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**STATUS OF HUMAN RIGHTS IN THE REPUBLIC OF SERBIA
FOR THE 43RD SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

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Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in the Republic of Serbia (Serbia) the 43rd Session of the Universal Periodic Review (UPR).

Background

2. Serbia is located in Eastern Europe and borders Romania, Croatia, Hungary, and Kosovo,¹ which all make up part of an area known as the Balkans. The country has a population of 6.7 million people.² In Serbia, 84.6% of the population identifies as Orthodox, 5% as Catholic, 3.1% as Muslim, 1% as protestant, 1.1% as atheist, 0.8% as other (Christian, Eastern, Jewish), and 4.5% as undeclared or unknown.³

3. Serbia's previous UPR was conducted on January 24, 2018.⁴ Serbia received 190 recommendations, 175 of which were supported by Serbia.⁵ One recommendation made by Ukraine, and supported by Serbia, was that Serbia "[s]trengthen 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."⁶ While Serbia reportedly has the highest abortion rate in Europe,⁷ no recommendations were made to curb the practice. Further, there were no recommendations made regarding religious freedom.⁸

Legal Framework

Human Trafficking

4. Human life and dignity are inviolable rights under the Constitution of Serbia.⁹ Additionally, "[e]veryone has the right to personal freedom and security. Depriving of liberty shall be allowed only on the grounds and in a procedure stipulated by the law."¹⁰

Serbia's Criminal Code, *inter alia*, prohibits human trafficking, forced labor, and prostitution. For instance, Article 388(1) states:

Whoever by force or threat, deception or maintaining deception, abuse of authority, trust, dependency relationship, difficult circumstances of another, retaining identity papers or by giving or accepting money or other benefit, recruits, transports, transfers, sells, buys, acts as intermediary in sale, hides or holds another person with intent to exploit such person's labour, forced labour, commission of offences, prostitution, mendacity, pornography, removal of organs or body parts or service in armed conflicts shall be punished by imprisonment of from three to twelve years.¹¹

5. Article 388(2) provides that "[w]hen the offence referred to in paragraph 1 of this Article is committed against a juvenile, the offender shall be punished by the penalty prescribed

for the offence even if there was no use of force, threat or any other mentioned methods of perpetration.”¹² Subsection three then states that “[i]f the offence referred to in paragraph 1 of this Article is committed against a juvenile, the offender shall be punished by imprisonment of a minimum of five years.”¹³

6. Furthermore, Article 8 of the International Covenant on Civil and Political Rights (ICCPR), to which Serbia is a party,¹⁴ holds that “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹⁵

7. Serbia is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.¹⁶ Under Article 9 sec. 1 of this Protocol:

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.¹⁷

Abortion

8. Contrary to the constitutional provision regarding inviolability of human life, abortion is legal in Serbia in several circumstances. There is no time limit for an abortion when its reason is to save a woman’s life or in cases of fetal impairment.¹⁸ Further, there is no time limit for abortion in cases of rape or incest.¹⁹ In addition, abortion for any reason is allowed at a gestational limit of 10 weeks.²⁰ Lastly, if a woman is under the age of 16, she may have an abortion so long as she has written consent from a parent or guardian. However, many women have been noted to ignore and get around these regulations.²¹

9. Serbia’s abortion laws are not only contrary to its Constitution, but also violate the principles enshrined in the ICCPR. For instance, Article 6 of the ICCPR states: “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”²² Serbia also has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, Universal Declaration of Human Rights (UDHR), and the 1994 Cairo Conference on Population and Development.

Human Trafficking

10. The Balkans prove to be a valuable route for traffickers trying to smuggle migrants to Europe, mainly refugees from Syria, Iraq, and Afghanistan.²³ Desperate individuals are willing to pay traffickers approximately €5,000 to be trafficked to the Balkans and then an additional €2,000 to €3,000 to be trafficked to the European Union (EU).²⁴ It is estimated that human trafficking within the Balkans is a €50 million a year enterprise.²⁵ In particular, Serbia serves as a critical point along this route because it is the last country needed to be crossed before entering Hungary and thus the EU.²⁶ During the first seven months of 2021, more than 22,500 migrants attempted to travel to Europe through the Balkans.²⁷ Additionally, between February 2017 and March 2021, 210 individuals from 24 groups were arrested in Serbia for their connection to human trafficking.²⁸

11. These traffickers exploit desperate migrants and refugees with false promises of employment in Europe and offer direct transportation.²⁹ However, the journey is often extremely dangerous as victims are packed in tight quarters and loaded into vans and trucks.³⁰ Furthermore, it is not uncommon for traffickers to abandon their victims along the way after taking their money.³¹

12. In June 2022, Serbian authorities worked with authorities from the Netherlands, Austria, Germany, Hungary, and Romania to uncover a human trafficking operation which was smuggling migrants through the Balkans.³² The operation led to the arrests of 134 individuals who “facilitated the smuggling of at least 10,000 people, mainly from Afghanistan, Pakistan, and Syria, to the European Union . . . They used trucks’ cargo bays, closed vans, and personal cars to smuggle people from Turkey through the Western Balkan region to Austria, Germany, and the Netherlands.”³³

13. Earlier that same year, in February 2022, Hungarian police arrested two Serbians who were trafficking 15 migrants from Pakistan, India, and Afghanistan.³⁴

14. On December 15, 2021, more than 100 participants belonging to various government agencies and civil organizations conducted a meeting to discuss efforts to improve Serbia’s efforts to prevent and combat human trafficking.³⁵ This meeting was critical in providing for the “exchange of important information on current events and challenges in preventing and combatting trafficking in human beings, access to rights and prevention of victims.”³⁶

15. In October 2021, 500 Vietnamese construction workers were discovered “working in conditions of forced labour with their passports confiscated and living in cramped and degrading conditions.”³⁷ According to one of the victims, he saw an advertisement on Facebook that was promising good wages at a factory in Serbia.³⁸ However, the reality of the situation was much different. As one the victims described: “When I arrived I found that the factory was basically buying Vietnamese workers and when you got there you had to do whatever they told you to do.”³⁹ He went on to discuss the poor living conditions they were subjected to. “The water was very bad, it was yellow and undrinkable and sour. The food was also very bad and not enough, sometimes we would go into the forest and hunt for food, anything we could catch, like rabbits.”⁴⁰

16. Traffickers also target women and girls for sexual exploitation within Serbia and abroad. It is increasingly becoming common with the growth of the internet for traffickers to even target girls as young as 13 and 14 years old.⁴¹ For example, one organization working to combat human trafficking in Serbia, conducted an online experiment where they created a fake online profile of a 15-year old girl.⁴² Within only 24 hours “this profile received over 3,000 requests, including offers for jobs and explicit sexual offers from adult men.”⁴³

17. In addition, foreign women are also lured to Serbia to be sexually exploited with false promises.⁴⁴ In December 2021, three women from India paid €16,600 to an agent to travel to Italy and Germany.⁴⁵ However, their agent instead sent them to Serbia, where, after landing, “members of a Serbian trafficking gang kept them in captivity at a hotel for several days. . . .The women were then taken to Greece . . . where they were ‘sexually assaulted, beaten up and held in captivity for around two weeks.’”⁴⁶

18. Corruption plays a large role in human trafficking in Serbia. In June 2020, the Balkan Investigative Reporting Network found that “certain smugglers had connections and

collaborated with Serbian police and security forces” and that traffickers were able to “succeed in bribing police officers so that they not only turn a blind eye to their activities but also offer them protection.”⁴⁷ Furthermore, there have been cases where traffickers were arrested but never faced prosecution.⁴⁸

Abortion

19. Abortion is one of the gravest of all offenses against human life because it entails the deliberate killing of an innocent human being. However, in Serbia, abortion is considered the most common form of contraception.⁴⁹ This is reflected in their abortion statistics. From 2018 to 2020, there were a total of 190,067 live births in Serbia compared with 30,258 abortions carried out over that same time period.⁵⁰ This means that, after excluding the number of miscarriages, approximately 13% of all pregnancies in Serbia ended in abortion.

20. Serbia must understand that abortion is not healthcare and should not be used as a form of family planning. In fact, since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to “reduce the recourse to abortion”⁵¹ and to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”⁵² Vanja Milosevic, a Serbian doctor, underscores precisely why abortion should not be promoted as family planning, noting that it is the only “method in medicine in which something vital and healthy is eliminated.”⁵³ Doctor Milosevic notes that the majority of her patients tell her that “if they had a more thorough and lengthy conversation with their doctor, they would not opt for abortion.”⁵⁴

21. Furthermore, other international documents such as the UDHR and the ICCPR also enshrine protections for life that are to be universally protected. The UDHR states that “recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world,” and that “[e]veryone has the right to life”⁵⁵ Again, Article 6 of the ICCPR likewise states that “[e]very human being has the inherent right to life. This right shall be protected by law.”⁵⁶ And the preamble of the United Nations Charter states that “the peoples of the United Nations determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person”⁵⁷ It is important to note that not one of these documents contains a “right to abortion.”

22. Restricting access to abortion is not an extreme position. Serbia must understand that there is no international right to abortion, a fact that can be practically seen when looking at different countries abortion laws. Currently, out of the 193 U.N. Member States, twenty countries prohibit abortion altogether, forty-two countries only permit abortion where the mother’s life is at risk, and fifty only allow abortion to preserve the health of the mother.⁵⁸

23. Furthermore, Serbia also provides no time limit for an abortion in cases of fetal impairment. This is an extreme position not shared by the majority of nations. In fact, only eleven countries allow abortion throughout pregnancy for social and economic grounds, including for rape, incest, or fetal impairment.⁵⁹ Serbia’s law regarding abortion at any time for fetal impairment is extremely concerning. Human life does not deserve death simply because that baby may be born with physical abnormalities. Medical advances have allowed for babies born with physical abnormalities to live long and healthy lives. For example, in 1983, the average life expectancy of a person born with Down syndrome was 25 years old. Today, that life expectancy is 60 years and continues to increase. The decision of whether a

baby is allowed to live or be killed should not be based off of prenatal tests that have been proven to be unreliable.⁶⁰

24. In addition to protecting the lives of preborn children, Serbia also has a responsibility to protect women from the physical and psychological harms that abortion can cause. Abortion can have harmful effects, such as resulting in the perforation of the uterus⁶¹ or the laceration of the cervix.⁶² Furthermore, abortion deprives women of the health benefits that come from continuing pregnancy, such as the elimination of the protective effect a full-term pregnancy has against breast cancer.⁶³ Abortion can also mask other dangerous symptoms, like an undiagnosed ectopic pregnancy.⁶⁴ In fact, the World Health Organization even acknowledges the complications of abortion in its newly published 2022 “Abortion care guideline.”⁶⁵

25. Furthermore, women who have undergone abortions have also been reported to experience negative psychological side-effects, from shame to drug abuse to suicidal thoughts.⁶⁶ All of these reasons show why Serbia must protect both women and preborn children from the devastation of abortion.

26. Despite all of these negative effects that abortion has on both the mother and the preborn child, the President of Serbia indicated on June 26, 2022, that he has no intention of restricting abortion access.⁶⁷

Recommendations

27. Serbia has made some effort to address trafficking within its borders, but it must do more. In order to combat the trafficking of individuals through Serbia, the government must take proactive measures to identify cases of human trafficking as they enter the country. To do this, the government must prosecute officials who are taking bribes and are complicit in this activity. Furthermore, resources must be allocated to train authorities on how to properly identify potential cases of human trafficking and identify the victims. Additionally, critical aid and rehabilitation services must be provided to help the victims. We also encourage Serbia to continue to work with other countries in the region to combat human trafficking in the Balkans.

28. We ask that Serbia reform its abortion laws in order to protect life at all stages, including banning abortion simply for social reasons or economic convenience. Such reformation of these laws by Serbia is a position supported not only by its own Constitution, but is one that is also held by the most widely accepted human rights treaties. Serbia would not be alone in taking this humane step, as countless other countries make it a priority to protect the lives of preborn babies.

¹ *Serbia*, THE WORLD FACTBOOK (June 17, 2022), <https://www.cia.gov/the-world-factbook/countries/serbia/>.

² *Id.*

³ *Id.*

⁴ *Universal Periodic Review—Serbia*, UNHRC, <https://www.ohchr.org/en/hr-bodies/upr/r-index>.

⁵ UPR of Serbia—Thematic List of Recommendations, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session29/RS/MatriceRecommendationsSerbia.docx>.

⁶ *Id.* at A/HRC/38/17/Add.1.

⁷ Biljana Pekusic, *Serbia has Highest Abortion Rate in Europe*, EURASIA REVIEW (Jan. 17, 2012), <https://www.eurasiareview.com/17012012-serbia-has-highest-abortion-rate-in-europe/>.

⁸ See UPR of Serbia—Thematic List of Recommendations, *supra* note 5.

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- ⁹ CONSTITUTION OF THE REPUBLIC OF SERBIA, arts. 23-24,
http://www.parlament.gov.rs/upload/documents/Constitution_%20of_Serbia_pdf.pdf.
- ¹⁰ *Id.* art. 27.
- ¹¹ Serbian Criminal Code art. 388(1),
https://sherloc.unodc.org/cld/en/legislation/srb/criminal_code/special_part_-_chapter_thirty-four/article_388-390/article_388-390.html.
- ¹² *Id.* art. 388(2).
- ¹³ *Id.* art. 388(3).
- ¹⁴ *International Covenant on Civil and Political Rights* [ICCPR], OHCHR,
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en.
- ¹⁵ *International Covenant on Civil and Political Rights*, Dec. 16, 1976, 999 U.N.T.S. 171, art. 8.
- ¹⁶ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/pages/viewdetails.aspx?src=ind&mtdsg_no=xviii-12-a&chapter=18.
- ¹⁷ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime* art. 9 sec. 1, *adopted* on Nov. 15, 2000, https://treaties.un.org/doc/Treaties/2000/11/20001115%2011-38%20AM/Ch_XVIII_12_ap.pdf.
- ¹⁸ *Serbia*, EXELGYN, <https://abort-report.eu/serbia/>.
- ¹⁹ *European Abortion Laws, A Comparative Overview*, CTR. FOR REPROD. RTS.,
<https://reproductiverights.org/wp-content/uploads/2020/12/European-abortion-law-a-comparative-review.pdf>.
- ²⁰ *Id.*
- ²¹ Pekusic, *supra* note 7.
- ²² ICCPR, art. 6, *supra* note 15.
- ²³ *Migrants Meet Smugglers in Serbia: Is the Balkan Route Really Closed?*, INTELLINEWS (Jan. 12, 2022),
<https://intellinews.com/migrants-meet-smugglers-in-serbia-is-the-balkan-route-really-closed-231642/>.
- ²⁴ *Id.*
- ²⁵ *Id.*
- ²⁶ *Id.*
- ²⁷ *Id.*
- ²⁸ *Id.*
- ²⁹ *Id.*
- ³⁰ *Id.*
- ³¹ *Id.*
- ³² *International Human Trafficking Case Nets 134 Arrests, 4 in NL*, NL TIMES (Jun. 3, 2022),
<https://nltimes.nl/2022/06/03/international-human-trafficking-case-nets-134-arrests-4-nl>.
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- ³⁴ *Serbia's Nationals Arrested in Hungary for Transporting Migrants*, N1 (Feb. 18, 2022),
<https://rs.n1info.com/english/news/serbias-nationals-arrested-in-hungary-for-transporting-migrants/>.
- ³⁵ *More than 100 Participants in Local Teams for Prevention and Combatting Human Trafficking Meeting*, IOM (Jan. 12, 2022), <https://serbia.iom.int/news/more-100-participants-local-teams-prevention-and-combating-human-trafficking-meeting>.
- ³⁶ *Id.*
- ³⁷ *Revealed: the Secret Migration Route from Vietnam to the UK*, THE GUARDIAN (Dec. 25, 2021),
<https://www.theguardian.com/global-development/2021/dec/25/revealed-the-secret-forced-labour-migration-route-from-vietnam-to-the-uk>.
- ³⁸ *Id.*
- ³⁹ *Id.*
- ⁴⁰ *Id.*
- ⁴¹ *In the Words of Marija Andjelkovic: "The Girls are Getting Younger . . . Poverty is Driving Trafficking in Persons"*, UN WOMEN (May 25, 2018), <https://www.unwomen.org/en/news/stories/2018/5/in-the-words-of-marija-andjelkovic>.
- ⁴² *Id.*
- ⁴³ *Id.*
- ⁴⁴ *She Thought a Job was Waiting for Her in Europe. Then She Met Her Trafficker*, VICE (Jul. 4, 2022),
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- ⁴⁵ *Id.*
- ⁴⁶ *Id.*
- ⁴⁷ *Migrants Meet Smugglers in Serbia: Is the Balkan Route Really Closed?*, *supra* note 23.
- ⁴⁸ *Id.*

⁴⁹ Snezana Bjelotomic, *Abortion is the Most Common Method of Contraception in Serbia*, SERBIAN MONITOR (May 4, 2022), <https://www.serbianmonitor.com/en/abortion-is-the-most-common-method-of-contraception-in-serbia/>.

⁵⁰ Wm. Robert Johnston, *Historical Abortion Statistics, Serbia*, JOHNSTON'S ARCHIVE <https://www.johnstonsarchive.net/policy/abortion/ab-serbia.html> (last updated Jul. 3, 2022).

⁵¹ *Report of the International Conference on Population and Development*, U.N. Doc. A/CONF/F.171/13/Rev.1 at 58 (5-13 Sept. 1994), https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/icpd_en.pdf.

⁵² *Id.* 46 (emphasis added).

⁵³ Bjelotomic, *supra* note 49.

⁵⁴ *Id.*

⁵⁵ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, pmbl., art. 3 (Dec. 10, 1948) (emphasis added).

⁵⁶ ICCPR art. 6, *supra* note 15.

⁵⁷ U.N. Charter pmbl.

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⁶⁰ Dashiell Young-Saver, *The Misleading Math of Prenatal Tests*, N.Y. TIMES (Feb. 10, 2022), <https://www.nytimes.com/2022/02/10/learning/lesson-plans/the-misleading-math-of-prenatal-tests.html>.

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⁶² *Abortion & Pregnancy Risks*, LA. DEP'T OF HEALTH, <https://ldh.la.gov/page/915> (last visited July 21, 2022).

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⁶⁶ Priscilla K. Coleman, Ph.D., et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, JOURNAL OF AMERICAN PHYSICIANS & SURGEONS, Vol. 22 No. 4, p. 115, 116-17 (2017), available at <https://www.jpands.org/vol22no4/coleman.pdf>.

⁶⁷ *Vucic on Abortion Ban: Serbia has its Own Law and Does not Intend to Change it*, TELEGRAF (Jun. 27, 2022), <https://www.telegraf.rs/english/3519085-vucic-on-abortion-ban-serbia-has-its-own-law-and-does-not-intend-to-change-it>.