



Human Rights House Belgrade

Joint NGO Report on key elements of the human rights situation in Serbia

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YUCOM

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Human Rights House Belgrade is a network of civil society organizations that have established cooperation in an effort to continuously monitor, support and protect human rights and advance the rule of law in Serbia. HRH Belgrade was founded in 2011 by Civic Initiatives, Belgrade Centre for Human Rights, YUCOM – Committee of Lawyers for Human Rights, Helsinki Committee and Policy Centre. All of the organizations, apart from Policy Centre have been established in the nineties by anti-war activists as a response to authoritarian and violent regime. Through HRH Belgrade, these organizations remain dedicated to the causes of overcoming the violent past through three programs: human rights, transitional justice and the rule of law.

Contributor to this report was Centre for Independent Living Serbia – CIL, a non-profit organization that gathers persons with disabilities (PWDs) on a cross-disability base. It was founded in 1996 and is a member of European Network for Independent Living (ENIL), especially focusing on UN Convention of PWD rights. In 2015/2016 CIL presented a Shadow report on CRPD to the UN Committee in Geneva.

This report was prepared with the support of the Human Rights House Foundation (HRHF). HRHF is the secretariat of the Human Rights House Network, a community of human rights defenders working for more than 100 independent organisations operating in 16 Human Rights Houses in 13 countries.

Introduction and context

The review of the Republic of Serbia at the United Nations Human Rights Committee is taking place in a tense political climate in Serbia, and after years of continued deterioration of rights to freedom of expression, in particular media rights, and restrictions to the possibility to participate to public life in general.

Previous three years in Serbia have been marked by an evermore growing decay of institutions and the rule of law. Although the country is a candidate to membership of the European Union, in addition to being a member of the Council of Europe, and going through all-encompassing legislative changes, it is well beyond general perception that the changes are less than tangible, as they often only remain 'changes on paper'.

With the Serbian Progressive Party being on a rise since parliamentary elections in 2012, Serbia has since had two more extraordinary parliamentary elections. With steady majority, the Serbian Progressive Party's leader and Prime Minister Mr. Aleksandar Vučić justified these elections with a need to test and gain public support for the reforms. Upcoming presidential elections in will take place in April 2017 and another extraordinary parliamentary election is not to exclude.

It is with great concern that CSOs, academic community, political parties, independent media and investigative journalists note strong trends: annulation of accountability, narrowing space for debate on issues of public importance, organized campaigns against any critical opinion on Government and its policies, circumventing legal parliamentary procedures, strong political influences as well as attacks on independent bodies and institutions.

Media rights, freedom of expression, and right to peaceful assembly (Arts. 19 and 21)

In September 2014, Serbia adopted a new set of media laws – Law on Public Information and Media¹, Law on Electronic Media² and the Law on Public Media Services.³ The most important novelty in the adopted laws is the privatization of media founded by the State, Autonomous Provinces and Local Self-governments. Even though the Laws prohibit concentration of media ownership and prescribe the prohibition of the violations of media plurality, one of the effects

¹ "Official Gazette of Serbia", no. 83/2014, 58/2015 and 12/2016 - authentic interpretation.

² "Official Gazette of Serbia", no. 83/2014 and 6/2016 – other law.

³ "Official Gazette of Serbia", no. 83/2014, 103/2015 and 108/2016.

of the newly adopted regulation is the fact that a number of local media is being privatized by the same owner.⁴

There is also a growing trend of the vilification of investigative media and journalists where they are being represented as the ones working for ‘opposition’, or against the Government. There have been a number of cases where prominent political figures of the Government publicly attacked the most critical media.⁵ For example, as a guest of the RTS⁶ TV show ‘Upitnik’, Minister of Labour, Employment, Veteran and Social Affairs Mr. Aleksandar Vulin put BIRN journalist in the category of those who support the threats against the safety of Prime Minister of Serbia.⁷ There have been also a number of threats and intimidations of investigative or satirical journalists, which are having a chilling effect on other media.⁸ None of these incidents is being prosecuted or fully investigated.

Other forms of intimidation of media are also identified. For example, weekly magazine ‘NIN’ lost the lawsuit against Serbian Interior Minister. This lawsuit was filed over the very important case of illegal demolition of a number of houses and industrial constructions in Savamala neighbourhood in Belgrade⁹ and the lack of police response in this case.¹⁰ As the magazine named the minister of interior as ‘the main Savamala phantom’, he filed a lawsuit for the protection of honour and reputation. Contrary to the well-established ECtHR case-law,¹¹ as well as the General comment No. 34 of the Human Rights Committee, the Court found a violation of the minister’s honour and reputation and ordered the weekly magazine ‘NIN’ to pay 3000 EUR for non-pecuniary damages. A very significant aspect of this case was the fact that the Court was more expedite than in regular civil proceedings, rendering judgment after only one hearing while Serbian judiciary’s hallmark are lengthy procedures that on average take two years in first instance. Another aspect of this case was a public gathering in front of the Court, consisting mainly of members and high ranked officials of the ruling party. However, the Court did not give any

⁴ Independent Journalist Association of Serbia, “Jedan čovek kupuje većinu medija u Srbiji” (Serbian only), online, available at: <http://www.nuns.rs/reforma-javnog-informisanja/Privatizacija-medija/24601/jedan-covek-kupuje-vecinu-medija-u-srbiji.html>

⁵ Reporters without Borders, Freedom of the Press Worldwide Report for 2016, online, available at: <https://rsf.org/en/serbia>

⁶ RTS, or the Radio Television of Serbia is the public broadcaster in Serbia.

⁷ <http://birn.eu.com/en/page/birn-under-fire>

⁸ OSCE, Death threats against journalists in Serbia must be investigated and their safety ensured, says OSCE Representative, online, available at: <http://www.osce.org/fom/264896>

⁹ Balkan Insight, 25,000 Attend Savamala Demolitions Protest in Belgrade, 25 June 2016, online, available at: <http://www.balkaninsight.com/en/article/25-000-attend-savamala-demolitions-protest-in-belgrade-06-25-2016>

¹⁰ The police failure to act in this case was previously established as one of the violations of the rights of citizens involved in this case. See Ombudsman’s recommendation issued on 9 May 2016, no. 13-32-2147/2016, online, available at: <http://www.ombudsman.rs/attachments/article/4723/savamala.pdf> (Serbian only).

¹¹ See, for example ECtHR case-law regarding the media freedom, issues of public importance, critique and scrutiny of public officials: *Prager & Oberschlick v. Austria*; *Tolstoy Miloslavsky v. the United Kingdom*; *De Haes & Gijssels v. Belgium*.

statement with regard to this event, that in a regular situation would be described as a illegitimate pressure on the judiciary.

Furthermore, privatization of media deteriorated the right to seek, receive and impart information for national minorities, as the number of previously publicly owned local media or public media founded by the National Councils of National Minorities outlets are either being privatized or left without sufficient funds for media production on minority languages.¹²

In recent years, the authorities have mastered the media scene to a considerable extent and a few critical media are constantly under attack.

The most important feature of the campaign for the parliamentary elections (held in April 2016) was the lack of public debate on important social, economic and political problems and processes in the media. Furthermore, media often reported unprofessionally and uncritically about the issues that are important for political debate in Serbia. Also, it is very important to note that media monitoring demonstrated that the most represented person during the campaign was the Prime Minister of Serbia Mr. Aleksandar Vucic, who was represented in the central news programs on average 17 minutes per day.¹³ It is also important to note that the Regulatory Body for Electronic Media (REM) had not published a report on media coverage of the election campaign in April 2016, which was a well-established practice since 2003.¹⁴

Furthermore, the work of the Regulatory Body for Electronic Media and the election of members of the body were accompanied by a series of political obstructions. During the procedure for the election of the members of the REM, an independent body responsible for regulation of electronic media, the Parliament of Serbia bluntly decided not to appoint candidates who have been proposed as candidates on behalf of civil society organizations, and repeated the procedure for nomination until it was possible to appoint individuals who are not considered as critics of the Government. Having that in mind, 52 civil society organizations refused to participate in this repeated procedure for the appointment of the representatives of civil society and launched an administrative dispute in this case.

Immediately after the election victory of the Serbian Progressive party in the Autonomous Province of Vojvodina in April 2016, almost the entire management of the Radio – Television of Vojvodina (RTV) was

¹² For more information on the effects of media privatization on national minorities, please see: Ombudsperson of Serbia, Special Report on the Effects of Privatization of Media on informing in minority languages in Serbia November 2016 (Serbian only), online, available at: <http://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/5018-2016>

¹³ Bureau for Social Research (BIRODI), Media Monitoring Report, Elections 2016, online, available at: <http://mediamonitor.rs/index.php/vesti/144-vucic-kljucni-protagonista-medijske-slike-izbora-u-srbiji> (Serbian only).

¹⁴ Gordana Suša, member of this body whose mandate recently ended came out to public stating that the report was, at least partially produced, but that it was kept away from the public eye. The Commissioner for Information of Public Importance also asked the Regulatory Body for Electronic Media to present this report to the public, but the official response from this body was that this report was never produced.

replaced. The new appointments drastically undermined the independence of this public service broadcaster. The program director of RTV Mr. Slobodan Arežina was dismissed on 4 May 2016, just a year after he was elected for his four-year term.¹⁵ These shifts have led to major changes in the program production and the disappearance of TV shows that have been an example of analytical and investigative journalism. The European Union, the Council of Europe and the OSCE have shown great interest in this case of politically motivated appointments at the Radio Television of Vojvodina (RTV).¹⁶

According to the data of the Independent Association of Journalists of Serbia (NUNS), in 2016, there have been 69 recorded attacks on journalists, out of which 9 cases amounted to physical attacks.¹⁷ The number of attacks has been increasing since 2013.

Minister of Interior Mr. Nebojša Stefanović also filed a lawsuit against sociologist Ms. Vesna Pesic and editors-in-chief of the independent news portal Pescanik – Ms. Svetlana Lukić and Ms. Svetlana Vuković, and required 200,000 dinars (less than 2000 EUR) for non-pecuniary damage due to the violation of his honour and reputation. This lawsuit was filed because of the Op-Ed column ‘Dosoljavanje (Adding insult)’, Ms. Vesna Pesic published on 14 May 2016.

In 2016, the pro-government media continued an extensive campaign of defamation and vilification of civil society organizations and activists. This campaign was often led by the pro-government tabloid ‘Informer’, as well as by newspapers where the State is a very significant shareholder. The aim of these campaigns was to discredit civil society organizations, their members and representatives, and to present them as mercenaries working against their country. Campaigns are primarily focused on the sources of funding of civil society organizations having access to foreign donors from the EU and the United States, and in particular George Soros.

The former spokesperson of the special police forces and volunteer to breakaway side in the Crimean war, Mr. Radomir Počuča, was in the first instance proceedings acquitted of the criminal charges that were brought against him because he called on to lynch activists of the civil society organization ‘Women in Black’.

In January 2016, a front window of the Human Rights House library in Belgrade was broken.¹⁸ The police conducted an investigation at the sight without providing any follow-up. The attackers have not been identified despite the fact that the area where Human Rights House Belgrade is situated is covered with

¹⁵ In this case, Mr. Arežina filed the lawsuit against illegal dismissal but this case is still ongoing.

¹⁶ See, for example: <http://seenpm.org/serbia-staff-dismissals-rtv-vojvodina-psb-provoke-strong-reactions/> ; <http://www.balkaninsight.com/en/article/serbian-progressives-taking-over-provincial-television-journalists-claim-05-18-2016> ; <http://www.fairpress.eu/blog/2016/06/23/thousands-citizens-gave-support-radio-television-vojvodina-tragic-authorities-cannot-recognise-citizens-want-tell/>

¹⁷ N1, NUNS: Mora Attacks and Threats on Journalist in the Previous Year, online, available at: <http://rs.n1info.com/a217412/Vesti/Vesti/NUNS-U-godini-za-nama-vise-pretnji-i-napada-na-novinare.html> (Serbian only).

¹⁸ Human Rights House Belgrade, Human Rights House Belgrade Premises Attacked, 22 January 2016, online, available at: <http://humanrightshouse.org/Articles/21410.html>

CCTV, being located in the immediate vicinity of the Presidency of Serbia, the National Assembly of Serbia and the Serbian Government building.

In early 2016, Ms. Anita Mitic, the Executive Director of the Youth Initiative for Human Rights was charged for misdemeanour because she used her Facebook profile to invite the public to commemorate the Srebrenica genocide in front of the National Assembly of Serbia. Ms. Mitic was charged under the Law on Public Gatherings, which at the time of her acts was annulled, since the Constitutional Court of Serbia found it as being against the constitutional guarantees on public gatherings.

Right to participate in public life (Arts. 25, 26 and 27)

Article 77 of the Constitution of the Republic of Serbia stipulates that members of national minorities under the same conditions as other citizens are entitled to participate in the management of public affairs and assume public functions under the same conditions as other citizens. Furthermore, this Article prescribes that when taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of population and appropriate representation of members of national minorities shall be taken into consideration. However, the realization of these guarantees is not possible given that there are no relevant data.¹⁹

Law The law on the Register of employees, elected, nominated, appointed and on persons engaged with public funds was adopted in 2015. Article 4 of the abovementioned Law governs what data this registry contains. However, the Article 47 of the Constitution of the Republic of Serbia still presents a major obstacle for determination of the exact number of individuals coming from national minorities that are employed in by the public authorities. Furthermore, the Article 16 of the Law on Personal Data Protection²⁰ prescribes that data relating to ethnicity should be considered as a particularly sensitive data which that could can be processed only on the basis of the informed consent given by the individual. This means that there is still no effective legal mechanism for the collection of statistical data on a number of members of national minorities employed by the State.²¹

Rights of persons with disabilities (Arts. 2, 16, 23, 25 and 26)

In 2015 the Parliament adopted the Law on the Use of Guide Dogs, enabling blind and people with visual impairment to use guide dogs as support in all public institutions and spaces. Also, in 2015 Serbia

adopted the Law on the Use of Sign Language, which enabled deaf persons and persons with hearing impairments to use sign language in education, employment and in communication with public authorities. In 2016, Serbia amended the Law on Preventing Discrimination against Persons with Disabilities, equating facsimile signature with handwritten signature for persons with disabilities in need. The three legislative changes were focused on preventing and sanctioning discrimination against persons with disabilities.

In 2016, the Government drafted the new Strategy on Rights of Persons with Disabilities (valid until 2020) and organized a public debate with civil society and the general public. After consideration of comments and publication of a report on the public debate, the Government should vote for the new 2020 Strategy during 2017.

People deprived of legal capacity are still not eligible to vote and state actors did not take any targeted measure in this regard.²² For this change to occur, the Constitution needs to be changed, allowing a universal adult suffrage, without discrimination. In 2017, Serbia is in the process of preparing constitutional changes, particularly related to judicial and prosecutors' nomination and election process. Although civil society is proposing and supporting the voting right amendment, there are no concrete actions that would signal the State's intention for intervention in this field.

People with disabilities who are not deprived of legal capacity and eligible to vote also face serious obstacles to their participation in the elections and public life more generally. For example, during the last elections that were held in 2016, 60 per cent²³ of the polling stations were not physically accessible for people with disabilities and no systemic efforts were made to address this problem. Election law and bylaws allow voting from home only if a request is submitted until 11.00 on the voting day and the short deadline demotivates numerous people to apply. Also, technical rules are not set and interpretation of the rules varies in different polling stations. Discrimination is still on-going when it comes to voting of persons with full legal capacities in residential and/or closed institutions. The same is true for blind people and people with visual impairment who are forced to rely on voting assistants instead of voting autonomously with tactile support (voting patterns).

Still, in 2016 the Republic Electoral Commission made a step forward by circulating new rules on the use of facsimile and guide dog in polling stations for persons with disabilities. The Commission also formed a special working mechanism with the aim to remove at least some of the key obstacles for persons with disabilities ahead of the presidential election to be held in April 2017.

²² For more information on persons deprived of legal capacity, please see Joint submission by the Lawyers' Committee for Human Rights - YUCOM and the Belgrade Centre for Human Rights, submitted for the 119th Session of the Human Rights Committee.

²³ Data collected by two different election observers missions: Center for democracy and free elections (CESID) and Citizens on the watch on 1350 polling stations sample

Questions to the Government:

We present the following questions and recommendations for the Human Rights Committee to put forward to the Government of the Republic of Serbia, during its review at the 119th session of the Committee

- Can the Government explain what measures it has taken, and what further measures it foresees taking, to ensure that smear campaigns, insults, verbal and physical attacks against journalists and media workers are promptly investigated in order to hold those guilty accountable?
- Is the Government itself taking all possible measures to highlight the important work of independent journalists and human rights defenders, especially when such are threatened?
- What measures has the Government taken to ensure that political leadership of any party does not participate in smear campaigns, insults, verbal and physical attacks against journalists and media workers?
- Can the Government explain the rationale behind the law suit put forward by Minister of Interior Mr. Nebojša Stefanović against Ms. Vesna Pesić?
- What legislative steps does the Government foresee to change the law on assemblies, annulled by the Constitutional Court, to ensure its practices on assemblies and protests are in line with the constitution and Serbia's international obligation, and in line with the recommendations made in this regard by the United Nations special procedures?²⁴
- What measures is the Government taking to ensure that its legislation restricting the rights to vote and to participate in public life of people with disabilities is brought in line with international standards in this regard, and allows in practice a full participation in public life of people with disabilities?

²⁴ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, 4 February 2016 (UN Doc: A/HRC/31/66), available at <http://freeassembly.net/peacefulprotests/>.