



Australian Government
Refugee Review Tribunal

Country Advice

Serbia

Serbia – SRB38590 – Female Victims of Crime – State Protection

5 May 2011

1. Please advise on the availability of state protection generally and, in particular, state protection for female victims of crime in Serbia.

A 2010 Freedom House report on Serbia found that the law enforcement and judicial authorities were largely ineffective.¹ According to the US Department of State, the effectiveness of Serbia's police force is uneven. Police at times employed unlawful means of obtaining statements, such as force, threats, and coercion. Impunity remains a problem among police, although the quality of internal investigations appears to be improving, and the number of charges brought against police has increased.² A lack of education and experience within the police force has also hampered the government's attempts to combat organised crime in Serbia.³ The European Commission 2010 Progress Report on Serbia indicates that although progress has been made towards fighting organised crime, understaffing and a lack of expertise has limited the capacity of the specialised police services to investigate and prosecute criminals.⁴

Serbian courts and the judiciary are also inefficient and ineffective, particularly as they are vulnerable to corruption and political influence. Delays in processing cases have been attributed to "an insufficient number of judges in the main courts, failure of postal workers to serve subpoenas and other court documents, failure of police to execute arrest warrants, failure of prisons to bring prisoners to court for scheduled hearings, issuing indictments or scheduling hearings without complete and thorough investigations, excessive continuances of court hearings, a lack of professional court administration, and failure to invest in professional personnel and modern infrastructure".⁵ According to Freedom House, "[t]he significant backlog of civil, criminal, commercial, and administrative cases coupled with the inefficient enforcement of judgments, continue to plague Serbia's justice system".⁶

Protection for female victims of crime

¹ Pesek, S. and Nikolajevic, D. 2010, *Nations in Transit 2010: Serbia*, Freedom House website, June, p.470 <http://www.freedomhouse.eu/images/nit2010/NIT-2010-Serbia-proof-II.pdf> – Accessed 2 May 2011 – Attachment 1

² US Department of State 2011, *Country Reports on Human Rights Practices for 2010: Serbia*, 8 April, Section 1d – Attachment 2

³ Immigration and Refugee Board of Canada 2007, *SRB102415.E – Serbia: Extent of organized crime activities, including corruption in the police force or other government agencies; government response to these activities and state protection available to witnesses who testify against corrupt government employees (2005 – July 2007)*, 21 August – Attachment 3

⁴ European Commission 2010, *Serbia 2010 Progress Report*, 9 November, European Country of Origin Information Network website, p.53 http://www.ecoi.net/file_upload/1226_1292239150_sr-rapport-2010-en.pdf – Accessed 2 May 2011 – Attachment 4

⁵ US Department of State 2011, *Country Reports on Human Rights Practices for 2010: Serbia*, 8 April, Section 1e – Attachment 2

⁶ Pesek, S. and Nikolajevic, D. 2010, *Nations in Transit 2010: Serbia*, Freedom House website, June, p.456 <http://www.freedomhouse.eu/images/nit2010/NIT-2010-Serbia-proof-II.pdf> – Accessed 2 May 2011 – Attachment 1

The Serbian authorities also fail to adequately protect female victims of gender-based crime, particularly rape and domestic violence.⁷ Despite laws which punish rape with up to 40 years imprisonment, and domestic violence with up to 10 years imprisonment, Serbian women's groups have claimed that "most penalties for committing domestic violence are paroles and fines".⁸ According to the US Department of State, 63 out of the 78 rape cases tried in 2009 resulted in convictions.⁹ However, Ministry of Interior statistics for 2004 indicated that only 10 per cent of convictions for domestic violence-related crimes resulted in prison sentences. In addition, although police interventions in domestic violence cases increased between 2002 and 2006, criminal charges were filed in fewer than 10 per cent of cases, with approximately 30 per cent resulting in misdemeanour charges. In the majority of these cases, a warning was issued.¹⁰

Furthermore, many rape and domestic violence cases go unreported due to fear of reprisals from the attacker.¹¹ The World Organisation Against Torture noted in 2004 that during criminal proceedings, the authorities rarely protect female victims of violence from threats made by the perpetrators or their relatives.¹² The 2010 European Commission Progress Report on Serbia similarly states that "[t]he rules on legal protection of women during court proceedings are not sufficiently applied in practice".¹³ According to the United Nations Development Programme, protective measures against perpetrators of domestic violence prescribed in the Family Law of 2005, including "removing the perpetrator from the family home and issuing restraining orders forbidding contact with the victim", are similarly "not regularly applied".¹⁴

The World Organisation Against Torture also describes the "overtly discriminatory" court procedures concerning female victims of violence. For example, female victims of sexual violence such as rape are subject to scrutiny regarding their mental health and ability to speak truthfully, and are often required to provide evidence that they did not provoke their attacker or 'invite' the attack.¹⁵

Although there is no government budget for combating domestic violence, the government provides financial support to safe houses for victims run by non-governmental organisations

⁷ European Commission 2010, *Serbia 2010 Progress Report*, 9 November, European Country of Origin Information Network website, p.14 http://www.ecoi.net/file_upload/1226_1292239150_sr-rapport-2010-en.pdf – Accessed 2 May 2011 – Attachment 4

⁸ US Department of State 2011, *Country Reports on Human Rights Practices for 2010: Serbia*, 8 April, Section 6 – Attachment 2

⁹ US Department of State 2011, *Country Reports on Human Rights Practices for 2010: Serbia*, 8 April, Section 6 – Attachment 2

¹⁰ Immigration and Refugee Board of Canada 2009, *SRB103041.E – Serbia: Domestic violence; legislation and implementation; support services for victims (2001 – April 2009)*, 1 May – Attachment 5

¹¹ US Department of State 2011, *Country Reports on Human Rights Practices for 2010: Serbia*, 8 April, Section 6 – Attachment 2

¹² World Organisation Against Torture 2004, *State Violence in Serbia and Montenegro*, UNHCR Refworld website, 1 September, pp.51-54 <http://www.unhcr.org/refworld/docid/46c191000.html> – Accessed 14 April 2011 – Attachment 6

¹³ European Commission 2010, *Serbia 2010 Progress Report*, 9 November, European Country of Origin Information Network website, p.14 http://www.ecoi.net/file_upload/1226_1292239150_sr-rapport-2010-en.pdf – Accessed 2 May 2011 – Attachment 4

¹⁴ Immigration and Refugee Board of Canada 2009, *SRB103041.E – Serbia: Domestic violence; legislation and implementation; support services for victims (2001 – April 2009)*, 1 May – Attachment 5

¹⁵ World Organisation Against Torture 2004, *State Violence in Serbia and Montenegro*, UNHCR Refworld website, 1 September, pp.51-54 <http://www.unhcr.org/refworld/docid/46c191000.html> – Accessed 14 April 2011 – Attachment 6

(NGOs).¹⁶ However, a 2007 study conducted by the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, which links an increase in domestic violence with socio-economic problems associated with post-war conflict, found that “government support of NGOs for protecting victims of domestic violence is on an ‘ad-hoc basis’”.¹⁷

Furthermore, adequate protection is not available for human rights defenders, particularly female activists, who are often the victims of death threats, media attacks, and prosecutions. Amnesty International reports that the Serbian authorities have continually failed “to conduct prompt and impartial investigations into physical attacks and death threats made against HRDs, resulting in impunity for the perpetrators”.¹⁸

¹⁶ US Department of State 2011, *Country Reports on Human Rights Practices for 2010: Serbia*, 8 April, Section 6 – Attachment 2

¹⁷ Immigration and Refugee Board of Canada 2009, *SRB103041.E – Serbia: Domestic violence; legislation and implementation; support services for victims (2001 – April 2009)*, 1 May – Attachment 5

¹⁸ Amnesty International 2010, *Annual Report: Serbia*, 28 May – Attachment 7; ‘Human rights defenders attacked and threatened, says new Amnesty report’ 2009, Amnesty International website, 14 September – Attachment 8; Amnesty International 2009, *Serbia: Human Rights Defenders at Risk*, Amnesty International website, Index: EUR 70/014/2009, September, p.5 <http://www.amnesty.org/en/library/asset/EUR70/014/2009/en/62eed1a1-0150-4999-aca5-6909720e053b/eur700142009en.pdf> – Accessed 5 March 2010 – Attachment 9

Attachments

1. Pesek, S. and Nikolajevic, D. 2010, *Nations in Transit 2010: Serbia*, Freedom House website, June <http://www.freedomhouse.eu/images/nit2010/NIT-2010-Serbia-proof-II.pdf> – Accessed 2 May 2011.
2. US Department of State 2011, *Country Reports on Human Rights Practices for 2010: Serbia*, 8 April.
3. Immigration and Refugee Board of Canada 2007, *SRB102415.E – Serbia: Extent of organized crime activities, including corruption in the police force or other government agencies; government response to these activities and state protection available to witnesses who testify against corrupt government employees (2005 – July 2007)*, 21 August. (REFINFO)
4. European Commission 2010, *Serbia 2010 Progress Report*, 9 November, European Country of Origin Information Network website http://www.ecoi.net/file_upload/1226_1292239150_sr-rapport-2010-en.pdf – Accessed 2 May 2011.
5. Immigration and Refugee Board of Canada 2009, *SRB103041.E – Serbia: Domestic violence; legislation and implementation; support services for victims (2001 – April 2009)*, 1 May. (REFINFO)
6. World Organisation Against Torture 2004, *State Violence in Serbia and Montenegro*, UNHCR Refworld website, 1 September <http://www.unhcr.org/refworld/docid/46c191000.html> – Accessed 14 April 2011.
7. Amnesty International 2010, *Annual Report: Serbia*, 28 May.
8. ‘Human rights defenders attacked and threatened, says new Amnesty report’ 2009, Amnesty International website, 14 September. (CISNET Serbia CX233822)
9. Amnesty International 2009, *Serbia: Human Rights Defenders at Risk*, Amnesty International website, Index: EUR 70/014/2009, September <http://www.amnesty.org/en/library/asset/EUR70/014/2009/en/62eed1a1-0150-4999-aca5-6909720e053b/eur700142009en.pdf> – Accessed 5 March 2010.