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Human Rights in Europe - Review of 2019 - Serbia (including Kosovo) [EUR 01/2098/2020]

Impunity persisted for crimes under international law. The authorities actively eroded media freedom. Human rights defenders were threatened.

Background

Opposition parties boycotted parliament in protest of the undermining of human rights and the rule of law by an increasingly authoritarian government. Thousands of citizens participated in weekly demonstrations calling for the resignation of the President and Prime Minister and for freedom of expression, fair elections and an end to corruption and abuse of power.

In May, the Commissioner for Human Rights of the Council of Europe urged the authorities to revise draft legislation introducing life imprisonment for serious crimes without the possibility of release or review.

Crimes under international law

Impunity persisted, encouraged by the absence of political will, for the reintegration of senior officials convicted at international courts and denial of the Srebrenica genocide. There were few new investigations or indictments. Trials proceeded glacially at the Belgrade Higher Court, with no prosecutions for command responsibility.

Proceedings began in cases transferred from Bosnia and Herzegovina (BiH), including the case against five Bosnian Serb paramilitaries indicted for abducting and subsequently killing 20 predominantly Bosniak passengers taken from a train at Štrpci in BiH in February 1993.

In September, a former member of the Special Operations Unit was sentenced to eight years' imprisonment for the rape of a woman in Brčko (BiH) in June 1992.

The retrial continued of 11 former Yugoslav Army (VJ) soldiers charged with killing more than 118 Kosovo Albanians in Čuska/Qushk, Pavljan, Zahač/Zahaq and Ljubenic in May 1999. In April, a VJ officer was sentenced to 15 years' imprisonment for the murder of more than 31 Kosovo Albanians in Trnje/Terre in March 1999; his commanding officer was acquitted.

The re-trial continued of former state security officials Jovica Stanišić (in his absence) and Franko Simatović for war crimes and crimes against humanity at the International Residual Mechanism for Criminal Tribunals in The Hague.

NGOs criticized Serbia's failure to recognize around 200,000 Serbs forced to flee Croatia in 1995 during “Operation Storm” as civilian victims of war. No tangible progress was made during the year in drafting a law on missing persons or finding the bodies of victims.

Freedom of expression

The government actively eroded media freedom by rewarding supportive media with advertising and funding and harassing critical media through taxation or legal proceedings. The country fell 14 places in the 2019 Reporters Without Borders press freedom index.

The President and ministers conducted a smear campaign against independent journalists. Threats were commonplace.

In April, reporting of the President's brother's business interests was followed by social media attacks on Slobodan Georgiev of the Balkan Investigative Reporting Network (BIRN). In October, thousands of journalists protested repeated death threats made against colleagues at the independent news channel N1TV.

Human rights defenders

Human rights defenders were threatened by convicted war criminals and their supporters.

In July there were calls for convicted war criminal Vojislav Šešelj to be investigated and suspended from Parliament. He had made sexual threats against Brankica Janković, Commissioner for the Protection of Equality, who had condemned his abusive statements about Snežana Čongradin, a *Danas* journalist who had written about the Srebrenica commemoration.

Aleksandar Obradović, a despatcher at the Krusik arms factory, was detained in September accused of revealing trade secrets. He had shared data with both BIRN and ArmsWatch, which confirmed that mortars manufactured by Krusik for sale to Saudi Arabia and identified in Yemen, had been exported by a company represented by Branko Stefanović, the Deputy Prime Minister's father. He was released from house arrest in December.

Discrimination - Roma

Roma also faced ill-treatment by the police. A series of attacks by youths on Roma in Leskovac in May were not investigated as hate crimes.

Rights of lesbian, gay, bisexual, transgender and intersex people (LGBTI)

In July a lesbian couple from Novi Sad challenged Serbia's failure to legally recognize same-sex partnerships, while draft legislation remained stalled. In February, Prime Minister Ana Brnabić's partner, Milica Djurdjić, gave birth, having reportedly travelled abroad for assisted fertilization.

In March the Health Minister prohibited artificial insemination and IVF for individuals with a recent "history of homosexual relations".

The authorities responded inadequately to attacks on the LGBTI community, and failed to collect data on hate crimes, with only one prosecution concluded to date.

After the September Pride March, the police stopped protecting the Pride Info Centre, which was attacked by football fans in October.

Refugees and asylum-seekers

Around 30,200 refugees and migrants entered Serbia. Reception conditions and the asylum process remained inadequate: by 31 December only 252 people claimed asylum out of 12,937 who had registered an intention to do so; 17 were granted asylum and 18 temporary protection. Most refugees and migrants were in transit, but were often violently pushed back from surrounding EU Member States, particularly Croatia. Increasingly violent pushbacks to North Macedonia by the Serbian police were reported in September.

In November, Serbia signed an agreement with the European Commission, enabling Frontex (the European Border and Coast Guard Agency) police to be deployed in joint operations with border police and granted immunity from prosecution.

KOSOVO

Background

Kosovo/Kosova remained within Serbia under UN Security Council Resolution 1244/99, despite recognition of its independence by around 100 UN member states. EU-mediated talks on the normalization of Serbia-Kosovo relationships remained stalled. Prime Minister Ramush Haradinaj resigned in July triggering elections which were won by the Vetëvendosje party.

Crimes under international law

The Special Prosecution Office lacked sufficient staff and resources to address 900 unresolved war crimes and 2,000 missing persons cases transferred from the EU-led police and justice mission in 2018, and received limited mutual cooperation from Serbia.

In July, former Kosova Liberation Army (KLA) member Remzi Shala was convicted and sentenced to 14 years' imprisonment for abducting Haxhi Përteshi, who was later found dead, in June 1998.

In April, the Appeals Court confirmed the six-and-a-half-year prison sentence imposed on former prison guard Zoran Vukotić for his role in the unlawful detention, ill-treatment and torture of 3,000 Kosovo Albanian civilians held in Smrekonica prison in May and June 1999.

Proceedings continued against former Serbian police reservist Darko Tasić accused of burning bodies of murdered Kosovo Albanians and throwing them in a river following the massacre in Krusha e Vogel/Mala Krusha in March 1999.

War crimes of sexual violence

Despite one indictment and 48 ongoing investigations, no trials of perpetrators of sexual violence during the war took place. In October, survivor Shyhrete Tahiri-Sylejmani publicly announced that she had filed testimony in an ongoing investigation to encourage other women to come forward. Of 1,198 applicants, (985 women - including 27 women from minority communities - and 62 men), 756 have so far been awarded the legal status of victims of wartime sexual violence, affording them recognition and a small pension. Some of the 211 rejected applicants have appealed the decision in the courts. The law does not provide survivors with access to medical and psychological rehabilitation.

International justice

No indictments were made public by the Kosovo Specialist Prosecutor's Office in The Hague, established to investigate alleged war crimes and crimes against humanity by the KLA, but around 100 former KLA members were summoned for questioning.

Enforced disappearances

More than 20 years after the end of the war, 1,646 individuals remained missing, 264 of them female, including 1,100 Albanians, over 400 Serbs and 150 people of other ethnicities.

In September, the remains of seven Kosovo Serbs exhumed in Gjakova/Djakovica in 2018 were returned to their relatives.

Unlawful killings

In October, two suspects – one a Kosovo-Serb police officer suspected of concealing evidence – were arrested in Mitrovica in connection with the murder of Kosovo-Serb leader Oliver Ivanović in January 2018. Six suspects were indicted in December.

Deaths in custody

The investigation into the death in custody in 2016 of Vetëvendosje party member Astrit Dehari reopened in October after a Swiss forensic report undermined the authorities' suicide verdict.

Freedom of expression

Media freedom and pluralism improved, with fewer physical attacks on journalists. However, in July N1TV's Kosovo correspondent Zana Cimili received ethnically motivated death threats; a suspect was arrested in Serbia. In September and October, Serbian journalists were detained upon entering Kosovo.

Violence against women and girls

Following repeated inadequate responses from the authorities, domestic violence was redefined in the 2019 Criminal Code as a separate criminal offence, and in accordance with the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which was also recognized in the Constitution.

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Austrian Red Cross Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD)	Wiedner Hauptstraße 32, 1041 Wien T (Telefon) +43 1 589 00 583 F (Fax) +43 1 589 00 589 info@ecoi.net	Contact Imprint & Disclaimer F.A.Q. Data Protection Notice
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