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Serbia: Domestic violence, including legislation, recourse, state protection, and support services available to victims (2012-April 2015)

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1. Overview

In correspondence with the Research Directorate, a representative of Fenomena, a women-led NGO in Kraljevo that provides services to female victims of domestic abuse, provided statistics about domestic violence that originated from the UN Development Programme (UNDP) Serbia (Fenomena 31 Mar. 2015). According to the UNDP study, 37.5 percent of women in Serbia had experienced family violence in the recent past and 54 percent had experienced family violence in their lifetime; the most common form of violence was psychological, at 48.7 percent of cases, followed by physical violence at 21.6 percent of cases (ibid.).

Sources report the following with regards to deaths caused by domestic violence:

In 2011, 29 females were murdered under circumstances of domestic violence in Serbia (WAVE 2013, 2).

In 2012, 29 (B92 28 Mar. 2013; Transitions Online 20 Feb. 2014) or 32 females were murdered under circumstances of domestic violence in Serbia (WAVE 2013, 2; AP 10 Dec. 2013; Transitions Online 20 Feb. 2014).

In 2013, 43 (Transitions Online 20 Feb. 2014), 45 (US Aug. 2014) or 46 females were murdered under circumstances of domestic violence in Serbia (Transitions Online 20 Feb. 2014).

In 2014, 27 females were murdered under circumstances of domestic violence in Serbia (Fenomena 31 Mar. 2015).

For additional statistics regarding the prevalence of domestic violence in Serbia, including statistics regarding arrests, convictions, and outcomes, see the Special Report of the Protector of Citizens on

the Implementation of the General and Special Protocols on Protection of Women against Violence attached to this attached to this Response.

According to a 2013 report by the Women Against Violence Europe (WAVE) Network, a feminist network promoting the human rights of women and children (WAVE n.d.), in 2012, 34 percent of murders of women in Serbia were committed with a firearm (ibid. 2013, 3). The same source links the home ownership of guns to the "militarization" that Serbia experienced in the 1990s (ibid.).

According to the Protector of Citizens [also known as Ombudsman], an independent body established in Serbia to "protect the rights of citizens and control the work of government agencies" (Serbia 2007), the Ministry of Interior indicated that there were 5,352 cases of domestic violence reported to the police between 1 January 2013 and 1 June 2014, consisting of 4,399 female victims and 1,276 male victims, and that the alleged perpetrators were mostly men (4,861 compared to 349 women) (ibid. Nov. 2014, 25). According to an article by B92, a nationwide radio and TV broadcaster that provides journalistic coverage and advocacy for human rights in Serbia (B92 n.d.), "women are victims in 95 percent of reported domestic violence cases in Serbia" (B92 28 Mar. 2013). According to the Protector of Citizens, the police register over 20,000 calls for protection from domestic violence annually, while the Social Welfare Centres (SWC) register over 9,000 victims of domestic violence annually (Serbia 24 Nov. 2014).

Sources indicate that women often refrain from reporting domestic violence in Serbia (Serbia Nov. 2014, 19; Praxis 2012, 3; UN 2013). According to the UNDP, only 10 percent of women exposed to violence in Serbia report it to the state institutions (ibid.). The 2014 report by the Protector of Citizens notes that, according to the opinion of staff at state agencies, "women do not report violence because of fear and a feeling of shame" (Serbia Nov. 2014, 19). According to the Parallel Report Concerning Serbia to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), published by Praxis, a national NGO in Belgrade that protects human rights by providing legal protection and advocating for the elimination of systemic obstacles in access to rights (Praxis n.d.), survivors of domestic violence often refrain from filing criminal charges "for fear of not having the support of their primary family, the lack of shelter for survivors of domestic violence in their place of living, or because they are economically dependent on the perpetrator" (ibid. 2012, 3).

Sources indicate that domestic violence is regarded as a private problem or family matter by institutions in Serbia (ibid.; Observatory on Violence Against Women Mar. 2013, 7).

2. Legislation

According to Praxis, domestic violence was recognized as a criminal act in 2006, and a system of protection from domestic violence was established under Family Law in 2005 (Praxis 2012, 1).

Article 194 of Serbia's Criminal Code titled "Domestic Violence" states:

Whoever by use of violence, threat of attacks against life or body, insolent or ruthless behavior endangers the tranquility, physical integrity or mental condition of a member of his family, shall be punished with imprisonment of three months to three years.

If in committing the offence specified in paragraph 1 of this Article weapons, dangerous implements, or other means suitable to inflict serious injury to body or seriously impair health are used, the offender shall be punished with imprisonment from six months to five years.

If the offence specified in paragraphs 1 and 2 of this Article results in grievous bodily harm or serious health impairment or if committed against a minor, the offender shall be punished with imprisonment from two to ten years.

If the offence specified in paragraphs 1, 2, and 3 of this Article results in death of a family member, the offender shall be punished with imprisonment from three to fifteen years.

Whoever violates a measure against domestic violence that was imposed on them by the court in accordance with the law shall be punished with imprisonment from three months to three years and a fine. (Serbia 2012, Art. 194)

According to Article 112 of the Criminal Code,

(28) A family member shall mean spouses, their children, spouses' progenitors in the direct line, common law partners and their children, adoptive parents and adopted children, foster parents and foster children. A family member shall also mean siblings, their spouses and children, former spouses, their children and parents of the former spouses if they live in the same household, as well as persons who have a child together or who have conceived a child even though they have never lived in the same household. (ibid. 2012, Art. 112)

2.1 Protection Orders

According to a 2013 UN Women report on the application of domestic violence legislation in Serbia, the Criminal Code supports the protection measures indicated in the 2005 Family Code, which contains provisions on the following protection orders, which can be issued in civil procedure:

Injunction for an abuser to move out of a flat or house disregarding his/her property or rental rights on the real estate; injunction for moving a victim into a flat or house disregarding property or rental rights on the real estate; prohibition of approaching the family member at a certain distance; prohibition of access to the area around the workplace and home of the family member; and prohibition of further harassment of the family member (non-molestation order). These protection orders may be valid up to one year, and if need be, extended until the violence stops; the procedure for issuing these orders should be urgent. (UN 2013, 3)

3. State Protection

According to the Protector of Citizens, Serbia "has ratified all the most important international treaties relating to the protection of women against violence, but the domestic legal framework has not yet been adequately amended (Serbia Nov. 2014, 8). According to Balkan Insight, the Balkan Investigative Reporting Network's (BIRN) online publication (Balkan Insight n.d.), Serbia adopted the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence on 1 August 2014 (Balkan Insight 25 Nov. 2014).

Sources indicate that government efforts to address domestic violence in Serbia have been ineffective (Fenomena 31 Mar. 2015; EU Oct. 2014, 13; US 27 Feb. 2014, 20). According to the US Department of State's Country Reports on Human Rights Practices for 2013, "the few official agencies dedicated to coping with family violence had inadequate resources" (ibid.). A 2013 shadow report to the UN's Committee for the Elimination of Violence Against Women (CEDAW) authored by the Autonomous Women's Center (AWC) and four other NGOs [1,] similarly states that there is "no will" among state authorities to allocate state funds towards preventing and combatting violence against women (AWC May 2013, 9).

According to Country Reports 2013, while rape, including spousal rape, is a crime punishable by up to 40 years in prison, "advocates believe that only a small percentage of rape victims reported their attacks due to fear of reprisals from their attackers, or humiliation in court" (US 27 Feb. 2014, 20).

According to the Protector of Citizens, in over 10 percent of cases presented to health care providers, health care providers identify violence but do not report it, and some health care providers charge victims of violence for the issuance of medical certificates testifying to their injuries sustained due to domestic violence (Serbia Nov. 2014, 4).

3.1 Police and Judiciary

Sources indicate that the sentencing of perpetrators of domestic violence in Serbia is too lenient (US 27 Feb. 2014, 20; AP 10 Dec. 2013). Sources indicate that acts of domestic violence are prosecuted as either a criminal charge or a misdemeanor (Serbia n.d., 7; Praxis 2012, 3). According to Praxis, the police, in agreement with the prosecutor, will usually file misdemeanor charges, including in cases in which a woman has "lighter bodily injuries" and in cases in which a woman is "running away from serious threats of being killed" (ibid.). According to the same source, when domestic violence is qualified as a misdemeanor, "its significance is in fact minimised, and it is seen as a private or family matter" (ibid.). Praxis notes that, despite the wide scope of penalties for perpetrators depending on the gravity of the criminal act, "perpetrators are most often granted criminal probation and do not serve prison time" (ibid., 7).

The Fenomena representative stated that there is "a huge discrepancy between reported and processed cases" of domestic violence (Fenomena 31 Mar. 2015). She said that, according to police statistics, in 2012 the Kraljevo police registered 288 cases of domestic violence and reported 244 cases to the Prosecutor and/or CSWs, with 23 of the cases resulting in prosecution (ibid.). In 2014, there were 270 cases reportedly registered with the police, resulting in 78 prosecutions (ibid.). According to Associated Press (AP), a 2013 study by independent experts affiliated with WAVE found that 2 percent of more than 8,000 complaints of domestic violence in 2010 in Serbia resulted in "measures to protect the victims" (AP 10 Dec. 2013).

Praxis reports that a victim of domestic violence "does not have the opportunity to lodge a complaint against the verdict if the public prosecutor decides that a complaint is not necessary" (2012, 2). The Protector of Citizens notes that victims of domestic violence do not have access to free legal aid (Serbia 24 Nov. 2014). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

WAVE reports that 9 out of 32 women who were murdered under circumstances of domestic violence in 2012 reported the violence and asked for help from authorities prior to the killings but

the "relevant institutions were inefficient and ineffective, or that the institutions failed to react at all" (WAVE 2013, 3).

Sources indicate that criminal charges for domestic violence against women are often not prosecuted due to a lack of evidence or when victims refuse to press charges (Fenomena 31 Mar. 2015; Serbia Nov. 2014, 38; Praxis 2012, 3). Praxis states that usually police do not press criminal charges without the victim's statement, but will issue a warning or "at most press misdemeanour charges" (ibid.). According to the Protector of Citizens, a large number of women drop the charges due to a lack of a support system, including lack of employment, safe housing, and fear of how the outcome will affect their children (Serbia Nov. 2014, 38). According to Country Reports 2013, domestic violence cases are "difficult to prosecute because of the lack of witnesses and evidence, and the unwillingness of witnesses or victims to testify" (US 27 Feb. 2014, 20).

Praxis reports that, while the law prescribes that "all procedures for the protection of the survivors of domestic violence are urgent," in their experience representing victims, the average time it takes for the public prosecutor to begin investigations of domestic violence cases is approximately six months (Praxis 2012, 2). The Protector of Citizens also indicated that court proceedings in domestic violence cases last a "very long" time (Serbia 24 Nov. 2014).

AP reports data from Serbia's Justice Ministry indicating that in 2012, out of 1,857 convictions for domestic violence, 1,273 were suspended sentences (AP 10 Dec. 2013). The Protector noted that in 70 percent of domestic violence court cases the perpetrator is given a "probation penalty," and the implementation of the penalty is not monitored, so it is not known if the perpetrator violates its conditions (ibid.). According to the Protector, domestic violence victims "are known to report the perpetrators to the police over and over, while the police only give them a warning" (Serbia 24 Nov. 2014).

For further information and statistical data regarding procedures taken up by the authorities upon reported domestic violence acts, see the Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence, which is attached to this Response.

Sources indicate that there is insufficient cooperation between the institutions responsible for the protection of women victims of domestic violence (Fenomena 31 Mar. 2015; Serbia Nov. 2014, 4).

4. Support Services

4.1 Social Welfare Centers (SWCs)

According to the Protector of Citizens, there are 101 SWCs in Serbia that provide assistance to victims of domestic violence, including: help with application for protection orders; submitting findings and opinions to the police, public prosecutor and the Court; finding accommodation for women in safe houses; and providing advice, guidelines and other services (Serbia Nov. 2014, 35). The same source indicates that SWCs possess mobile teams and a phone hotline (ibid.). According to Praxis, some SWCs provide counselling and some have shelters on site, find emergency accommodations in individual homes, or arrange placement in a safe house in another municipality (Praxis 2012, 6). Praxis notes that SWCs are one of the first institutions in Serbia which "undertakes active measures for the protection and support of survivors" (ibid., 5). However, the same source

reports several impediments to obtaining adequate social protection through SWC in Serbia, including:

A "lack of personal documentation, permanent/temporary residence";

"complicated and lengthy administrative procedures";

difficulties for uneducated clients to understand the requirements;

A lack of funds in the budgets of local governments (ibid.).

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4.2 NGO Support Services

According to Country Reports 2013, official agencies addressing domestic violence do not have adequate resources, and civil society plays the "primary role in combating violence against women" (US 27 Feb. 2014, 20). The report indicates that "NGOs operated shelters for female victims of violence, and the government continued to provide financial support to safe houses for victims of family violence throughout the country" (ibid.). In 2013, there were 10 safe houses for women operated by NGOs, with three in Belgrade, and one each in Nis, Kragujevac, Valjevo, Pancevo, Novi Sad, Zrenjanin, and Sombor (ibid., 21). In addition, the same source indicates that there is an urgent accommodation facility in Sabac, a city in Western Serbia (ibid.). In some cases, local municipalities contributed small amounts of financial support (ibid.). The report further indicates that all safe houses accommodate the victim's children (ibid.).

There are 26 women's NGOs in Serbia, which are members of the WAVE and "which provide gender-specific counselling for women survivors of male violence" (WAVE 2015, 72).

4.3 Shelters and Other Services

According to a 2014 report on gender-based violence in Europe published by WAVE, there are 14 women's shelters in Serbia, with a minimum of 162 shelter places (WAVE 2015, 72). The representative of Fenomena indicated that two of the shelters are run by women's NGOS, with one offering emergency accommodation only, and 12 are run by state social services (Fenomena 31 Mar. 2015). According to the Fenomena representative, data on the number of shelter spaces is available for the following shelters: Belgrade (75), Novi Sad (20), Zrenjanin (20), Sombor (22), and Pancevo (25) (ibid.). According to the WAVE report, five of the shelters are available to accommodate women survivors of violence and their children (WAVE 2015, 72). Additionally, the Fenomena representative indicated that there are two shelters for elderly and homeless persons that can provide up to seven days of emergency accommodation for women and children survivors of domestic violence (Fenomena 31 Mar. 2015). According to WAVE, there are no support centers for victims of sexual violence in Serbia (WAVE 2015, 72). The representative of Fenomena said that in May 2013, Serbia "issued a decision on the conditions and standards for providing services of social protection, which established six months as the maximum length of stay in a shelter" (Fenomena 31 Mar. 2014). According to the report published by Praxis, survivors and their children may stay in safe houses for a maximum of three months; some charge for accommodation, at times dependent

on the woman's employment circumstances (Praxis 2012, 6). The Fenomena representative indicated that the two NGO-run shelters provide accommodation free of charge (Fenomena 31 Mar. 2014). According to WAVE, in 2012, 129 women and 120 children were accommodated in women's shelters and 300 women were accommodated in "short-term emergency shelters" (WAVE 2015, 72).

Sources indicate that there is no national women's helpline in Serbia (ibid.; EU Oct. 2014, 47). WAVE indicates that there is a helpline for victims of domestic violence operated by the Ministry of Interior, but it provides limited assistance beyond contacting the local police station if the police station failed to react to the victim's call for assistance (WAVE 7 Apr. 2015). WAVE further indicates that there is a women's helpline in the Autonomous Province of Vojvodina, and 24 hotlines for women survivors of domestic violence run by women's NGOs, including two that mainly service female survivors of trafficking, four that specialize in women with disabilities, and three that provide support to women who speak national minority languages (ibid.). Due to a lack of financial support, 4 SOS hotlines of women's NGOs were closed in 2011 (ibid.). According to the Protector of Citizens, "few of the visited municipalities/cities have the services of free legal assistance" for women suffering from domestic violence (Serbia Nov. 2014, 38).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] The Autonomous Women's Center (AWC) is a women's non-governmental organization founded in 1993, providing support to women in Serbia (AWC n.d.). The shadow report to the UN's CEDAW was submitted on behalf of the AWC, ASTRA, Women in Black, Labris, and Voice of Difference (AWC May 2013).

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Additional Sources Consulted

Oral sources: Attempts to contact the following were unsuccessful within the time constraints of this Response: Helsinki Committee for Human Rights in Serbia; Serbia: Embassy of Serbia in Ottawa, Republic of Serbia Ministry of the Interior, Serbia Protector of Rights, Ombudsman in the autonomous province of Vojvodina; Serbia Network for European Women's Lobby/ Mrezaza Evropski Zenski Lobi, Serbia; Nasa Srbija/ Non-Profit for Kids; Lawyer's Committee for Human Rights; Women's Parliamentary Network in Serbia.

Internet sites, including: Amnesty International; Balkan Analysis; Balkan Investigative Reporting Network; Centre for Information and Analysis; ecoi.net; europa.eu; Freedom House; Helsinki Committee for Human Rights in Serbia; Human Rights Watch; International Civil Society Centre; International Crisis Group; Institute for War and Peace Reporting; IRIN; Nasa Srbija; Open Society Foundations; OSCE; publicdata.eu; Radio Free Europe/Radio Liberty; United Nations - Refworld, ReliefWeb, SEESAC; Victimology Society of Serbia; Stop Violence Against Women; Voice of the Balkans; Women Against Violence Against Women.

Attachment

Serbia. November 2014. Protector of Citizens (Ombudsman). Special Report on the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women Against Violence. [Accessed 26 Mar. 2015]

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