally-assaulted-at-anti-europride-gathering/>

⁵⁸ <https://www.epoa.eu/we-must-all-acknowledge-the-courage-and-determination-of-belgrade-pride/>
<https://rs.n1info.com/english/news/embassies-express-support-for-lgbtq-community-europride-march/>

⁵⁹ Follow up to Recommendation 114.97 of the Report of the Working Group on the Universal Periodic Review
A/HRC/38/17 *Strengthen further implementation of the deinstitutionalization process, with particular focus on children without parental care under age of 3 (Montenegro)*

⁶⁰ Official Gazette of the RS, No. 24/2011.

⁶¹ Data provided by institutions caring for children without parental care and children with disabilities in 2022 in response to MDRI-S' requests for access to information of public importance.

⁶² MDRI-S, [Serbia's Forgotten Children, 2021](#).

⁶³ Official Gazette of the RS, No. 12/2022.

⁶⁴ Official Gazette of the RS, No. 126/2021.

⁶⁵ See the MLEVSA press release of 16 March 2022, available in Serbian at:

<https://www.minrzs.gov.rs/srb-lat/aktuelnosti/vesti/unapredjeni-kapaciteti-doma-za-decu-ometenu-u-razvoju-%E2%80%9Ekolevka%E2%80%9C-u-subotici>

⁶⁶ See the Radio Television of Serbia report, available in Serbian at:

<https://www.rts.rs/page/stories/sr/story/125/drustvo/3196472/za-renoviranje-doma-u-sremcici-78-miliona-dinara.html>

⁶⁷ See the Office of Public Works press release, available in Serbian at:

<http://www.obnova.gov.rs/cirilica/news/article/projekti-u-toku>.

⁶⁸ Follow up to Recommendations of the Report of the Working Group on the Universal Periodic Review: 113.74 *Establish an efficient and coordinated system for the integration of refugees into society* (Germany); 114.109 *Strengthen measures to prevent and combat trafficking in persons, paying special attention to migrants and refugees* (Honduras); 114.111 *Promote efforts to prevent and combat human trafficking, particularly of refugees and migrants* (State of Palestine); 114.110 *Strengthen measures to combat and eliminate trafficking in persons, particularly migrants and refugees* (Sierra Leone); 114.112 *Strengthen its measures to prevent and combat trafficking in persons, with a specific focus on migrants and refugees* (Timor-Leste); 114.113 *Strengthen measures to prevent and combat trafficking in persons, placing a specific focus on migrants and refugees, in line with the Human Rights Committee's recommendation* (Ukraine); 114.114 *Intensify efforts to prevent and combat trafficking in persons, focusing on migrants and refugees* (Indonesia);

⁶⁹ According to BCHR's records, at least 40 aliens granted asylum have left Serbia over the past three years because of their inability to integrate in its society in the long term.

⁷⁰ This was particularly problematic for marginalized groups of refugees, such as LGBTI+ refugees during the reporting period.

⁷¹ See more in: [Right to Asylum in the Republic of Serbia – Periodic Report for January – June 2022](#), Belgrade Centre for Human Rights.

⁷² The Refugee Convention lays down that the Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory. A specimen travel document is available in the Annex to the Convention. The Convention also obliges States to, as far as possible, facilitate the assimilation and naturalization of refugees.

⁷³ The Rulebook on the Templates of the Asylum Application and Document Issued to Asylum Seekers and Individuals Granted Asylum or Temporary Protection has not yet been brought in line with the national Act on IDs.

⁷⁴ Equality Commissioner Finds Banks Had Directly Discriminated against Refugees and Asylum Seekers in the RS, see more in: [Right to Asylum in the Republic of Serbia 2021](#), Belgrade Centre for Human Rights.

⁷⁵ See ANNEX II for more information.

⁷⁶ In line with recommendations provided during the previous 3rd Cycle – 29th session.

⁷⁷ Follow up to Recommendation 114.17 of the Report of the Working Group on the Universal Periodic Review
A/HRC/38/17 *Adopt a comprehensive law on children's rights and establish an office of the Ombudsman for Children (Mongolia)*.



⁷⁸ The Committee on the Rights of the Child also noted this in its Concluding observations on the combined second and third periodic report of Serbia (CRC/C/SRB/CO/2-3). It recommended that Serbia expedite the adoption of the law on the ombudsman for the rights of the child in order to deal specifically with children's rights, ensure that such a body has a mandate to receive, investigate and address complaints from children in a child-sensitive manner, and allocate sufficient human, financial and technical resources to support the work of the office.

⁷⁹ Official Gazette of the RS, No. 105/21.

⁸⁰ Center for the Rights of the Child, [Child-Friendly Justice The Perspectives of Children and Youth](#), Belgrade, October 2020.

⁸¹ MDRI-S, [Serbia's Forgotten Children, 2021](#).

⁸² Follow up to Recommendation 114.92 of the Report of the Working Group on the Universal Periodic Review A/HRC/38/17 *Explicitly prohibit corporal punishment of children in legislation (Portugal)*.

⁸³ Official Gazette of the RS, Nos. 18/2005, 72/2011 and 6/2015.

⁸⁴ Roberto Grujić et al, [Research on Child Disciplining at Home in Serbia](#), Institute of Psychology, Faculty of Philosophy, University of Belgrade, 2020.

⁸⁵ Follow up to Recommendation 114.108 of the Report of the Working Group on the Universal Periodic Review A/HRC/38/17 *Continue increasing the actions to combat trafficking in persons, especially women and children, and reinforce measures to prevent and improve the detection of these cases (Bolivarian Republic of Venezuela)*.

⁸⁶ Statistical data are available in Serbian on the website of the Center for the Protection of Victims of Human Trafficking <https://centarzztlj.rs/statisticki-podaci/>.

⁸⁷ The [most recent press release](#) issued by the MOI dates back to 25 January 2019.

⁸⁸ Official Gazette of the RS, No. 77/2017.