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Republic of Serbia

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**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in  
General Consultative Status with ECOSOC**

**And**

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## **1. (A) Introduction**

- 1.1** CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 180 countries throughout the world.
- 1.2** The Human Rights House Belgrade (HRH) is a network of 5 organisations working on advancing human rights in Serbia. The following organisations are part of the network: Belgrade Centre for Human Rights, Civic Initiatives, Helsinki Committee for Human Rights in Serbia, Lawyers Committee for Human Rights.
- 1.3** In this document, CIVICUS and HRH examine the Government of Serbia's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyze Serbia's fulfillment of the rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in January 2013. To this end, we assess Serbia's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations to the State under Review.
- 1.4** During the 2<sup>nd</sup> UPR cycle, the Government of Serbia received 20 recommendations relating to civic space. Of these recommendations, 18 were accepted and 2 were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Serbia has partially implemented nine recommendations, not fully implemented nine recommendations and implemented one recommendation relating to civil society space. The CIVICUS Monitor assesses Serbia's civic space as narrowed.<sup>1</sup>
- 1.5** CIVICUS and HRH are deeply concerned by A: Intimidation, attacks and harassment of human rights defenders and journalists who report on sensitive issues, such as transitional justice, corruption or government accountability.
- 1.6** CIVICUS and HRH are further alarmed by B: the vilification of and smear campaigns against human right defenders, CSOs, and independent media outlets, which has undermined their work.

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<sup>1</sup> See <https://monitor.civicus.org/country/serbia/>, accessed on 12 June 2017.

- In Section B, CIVICUS and HRH examine Serbia’s implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- In Section C, CIVICUS and HRH examine Serbia’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of human rights defenders, civil society activists and journalists.
- In Section D, CIVICUS and HRH examine Serbia’s implementation of UPR recommendations and compliance with international human rights standards concerning to freedom of expression, independence of the media and access to information.
- In Section E, CIVICUS and HRH examine Serbia’s implementation of UPR recommendations and compliance with international human rights standards related to freedom of assembly.
- In Section F, CIVICUS and HRH make a number of recommendations to address the concerns listed.

## 2. (B) Freedom of association

**2.1** During Serbia’s examination under the 2<sup>nd</sup> UPR cycle, the government received four recommendations on the right to freedom of association and creating an enabling environment for civil society organizations (CSOs). Among other recommendations, the government committed to ensuring that “LGBT persons in Serbia can exercise their human rights freely and in security including fundamental rights such as the freedom of expression and the freedom of assembly and association” and “respond effectively to discrimination and violence against LGBT persons and ensure their safety during public events such as the Belgrade Pride Parade”. These four recommendations were accepted by the Government of Serbia. Of the four recommendations on freedom of association, the government has partially implemented three recommendations, and implemented one recommendation.

**2.2** Article 55 of the 2006 Constitution guarantees the right to freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which the Republic of Serbia is a state party, also guarantees freedom of association. However, despite these commitments, CSOs and activists in Serbia continue to be subject to smear campaigns and attacks.

**2.3** The 2009 Law on Associations<sup>2</sup> and the 2010 Law on Endowments and Foundations<sup>3</sup> regulate the formation and operation of CSOs in Serbia, presenting no legal barriers to the freedom of association. However, a working group formed by

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<sup>2</sup> Official Gazette of RS, No. 51/09

<sup>3</sup> Official Gazette of RS, No. 88/10

Government prepared a draft Civil Code in 2016 which included a more restrictive framework for associations, foundations and endowments. Civic initiatives and more than 200 CSOs made amendments and submitted it to the Ministry of Justice and the working group in 2016.

- 2.4** Although there are currently no legal barriers to freedom of association, civil society organisations – in particular CSOs with a focus on human rights - are sometimes subject to vilification and smear campaigns in the media. Smear campaigns often target CSOs who receive foreign support and these CSOs are often labelled as ‘foreign mercenaries’. For example, in November 2016, pro-government newspapers published articles accusing certain CSOs of being ‘foreign mercenaries’ financed to spread lies about the Srebrenica genocide and to undermine the Government of Serbia.<sup>4</sup>
- 2.5** The women’s peace organisation, Women in Black, has experienced a substantial increase in attacks after the police spokesperson for the Anti-Terror Unit, Radomir Pocuca, published a post on Facebook on 28 March 2014 urging hooligans to unite and oppose Women in Black. The public call was made in response to a protest organised by Women in Black in Belgrade to commemorate the victims of the Serbian military campaign against Kosovo Albanians.<sup>5</sup> Pocuca was later acquitted of charges of endangering members of Women in Black by the Higher Court of Belgrade.<sup>6</sup>
- 2.6** On 21 January 2016, the Human Rights House, which houses a network of CSOs working on advancing human rights in Serbia, in Belgrade was vandalised by unidentified perpetrators.<sup>7</sup> Although the police conducted an investigation at the site, there was no follow-up and no suspects were identified.

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<sup>4</sup> See for example Informer (16 November 2017). *VELIKO ISTRAŽIVANJE INFORMERA, OTKRIVAMO STRANE PLACENIKE: Za žutu patku i laži o Srebrenici SAD i EU dale 3.626.244 evra!* Accessed on 28 June 2017 via: <http://www.informer.rs/vesti/politika/102807/VELIKO-ISTRAZIVANJE-INFORMERA-OTKRIVAMO-STRANE-PLACENIKE-zutu-patku-lazi-Srebrenici-SAD-dale-evra>.

<sup>5</sup> Balkan Insight (20 July 2016). *Serbian Policeman ‘Inspired Threats’ to Peace Women*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/threats-multiplied-after-police-spokespersons-post-women-in-black-testified-07-19-2016>

<sup>6</sup> Balkan Insight (14 December 2016). *Serbian Ex-Policeman Acquitted of Threatening Peace Women*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/serbian-ex-policeman-acquitted-of-threatening-peace-women-12-14-2016>

<sup>7</sup> The Oslo Times (26 January 2016). *Human Rights House attacked in Serbia*. Accessed on 28 June 2017 via: <http://theoslotimes.com/article/human-rights-house-attacked-in-serbia> ; Human Rights House Network (26 January 2016). *Human Rights House Belgrade Premises Attacked*. Accessed via: <http://humanrightshouse.org/Articles/21410.html>

### **3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

- 3.1** Under Serbia's previous UPR examination, the government received five recommendations on the protection of human rights defenders, journalists and civil society representatives. Of the recommendations received, three were accepted and two were noted. The government made commitments to "denounce more forcefully all verbal and physical attacks on human right defenders" and to "strengthen the protection of journalists, media personnel and human right defenders against the attacks and prosecute those responsible for such kind of attempts". However, as examined in this section, the government has failed to effectively operationalise these recommendations. None of the five recommendations on protection of HRDs were implemented.
- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection of human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections, the government of Serbia has failed to take adequate measures to safeguard these rights. Intimidation, attacks and harassment of human rights defenders and journalists who report on sensitive issues, including LGBTI rights, transitional justice, corruption or government accountability, continue to be persecuted and subjected to unwarranted restrictions.
- 3.3** Among its concluding observations after Serbia's third review in 2017, The Human Rights Committee stated in 2017 that it was "concerned about allegations of public officials publicly vilifying and intimidating media workers and about the narrowing space for debate, in particular through the prosecution of journalists and members of civil society for expressing their opinions". It recommended that Serbia "take immediate steps to provide effective protection to media workers from all forms of intimidation and ensure that all cases are duly investigated and perpetrators of those acts of intimidation prosecuted and appropriately sanctioned"<sup>8</sup>.
- 3.4** On 17 January 2017, 9 members of the Youth Initiative for Human Rights (YIHR) and the My Initiative Activists' Movement were physically attacked by SNS (the ruling Serbian Progressive Party) supporters during a public debate in the Cultural Center of the Beška municipality in Vojvodina. The activists were protesting against Veselin Šljivančanin, a speaker during the debate who is a convicted war criminal. Two activists suffered severe injuries, and an activist's car was damaged. The police did not conduct any investigation into the violence.<sup>9</sup> The ruling SNS party issued a press

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<sup>8</sup> United Nations Human Rights Committee (10 April 2017). *Concluding observations on the third periodic report of Serbia*. CCPR/C/SRB/CO/3

<sup>9</sup> Youth Initiative for Human Rights (18 January 2017). *YIHR activists beaten up at the event of the Serbian Progressive Party*. Accessed on 28 June 2017 via: <http://www.yihr.rs/en/yihr-activists-beaten-up-at-the-event->

statement calling the protesters 'fascist' and 'hooligans' and advocated for their arrest.<sup>10</sup> Members of YIHR were subsequently subject to intimidation, attacks, and a smear campaign.<sup>11</sup> The tabloid *Informer*, considered close to the ruling SNS party, accused the director of YIHR, Anita Mitic, of receiving more than one million euros to 'create chaos in Serbia'.<sup>12</sup>

**3.5** Journalists in Serbia also continue to be subjected to harassment, intimidation, threats and physical attacks, forcing some to resort to self-censorship to avoid reprisals. According to the Independent Journalists' Association of Serbia (NUNS), there were at least 231 assaults (physical attacks, attacks on the property of journalists, threats, pressure and verbal attacks) on journalists since 2013, with at least 42 recorded physical attacks.<sup>13</sup> 69 journalists were assaulted in 2016, and at least 45 were attacked in the first six months of 2017. Investigations into these incidents are rare and do not lead to a criminal conviction of the perpetrators. High levels of impunity have had a chilling effect on media freedoms in Serbia.<sup>14</sup>

**3.6** During the inauguration of President Aleksandar Vučić, on 31 May 2017, journalists working for media outlets *Danas*, *Insajder*, *VICE* and *Radio Belgrade* were subject to verbal and physical attacks by government supporters and private security guards hired by the ruling party.<sup>15</sup> Vladimir Djukanovic a member of the ruling party in parliament later defended the attackers on Twitter, stating that, 'I personally stand up in the party for awarding and commending the guys who prevented provocateurs from causing incidents at the rally'.<sup>16</sup>

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[of-the-serbian-progressive-party/](#) ; Humanitarian Law Center (18 January 2017). *Attack on Youth Initiative for Human Rights activists condemned*. Accessed on 28 June 2017 via <http://www.hlc-rdc.org/?p=33245&lang=de>

<sup>10</sup> Srpska Napredna Stranka (17 January 2017). *ŠOKIRANI SMO FAŠISTIČKIM ISPADIMA AKTIVISTA "INICIJATIVE MLADIH"*. Accessed on 28 June 2017 via: <https://www.sns.org.rs/lat/novosti/saoostenja/sokirani-smo-fasistickim-ispadima-aktivista-inicijative-mladih>

<sup>11</sup> Balkan Insight (1 February 2017). *Serbian Youth Initiative Chief Blames State for Attack*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/mitic-we-are-not-scared-because-of-threats-01-31-2017>

<sup>12</sup> *Informer* (31 January 2017). *SVINJARIJA! EVO KOLIKO JE PARA DOBILA ANITA MITIĆ: Stranci joj dali 1.004.237 evra da pravi HAOS ŠIROM SRBIJE!* Accessed on 28 June 2017 via <http://informer.rs/vesti/politika/116496/SVINJARIJA-EVO-KOLIKO-PARA-DOBILA-ANITA-MITIC-Stranci-joj-dali-evra-pravi-HAOS-SIROM-SRBIJE>

<sup>13</sup> Numbers on 28 June 2017. See website of NUNS: <http://www.bazenuns.rs/srpski/napadi-na-novinare>

<sup>14</sup> European Commission (10 November 2015). Commission Staff Working Document. Serbia 2015 Report, p.17-18. Accessed on 28 June 2017 via: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_serbia.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_report_serbia.pdf)

<sup>15</sup> Regional Platform for Advocating Media Freedoms and Journalists' Safety (02 June 2017). *Inauguration Day Attacks Alarm Serbian Journalists*. Accessed on 28 June 2017 via <http://safejournalists.net/inauguration-day-attacks-alarm-serbian-journalists/> ; Balkan Insight (31 May 2017). *Scuffles Erupt as Serbia's President is Sworn In*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/vucic-swearing-in-ceremony-marked-by-incidents-05-31-2017>

<sup>16</sup> Balkan Insight (14 June 2017). *Serbian MP's Defend Attacks on Reporters at Vucic Swearing-In Ceremony*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/serbian-officials-defend-thugs-from-the-vucic-s-sworn-in-ceremony-06-14-2017>

- 3.7** TV Journalist and presenter Tatjana Vojtehovski received handwritten threats on 14 April 2017. Some of the threats include statements like '*Ustasha's [Croatian WWII fascist unit] bastards I will shoot behind the first corner!*'.<sup>17</sup> These threats followed online threats against the leadership of the Independent Journalists' Association of Serbia (NUNS) and the Independent Journalists' Association of Vojvodina, after the publication in pro-government tabloids of false information that both groups had organised post-election student protests in Novi Sad.<sup>18</sup> Anonymous death threats were also sent to Nedim Sejdinović, President of the Independent Journalists' Association of Vojvodina (NDNV), Dinko Gruhonjic, programme editor at NDNV and Slobodan Georgijev, journalist for the Balkan Investigative Reporting Network (BIRN),<sup>19</sup> prompting a statement denouncing the threats by the Organisation for Security and Cooperation in Europe (OSCE) on 16 September 2016.<sup>20</sup>
- 3.8** In December 2016, an agreement on cooperation and measures to raising the level of security for journalists was signed between the Prosecutor's office, the State Secretary of the Ministry of Internal Affairs and journalists' and media associations, aimed at better coordination and to investigate attacks against journalists.<sup>21</sup>
- 3.9** The Government of Serbia has adopted a strategy (2014-2018) to combat discrimination against LGBTI people, followed by the adoption of a National Action Plan. Although the policy is considered as a step in the right direction, it suffers from poor implementation.

#### **4. (D) Freedom of expression, independence of the media and access to information**

- 4.1** Under the 2nd UPR cycle, the Government of Serbia received twelve recommendations relating to freedom of expression and access to information. Of the recommendations received, eleven were accepted and one was noted. For example the government pledged to "amend and where necessary repeal all legislation which restricts the ability of journalists to carry out their work freely and

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<sup>17</sup> Balkan Insight (10 April 2017). *The Balkans Today: 10<sup>th</sup> to 14<sup>th</sup> April 2017*. Accessed on 28 June 2017 via: [http://live.balkaninsight.com/Event/The\\_Balkans\\_Today\\_3rd\\_-\\_7th\\_April\\_2017\\_2/831065088](http://live.balkaninsight.com/Event/The_Balkans_Today_3rd_-_7th_April_2017_2/831065088)

<sup>18</sup> Regional Platform for Advocating Media Freedoms and Journalists' Safety (6 April 2017). *IJAS and IJAV: Death threats to IJAV leadership*. Accessed on 28 June 2017 via: <http://safejournalists.net/ijas-ijav-death-threats-ijav-leadership/>

<sup>19</sup> N1 (12 September 2016). *NUNS: Otkriti ko preti smrću Georgijevu i Sejdinoviću*. Accessed on 28 June 2017 via: <http://rs.n1info.com/a192719/Vesti/Vesti/NUNS-Otkriti-ko-preti-smrcu-Georgijevu-i-Sejdinovicu.html>

<sup>20</sup> Organization for Security and Co-operation in Europe (16 September 2016). *Death threats against journalists in Serbia must be investigated and their safety ensured, says OSCE Representative*. Press statement. Accessed on 28 June 2017 via: <http://www.osce.org/fom/264896>

<sup>21</sup> N1 (26 December 2016). *MUP, Tužilaštvo i udruženja za veću bezbednost novinara*. Accessed on 28 June 2017 via: <http://rs.n1info.com/a217160/Vesti/Vesti/MUP-Tuzilastvo-i-udruzenja-za-vecu-bezbednost-novinara.html>

which impacts on the independence of the media“ and “ensure that LGBT people can express themselves freely for example in the Belgrade Pride in 2013“. However, as discussed below, the government did not take effective measures to implement these recommendations. Of the twelve recommendations pertaining to these issues, the government has implemented one recommendation, partially implemented six, and has not fully implemented five recommendations.

- 4.2** Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 46 of the Serbian Constitution of 2006 also guarantees the right to freedom of expression, while article 50 focuses on the freedom of the media. However, in practice independent journalists and media outlets who question state policies continue to face a number of arbitrary restrictions and persecution. In 2014, a set of new media laws was approved, including the Law on Public Information and Media<sup>22</sup>, Law on Electronic Media<sup>23</sup> and the Law on Public Media Services<sup>24</sup>, which prohibit monopolisation of media ownership, and mandates media plurality. In practice, however, the process of privatisation of media has led to increasing concentration of ownership of local media.<sup>25</sup>
- 4.3** This trend has been highlighted by the Human Rights Committee which said that it noted “the privatisation of the media, [and remained] concerned about the lack of transparency of media ownership and the ongoing public influence exercised on some media”. It recommended that Serbia “take steps to ensure the transparency of media ownership and that private media outlets are free and independent, in conformity with the Committee’s general comment No. 34 (2011) on the freedoms of opinion and expression”<sup>26</sup>.
- 4.4** Investigative journalists and independent media also continue to be subjected to smear campaigns and growing levels of vilification. Some are stigmatised and labelled ‘enemies of the state’ or ‘foreign agents’ by government officials and non-state actors. A smear campaign against the Balkan Investigative Reporting Network (BIRN), the Center for Investigative Journalism (CINS) and the Corruption Reporting Network (KRIK) by government officials and pro-government media started in 2014 and culminated in January 2015.<sup>27</sup>

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<sup>22</sup> Official Gazette of Serbia, n<sup>o</sup> 83/2014, 58/2015 and 12/2016

<sup>23</sup> Official Gazette of Serbia, n<sup>o</sup> 83/2014 and 6/2016

<sup>24</sup> Official Gazette of Serbia, n<sup>o</sup> 83/2014, 103/2015 and 108/2016

<sup>25</sup> NUNS (26 August 2015). *Jedan čovek kupuje većinu medija u Srbiji*. Accessed on 28 June 2017 via <http://www.nuns.rs/reforma-javnog-informisanja/Privatizacija-medija/24601/jedan-covek-kupuje-vecinu-medija-u-srbiji.html>

<sup>26</sup> United Nations Human Rights Committee (10 April 2017). *Concluding observations on the third periodic report of Serbia*. CCPR/C/SRB/CO/3

<sup>27</sup> Balkan Investigative Reporting Network. *BIRN under Fire*. Accessed on 28 June 2017 via <http://birn.eu.com/birn-under-fire/>; European Federation of Journalists (13 November 2017). *Serbia must avoid creating hostile environment for investigative journalists #BIRNunderFire*. Accessed on 28 June 2017 via

- 4.5** For example, on 1 November 2016, the Minister of Labour, Employment, Veteran and Social Affairs, Mr. Aleksandar Vulin stated in the television programme “Upitnik” (‘Questionnaire’) on the Public Broadcasting Service, that journalists Slobodan Georgiev and Dušan Mašić were endangering the safety of the then Prime Minister Aleksandar Vučić.<sup>28</sup> This was preceded and followed by a smear campaign in the pro-government media outlets, including newspaper *Informer* and Pink TV. For instance, on 5 November 2016, pro-government newspaper *Informer* published an article entitled, "Foreigners give Millions for False Scandals in Serbia" claiming that investigative journalism outlets such as BIRN, KIRK and CINS, besides NGOs, receive significant amounts of foreign funding.<sup>29</sup>
- 4.6** The increasingly hostile environment for journalists has led to growing levels of self-censorship among the media. In a statement on 9 February 2017, Radio Television of Vojvodina admitted to regularly censoring journalists. The broadcaster highlighted several cases in which they were forced to remove content after receiving ‘orders from above’.<sup>30</sup>
- 4.7** Journalist Stefan Cvetković was sentenced to two years in and three months in prison and a fine of 17,000 euros on the charge of unauthorised publication, plagiarism and defamation on 14 March 2017.<sup>31</sup> Three government officials of the ruling party filed a complaint against Cvetković, at a time when he was investigating said officials for misuse of funds in the municipality of Vršac.
- 4.8** On 6 January 2017, weekly political magazine NIN was given a fine of 2,500 Euros for damaging the reputation and honour of the Minister of Interior, Nebojša Stefanović. NIN had referred to the Minister as the "phantom of Savamala" in an opinion piece.<sup>32</sup> The first instance decision was overturned by the Court of Appeal in Belgrade.

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<http://europeanjournalists.org/blog/2015/11/13/serbia-must-avoid-creating-hostile-environment-for-investigative-journalists-birnunderfire/>

<sup>28</sup> NUNS (02 November 2016). *NUNS: Opasne izjave ministra Vulina*. Accessed on 28 June 2017 via:

<http://www.nuns.rs/info/statements/29350/nuns-opasne-izjave-ministra-vulina.html>

<sup>29</sup> *Informer* (06 November 2016). *TAJNI DOSIJE, STRANCI DAJU MILIONE ZA LAŽNE AFERE! Otkrivamo ko, kako i koliko plaća medije i NVO u Srbiji!* Accessed on 28 June via:

<http://www.informer.rs/vesti/politika/101402/TAJNI-DOSIJE-STRANCI-DAJU-MILIONE-LAZNE-AFERE-Otkrivamo-kako-koliko-placa-medije-NVO-Srbiji>

<sup>30</sup> Cenzolovka (9 February 2017). *Cenzura na sajtu RTV*. Accessed on 28 June 2017 via:

<https://www.cenzolovka.rs/pritisci-i-napadi/cenzura-na-sajtu-rtv/>

<sup>31</sup> Council of Europe (30 March 2017). *Journalist Stefan Cvetkovic Sentenced to Jail for Unauthorised Publication*. Accessed on 28 June 2017 via: <http://www.coe.int/en/web/media-freedom/all-alerts/-/soj/alert/24514980> ; NUNS (14 March 2017). *NUNS i NDNV: Skandalozne sudske presude protiv novinara Cvetkovića*. Accessed on 28 June 2017 via: <http://www.nuns.rs/info/statements/30375/nuns-i-ndnv-skandalozne-sudske-presude-protiv-novinara-cvetkovica.html>

<sup>32</sup> Regional Platform for Advocating Media Freedoms and Journalists’ Safety (6 January 2017). *Serbia: Chilling effect on media freedom by verdict against journalist and editor*. Accessed on 28 June 2017 via: <http://safejournalists.net/serbia-chilling-effect-media-freedom-verdict-journalist-editor/>

**4.9** Freedom of information is guaranteed in article 51 of the Serbian Constitution of 2006. The Law on Free Access to Public Information has been in operation since 2004. However, the Law is not fully in line with European standards and should be further strengthened to ensure enforcement of the decisions of the Commissioner for Free Access to Public Information of Public Importance, who oversees the implementation of the law, including in cases where journalists and individual's requests relate to corruption or where high ranked government officials are implicated.<sup>33</sup>

## **5. (E) Freedom of peaceful assembly**

**5.1** During Serbia's examination under the 2<sup>nd</sup> UPR cycle, the government received nine recommendations on the right to freedom of assembly, all of which were accepted. Among other recommendations, the government committed to "take all appropriate measures to protect the right to assembly and to ensure investigation and prosecution of persons violating civil and political rights as guaranteed by the Serbian Constitution" and to "to take concrete steps to protect its LGBTI citizens and their freedom of assembly and expression". However, as evidenced below, the government has failed to adequately realize many of these recommendations. Of the recommendations on freedom of assembly, the government has partially implemented five, implemented one, and has not fully implemented three recommendations.

**5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 54 of the 2006 Constitution guarantees the right to freedom of assembly. However, in practice and policy this right is not still fully respected in Serbia.

**5.3** The Constitutional Court of Serbia declared the 1992 Law on Public Assembly unconstitutional in April 2015, and gave the Government a period of six months to develop a new law in line with the 2006 Constitution. The Parliament adopted a revised Law on Public Assembly<sup>34</sup> on 5 February 2016, leaving the vast majority of previous version gaps and deficits unchanged. Restrictions on the place of assemblies were not removed from Article 6, and the law outlines a range of justifications to ban an assembly under Article 8. Additionally, the Law prohibits public assemblies in cases when it could lead to violence, demolition of property or other forms of public disorder, or in other cases when the assembly is not in accordance with the relevant law. This was echoed by the Human Rights Committee, which stated that it was "concerned about aspects of the application of the Public

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<sup>33</sup> European Commission (9 November 2016). Commission Staff Working Document. Serbia 2016 Report, p.12 Accessed on 28 June 2017 via: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_serbia.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_serbia.pdf)

<sup>34</sup> Official Gazette of Serbia, n<sup>o</sup> 6/2016

Assembly Act of 26 January 2016 that might hinder, not facilitate, protection of the right to freedom of assembly”, and recommended that Serbia “review the application of the Public Assembly Act of 26 January 2016 so as to ensure its compatibility with the Covenant [ICCPR]”<sup>35</sup>.

- 5.4** Although the 2016 Law on Public Assemblies allows for spontaneous assemblies, security forces prevented activists of the Let’s Not Drown Belgrade movement<sup>36</sup> from protesting outside the office of the Mayor of Belgrade on 7 March 2017.<sup>37</sup>
- 5.5** Anita Mitić was charged with a misdemeanour for breaking the Public Gatherings Law during a public commemoration of the 20<sup>th</sup> anniversary of the Srebrenica genocide, on 10 July 2015. The planned event, #sedamhiljada, aimed at commemorating the 20<sup>th</sup> anniversary of the Srebrenica genocide, was banned by the then Minister of the Interior, citing security risks.<sup>38</sup> Mitić and others defied the ban the evening before the ban on 10 July 2015.<sup>39</sup> Mitić was charged under the 1992 Law on Public Assembly which at that time had been annulled by the Constitutional Court. The first hearing in the Misdemeanour Court<sup>40</sup> took place on 3 February 2016 and the case is still pending.
- 5.6** The Belgrade Pride Parade was banned until 2014, citing security reasons. In 2014, 2015 and 2016 the Pride Parade took place, albeit under heavy police presence. In addition, due to the security concerns, Serbian followers of the Chinese religious group Falun Gong were prevented from holding a public assembly in June 2016, during the visit of Chinese President Xi Jinping. The constitutional appeal against the ban is still pending.<sup>41</sup>

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<sup>35</sup> “Concluding observations on the third periodic report of Serbia”, United Nations Human Rights Committee, 10 April 2017, CCPR/C/SRB/CO/3

<sup>36</sup> The Let’s not Drown Belgrade Movement or Ne davimo Beograd is a movement set to oppose the controversial Belgrade Waterfront Project.

<sup>37</sup> N1 (07 March 2017). *Kako prijavljen skup koji nije zabranjen da bude onemogućen?* Accessed on 28 June 2017 via: <http://rs.n1info.com/a233179/Vesti/Vesti/Kako-prijavljen-skup-koji-nije-zabranjen-da-bude-onemogucen.htm>

<sup>38</sup> Balkan Insight (10 July 2015). *Belgrade Bans Rallies on Srebrenica Anniversary*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/serbian-police-banned-all-saturday-rallies>

<sup>39</sup> Balkan Insight (29 January 2016). *Interview: Serbian Activist Faces Court for Commemorating Srebrenica*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/serbian-activist-faces-trial-for-commemorating-srebrenica-01-28-2016>

<sup>40</sup> Youth Initiative for Human Rights (3 February 2016). *It wasn’t her, it was all of us!* Accessed on 28 June 2017 via: <http://www.yihr.rs/en/it-wasnt-her-it-was-all-of-us/>

<sup>41</sup> Balkan Insight (17 June 2016). *Serbia Tightens Security ahead of Chinese Visit*. Accessed on 28 June 2017 via: <http://www.balkaninsight.com/en/article/serbia-tightens-security-measures-ahead-of-chinese-president-arrival-06-16-2016>

## **6. (F) Recommendations to the Government of Serbia**

CIVICUS and HRH call on the Government of Serbia to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

### **6.1 Regarding freedom of association**

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures, which unwarrantedly limit the right to association.
- Promote a meaningful political dialogue that allows and embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and others.

### **6.2 Regarding the protection of human rights defenders**

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offenses to justice.
- Ensure that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal, media or administrative harassment.
- Senior government officials should publicly condemn instances of harassment and intimidation of civil society activists and journalists and the government should prevent smear campaigns and vilification of civil society activists.

### **6.3 Regarding freedom of expression, independence of the media and access to information**

- Ensure that freedom of expression and media freedoms are respected by all, bringing national legislation into line with international standards.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.
- Take adequate steps to adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Enhance the implementation of the law on access to information in order to fully promote the exercise of the right to freedom of expression and freedom of opinion
- Organise inclusive consultations with journalists and media in order to resolve disputes that exist concerning media freedoms.
- Ensure that all cases of threats, intimidations and attacks against journalists are thoroughly investigated, and perpetrators brought to justice.

### **6.4 Regarding freedom of assembly**

- The 2016 Public Assemblies Law should be amended in order to fully guarantee the right to freedom of assembly, in particular restrictions on the place of assemblies, justifications for banning and prohibiting assemblies
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.

### **6.5 Regarding access to UN Special Procedures mandate holders**

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritize official visits with the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 6) Special Rapporteur on the rights to privacy and;

## **6.6 Regarding State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Include civil society organizations in the UPR process before finalizing and submitting the national report.
- Systematically consult with civil society and NGOs on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society sectors.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## 7. Assessment of implementation of civic space recommendations

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<b><i>Theme: D43 Freedom of opinion and expression</i></b>			
<p>132.31 . Amend and where necessary repeal all legislation which restricts the ability of journalists to carry out their work freely and which impacts upon the independence of the media (Ireland);</p> <p><b>Source of position:</b> A/HRC/23/15 - Para. 132</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>A41 Constitutional and legislative framework</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- media</p>	<p>Expression:</p> <p><u>Partly implemented</u></p> <p>A new set of laws of media laws were approved in 2014, prohibiting a concentration of media ownership, and mandates media plurality. In practice, however, the process of privatisation of media has led to increasing concentration of ownership of local media.</p> <p>Paragraph 4.3</p>
<p>133.7. Establish the International Commission for Investigation of Murders of Journalists and make sure the Commission will have a mandate appropriate to investigate the alleged case of murder of journalists (Netherlands);</p> <p><b>Source of position:</b> A/HRC/23/15/Add.1 - Para. 16</p>	Noted	<p>D43 Freedom of opinion and expression</p> <p>B51 Right to an effective remedy</p> <p>D21 Right to life</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- media</p>	<p>Expression</p> <p><u>Not fully implemented</u></p>

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>132.76. Take steps to protect the right to freedom of assembly and freedom of opinion and expression by ensuring the effective investigation and prosecution of alleged threats and violence by various non-state actors and extremist groups toward individuals and groups, including civil society organizations and individuals based on the ir sexual orientation (Canada);</p> <p>Source of position: A/HRC/23/15 - Para. 132</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>B51 Right to an effective remedy</p> <p>D44 Right to peaceful assembly</p> <p>D2 Right to physical and moral integrity</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Expression, Assembly</p> <p><u>Not fully implemented</u></p> <p>Investigations to these incidents are rare and are often not followed by the criminal conviction of the perpetrators.</p> <p>Paragraph 3.5</p>
<p>132.27. Put in place a policy of fighting discrimination based on sexual orientation and gender identity that would guarantee the rights of LGBT persons to freedoms of expression, association and peaceful assembly (France);</p> <p>Source of position: A/HRC/23/15 - Para. 132</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>D44 Right to peaceful assembly</p> <p>D45 Freedom of association</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Expression, assembly and association</p> <p><u>Implemented</u></p> <p>In 2014, a strategy (2014-2018) was adopted to combat discrimination against LGBTI people, followed by the adoption in 2015 of a National Action Plan. According to LGBTI organisation, the implementation of these has been poor.</p>
<p>132.28. Ensure that LGBT persons in Serbia can exercise their human rights freely and in security, including fundamental freedoms such as the freedom of expression and the freedom of assembly and association (Germany);</p> <p>Source of position: A/HRC/23/15 - Para. 132</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>D44 Right to peaceful assembly</p> <p>D45 Freedom of association</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Expression, assembly and association</p> <p><u>Partially implemented</u></p> <p>In 2014, a strategy (2014-2018) was adopted to combat discrimination against LGBTI people, followed by the adoption in 2015 of a National Action Plan. According to LGBTI organisation, the implementation of these has been poor</p>

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>132.78. Implement Recommendation 2010/5 of the Committee of Ministers of the Council of Europe, in particular the issues regarding freedoms of expression and peaceful assembly (Switzerland);</p> <p><b>Source of position:</b> A/HRC/23/15 - Para. 132</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>D44 Right to peaceful assembly</p> <p>E32 Right to just and favourable conditions of work</p> <p>S08 SDG 8 - economic growth, employment, decent work</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Expression, assembly</p> <p><u>Not fully implemented</u></p>
<p>132.75. Continue its efforts to strengthen the institutional and normative human rights framework, particularly with regard to freedom of expression (Australia);</p> <p><b>Source of position:</b> A/HRC/23/15 - Para. 132</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Expression</p> <p><u>Partially implemented</u></p> <p>A new set of laws of media laws were approved in 2014, prohibiting a concentration of media ownership, and mandates media plurality. In practice, however, the process of privatisation of media has led to increasing concentration of ownership of local media.</p> <p>Paragraph 4.3</p>

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>132.77. Develop and implement regulations and practices to ensure transparency in the ownership of media in order to prevent undue influence over editorial material by politicians, businessmen and other centres of power (Sweden);</p> <p>Source of position: A/HRC/23/15 - Para. 132</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- media</p>	<p>Expression</p> <p><u>Not fully implemented</u></p> <ul style="list-style-type: none"> <li>- The process of privatisation of media has led in practice to increasing concentration of ownership of local media.</li> <li>- The intimidating and hostile environment for journalists is leading to increasing levels of self-censorship. Instances of censorship or removal of content due to 'orders from above'</li> </ul> <p>Paragraphs 4.3, 4.6</p>
<p>133.6. Ensure that LGBT people can express themselves freely for example, in the Belgrade Pride in 2013 (Netherlands);</p> <p>Source of position: A/HRC/23/15/Add.1 - Para. 12</p>	Supported	<p>D43 Freedom of opinion and expression</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Expression</p> <p><u>Partially implemented</u></p> <p>After years of being banned, the Belgrade Pride Parade took place in 2014, and subsequent years. In 2014, a strategy (2014-2018) was adopted to combat discrimination against LGBTI people, followed by the adoption in 2015 of a National Action Plan. According to LGBTI organisation, the implementation of these has been poor.</p>
<p><b>Theme: D44 Right to peaceful assembly</b></p>			

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>132.81. Take all appropriate measures to protect the right to assembly and to ensure investigation and prosecution of persons violating civil and political rights as guaranteed by the Serbian Constitution (Denmark);  <b>Source of position:</b> A/HRC/23/15 - Para. 132</p>	Supported	<p>D44 Right to peaceful assembly</p> <p>B51 Right to an effective remedy</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Assembly</p> <p><u>Partially implemented</u></p> <ul style="list-style-type: none"> <li>- 2016 law on public assemblies, but restrictions still exist regarding the place of assemblies, grounds for banning and prohibiting assemblies.</li> <li>- instances of unjustified bans</li> </ul>
<p>131.14. Ensure adequate protection for all citizens, including members of the LGBT community, by, inter alia, allowing them to assemble to publicly promote their human rights and identifying and prosecuting those who commit violence against those who participate in peaceful assemblies (United States of America);  <b>Source of position:</b> A/HRC/23/15 - Para. 131</p>	Supported	<p>D44 Right to peaceful assembly</p> <p>D31 Liberty and security - general</p> <p>B51 Right to an effective remedy</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Assembly</p> <p><u>Partially implemented</u></p> <ul style="list-style-type: none"> <li>- After years of being banned, the Belgrade Pride Parade took place in 2014, and subsequent years.</li> <li>- Verbal and physical attacks against journalists during the protests of the inauguration of president Vucic</li> </ul>
<p>133.12. Publish and implement a plan to protect rights to freedom of assembly and expression ensuring the police have adequate powers to ensure the safety of those present and that any crimes committed in connection will be thoroughly and transparently investigated (United Kingdom of Great Britain and Northern Ireland).  <b>Source of position:</b> A/HRC/23/15/Add.1 - Para. 29</p>	Supported	<p>D44 Right to peaceful assembly</p> <p>D43 Freedom of opinion and expression</p> <p>B51 Right to an effective remedy</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- general</p>	<p>Expression, Assembly</p> <p><u>Not fully implemented</u></p>

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>131.15. Take concrete steps to protect its LGBTI citizens and their freedom of assembly and expression (Australia);  <b>Source of position:</b> A/HRC/23/15 - Para. 131</p>	Supported	<p>D44 Right to peaceful assembly  D43 Freedom of opinion and expression  S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Expression, Assembly  <u>Partially implemented:</u>  After years of being banned, the Belgrade Pride Parade took place in 2014, and subsequent years. In 2014, a strategy (2014-2018) was adopted to combat discrimination against LGBTI people, followed by the adoption in 2015 of a National Action Plan. According to LGBTI organisation, the implementation of these has been poor.</p>
<p>131.16. Enhance efforts to enable the lesbian, gay, bisexual and transgender (LGBT) community to exercise their fundamental freedoms of expression, association and peaceful assembly (Norway);  <b>Source of position:</b> A/HRC/23/15 - Para. 131</p>	Supported	<p>D44 Right to peaceful assembly  D45 Freedom of association  D43 Freedom of opinion and expression  S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Expression, Assembly, Association  <u>Partially implemented:</u>  After years of being banned, the Belgrade Pride Parade took place in 2014, and subsequent years. In 2014, a strategy (2014-2018) was adopted to combat discrimination against LGBTI people, followed by the adoption in 2015 of a National Action Plan. According to LGBTI organisation, the implementation of these has been poor.</p>
<p><b>Theme: D45 Freedom of association</b></p>			

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>131.17. Respond effectively to discrimination and violence against LGBT persons and ensure their safety during public events such as the Belgrade Pride Parade (Austria);  <b>Source of position:</b> A/HRC/23/15 - Para. 131</p>	Supported	<p>D45 Freedom of association  D31 Liberty and security - general  B51 Right to an effective remedy  S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <p>- lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p>Association  <u>Partially implemented:</u>  After years of being banned, the Belgrade Pride Parade took place in 2014, and subsequent years.  In 2014, a strategy (2014-2018) was adopted to combat discrimination against LGBTI people, followed by the adoption in 2015 of a National Action Plan.  According to LGBTI organisation, the implementation of these has been poor</p>
<b>Theme: H1 Human rights defenders</b>			
<p>131.18. Establish a more effective mechanism of dialogue with human rights defenders in the area of sexual minorities (Spain);  <b>Source of position:</b> A/HRC/23/15 - Para. 131</p>	Supported	<p>H1 Human rights defenders</p> <p><b>Affected persons:</b></p> <p>- human rights defenders  - lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p><u>Not fully implemented</u></p>
<p>131.19. Denounce more forcefully all verbal and physical attacks on human rights defenders (Norway);  <b>Source of position:</b> A/HRC/23/15 - Para. 131</p>	Supported	<p>H1 Human rights defenders</p> <p><b>Affected persons:</b></p> <p>- human rights defenders</p>	<p>Situation of HRDs  <u>Not fully implemented</u>  Paragraph 3.3, 3.5</p>
<p>133.8. Publish and implement a plan for human rights defenders addressing how the government will allow them to operate freely, independently without any harassment or interference and with details of how investigations will be pursued (United Kingdom of Great Britain and Northern Ireland);  <b>Source of position:</b> A/HRC/23/15/Add.1 - Para. 18</p>	Noted	<p>H1 Human rights defenders  B51 Right to an effective remedy</p> <p><b>Affected persons:</b></p> <p>- human rights defenders</p>	<p>Situation of HRDs  <u>Not fully implemented</u></p>

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<p>132.32. Strengthen the protection of journalists, media personnel, and human rights defenders against the attacks and prosecute those responsible for such kind of attempts (Estonia);</p> <p><b>Source of position:</b> A/HRC/23/15 - Para. 132</p>	Supported	<p>H1 Human rights defenders</p> <p>B51 Right to an effective remedy</p> <p>D43 Freedom of opinion and expression</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- human rights defenders</li> <li>- media</li> </ul>	<p>Situation of HRDs</p> <p><u>Not fully implemented</u></p> <p>Investigations to these incidents are rare and are often not followed by the criminal conviction of the perpetrators.</p> <p>In some cases, HRDs and journalists are openly attacked by officials of the ruling party , for example recently in support of attacks on activists of the Youth Initiative for Human Rights as ‘fascists’ and ‘hooligans’ (paragraph 3.4)</p> <p>Paragraphs 3.5, 3.4 and 3.7</p>
<p>133.9. Adopt a more supportive policy with regard to human rights defenders and as part of it, form a network of independent and specialized lawyers to provide legal aid for them (Hungary);</p> <p><b>Source of position:</b> A/HRC/23/15/Add.1 - Para. 22</p>	Noted	<p>H1 Human rights defenders</p> <p>D51 Administration of justice &amp; fair trial</p> <p>B51 Right to an effective remedy</p> <p>S16 SDG 16 - peace, justice and strong institutions</p> <p><b>Affected persons:</b></p> <ul style="list-style-type: none"> <li>- human rights defenders</li> </ul>	<p>Situation of HRDs</p> <p><u>Not fully implemented</u></p>