

2016-10-10

## Fråga-svar

### Serbien. Fängelseförhållanden och HBTQ

#### Fråga

Hur är förhållandena på serbiska fängelser? Hur är situationen på serbiska fängelser för hbtq-personer? Utreds övergrepp?

#### Svar

##### Fängelseförhållanden

Freedom House (2016-08-23):

Prisons generally meet international standards, though overcrowding is an issue, and health care facilities are often inadequate.

United States Department of State (US DOS, 2016-04-13):

According to the ombudsman's 2014 annual report, impunity for abuse or torture during arrest or initial detention was prevalent. There were few prosecutions and even fewer convictions for abuse or torture. Irregularities in the treatment of prisoners included failure to perform medical examination of inmates after the use of force, failure to determine whether the examined person was subjected to mistreatment, and lack of knowledge of how best to provide health care to a person against whom force was used.

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Many prisons and detention centers did not meet international standards and were severely overcrowded, had generally poor sanitation, lacked proper lighting and ventilation, and had poorly disciplined and trained custodial staff. The Organization for Security and Cooperation in Europe (OSCE) reported that prisons and detention centers lacked proper facilities for prisoners with disabilities. In September the ombudsman stated that health care services in prisons were insufficient and that most facilities were understaffed.

*Physical Conditions:* Prison conditions in maximum-security prisons were harsh due to gross overcrowding, physical abuse, and inadequate sanitary conditions and medical care. In September Deputy Ombudsman Milos Jankovic stated that, in spite of recent improvements, prison conditions were still not satisfactory and that the country had failed to fulfill all EU standards.

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Prison conditions varied greatly between facilities. Guards generally were poorly trained in the proper handling of prisoners.

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Improvements: In September the ombudsman stated that prison and detention center staff had attained a better understanding through his visits that mistreatment, abuse, and torture were not allowed. He added that prison and detention center staff understood that external observation was necessary to do away with abuse.

#### Council of Europe: Committee for the Prevention of Torture (2016-06-24):

Episodes of inter-prisoner violence and intimidation were a frequent occurrence at all the prison establishments visited /.../

Inter-prisoner violence, to a large extent, continues to be fuelled by a number of factors, notably the existence of stronger groups of prisoners, poor material conditions, a lack of activities, chronic understaffing and a high prevalence of illicit drug use. The Committee must reiterate that the duty of care which is owed by the State to those in their charge includes the responsibility to protect them from other inmates who wish to cause them harm. In the current situation in the prisons visited, the Serbian authorities seem unable to fulfil their minimum obligation to keep both prisoners and staff safe. (s. 35)

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The introduction of the position of judge for the execution of criminal sanctions in the LECS provides for an additional avenue of complaint for both sentenced and remand prisoners in addition to the existing remedies (i.e. complaints to the director of the establishment, the Ministry of Justice or to the Ombudsman). As already mentioned (see paragraph 41) the judge for the enforcement of criminal sanctions acts as a second instance body in deciding on appeals filed by inmates against a decision of the prison director (or the director of the prison administration). The judge also decides on appeals filed directly to him/her by inmates for their judicial protection if the right to life or integrity to health is in danger. (s. 64)

Prisoners interviewed by the delegation in the establishments visited were well informed of the avenues of complaint available and complaint boxes were present in the majority of pavilions of the prisons. For example, the judge for the execution of criminal sanctions responsible for Sremska Mitrovica Correctional Institution had received approximately 30 complaints from inmates during the first six months of his activity. Further, the judge competent for Niš Correctional Institution had recently ordered that an inmate, who

alleged that his mental health was at risk due to his placement under enforced supervision, be reintegrated into the ordinary regime in accordance with Section 37, paragraph 4 of the LECS. (s. 65)

Office for Human and Minority Rights har publicerat en statlig rapport om implementeringen av FN:s konvention om medborgerliga och politiska rättigheter (2015-11-26):

90. Video surveillance is provided in order to prevent violence among persons deprived of liberty at penitentiary institutions. In particular, treatment services at institutions keep regular interviews with convicted persons with the aim to prevent any form of violence and control programmes of aggressive behaviour are organised, which are conducted by institution pedagogue workers.

91. Convicted persons and detainees are informed about their rights and regularly use protection procedure if they deem some of their rights had been limited or violated as prescribed by the Criminal Procedure Code. In cooperation with OSCE mission to the RS and with the aim to inform convicted persons better, the DECS disseminated to the institutions laws, rulebooks, guidelines for convicted persons and handbooks for convicted persons. In cooperation with OSCE mission to the RS and the Protector of Citizens, the DECS carried out a campaign of placing boards at the institutions containing forms of submissions, complaints, appeals and special envelopes for applications to the Protector of Citizens. (s. 17)

European Commission (2015-11-10):

As regards prevention of torture and ill-treatment, the Ombudsman's Office acts as the national preventive mechanism. It needs more human resources and a solid and permanent internal structure. Penalties in the Criminal Code are not proportionate to the severity and gravity of the crimes of ill-treatment and torture. Proper legal safeguards against torture and abuse in social institutions have yet to be adopted. Overcrowding, especially in maximum security wards, poor living conditions, difficult access to specialist treatment programmes and inadequate access to healthcare in prisons are still matters of concern. Legislation covering detention in police custody, the prevention of torture and the internal complaints system needs to be amended to strengthen the rights of detainees in line with international standards. An effective internal non-judicial mechanism for reviewing complaints has yet to be set up. There has been no progress in changing the unlawful practice of using district prisons for police detention. (s. 54)

## **HBQT**

Freedom House (2016-08-23):

The treatment of LGBT people remains problematic. While the attitude toward the LGBT community is changing as more and more LGBT people decide to live openly, Serbian society still remains somewhat traditional. Increasingly tolerant actions by the government appear to be influencing those holding more conservative views.

International Lesbian, Gay, Bisexual, Trans and Intersex Association (2016-05-10):

NGO Labris held five trainings during 2015, reaching a total of 125 police officers. Eight LGBTI community liaison officers were appointed and the Kragujevac police department opened an emergency phone line for LGBT people and their family to report hate crime or discrimination. (s. 148)

US DOS (2016-04-13):

Although the law prohibits discrimination based on sexual orientation and gender identity, violence and discrimination against members of the LGBTI community were serious problems. While attacks happened often, few were reported to authorities because victims were afraid of further harassment.

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LGBTI activists maintained that members of the LGBTI community did not report many violent attacks against them to police because the victims did not believe their cases would be addressed properly and wanted to avoid further victimization from police or publicity generated by their complaints. LGBTI activists also noted that the inadequate government response to violent acts against the LGBTI community encouraged perpetrators to target members of the community with death threats, assaults, and verbal abuse.

Amnesty International (2016-02-24):

Hate crimes against LGBTI people were seldom effectively investigated, and legislation on hate crime was not implemented.

Council of Europe - Commissioner for Human Rights (2015-07-08):

In his 2011 report on Serbia, the Commissioner's predecessor noted that notwithstanding the progress made in the fight against discrimination, homophobia remained a serious problem. The Commissioner notes that this situation persists and is corroborated by various national and international reports.

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The 2013-2018 Anti-Discrimination Strategy elaborated by Serbia acknowledges the problem of homophobia and identifies the fields in which more work needs to be done, including education, social welfare, employment and healthcare. The implementation of the Strategy aims, inter alia, at bringing the relevant legislation into line with international standards; eradicating discrimination against LGBTI persons; and strengthening institutional capacities for the protection of LGBTI persons.

99. The Ministry of Interior has taken some important concrete steps in this field. In February 2014 it drafted an Action Plan for the Improvement of Work and Co-operation of the Police with Representatives and Associations of Persons of Different Sexual Orientation. LGBTI representatives informed the Commissioner about the improved co-operation between the LGBTI community and the police, following in particular the appointment in 2014 by the Ministry of Interior of 11 liaison officers for the LGBTI community, one at national and 10 at local level. Various training events concerning the rights of LGBTI persons and their relationship with the police have been organised, including the 2014 seminar "Same Sex Orientation and Gender Identity in the Context of Policing" which was attended by 130 law enforcement officers.

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Notwithstanding these positive developments, the Commissioner notes that homophobia and violence against LGBTI persons persist. There have been several physical attacks by private individuals against LGBTI activists in recent years /.../ The Commissioner would appreciate receiving more information from the authorities about the follow-up given to these cases by prosecutors and courts. He reiterates his call on the authorities to continue taking strong public positions against the human rights violations of LGBTI persons and to systematically promote human rights awareness in the country, especially in schools. (s. 19)

Civil Rights Defenders, Human Rights in Serbia (2015-05-19):

As for the cases of discrimination against the LGBT population, which are still very common in Serbia, responses by relevant state bodies continue to be inadequate. Apart from the fact that LGBT persons are discriminated by general population, the main issue that remains is the lack of adequate implementation of legislation that explicitly refers to sexual orientation (the comprehensive Anti-Discrimination Law; Labor Law; Law on Higher Education; Public Information Law; Broadcasting Law; Law on Youth; amendments to the Law on Health Insurance; Social Security Law; amendments to the Criminal Code; Law on Education of the Elderly).

För mer information om myndigheternas inställning till hbtq-personer, se även franska Office Français de Protection des Réfugiés et Apatrides rapport [\*Serbie : situation des minorités sexuelles et des minorités de genre\*](#) (2015-05-11) och Migrationsverket/Lifos sammanställning [\*HBTQ i Serbien\*](#) (2014-10-16).

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Denna sammanställning av information/länkar är baserad på informationssökningar gjorda under en begränsad tid. Den är sammanställd utifrån noggrant utvalda och allmänt tillgängliga informationskällor. Alla använda källor refereras. All information som presenteras, med undantag av obestridda/uppenbara fakta, har dubbelkontrollerats om inget annat anges. Sammanställningen gör inte anspråk på att vara uttömmande och bör inte tillmätas exklusivt bevisvärde i samband med avgörandet av ett enskilt ärende. Informationen i sammanställningen återspeglar inte nödvändigtvis Migrationsverkets officiella ståndpunkt i en viss fråga och det finns ingen avsikt att genom sammanställningen göra politiska ställningstaganden. Refererade dokument bör läsas i sitt sammanhang.

## Källförteckning

(alla länkar kontrollerades 2016-10-10)

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