



Human Rights and Business Country Guide

# Serbia

August 2016



# How to Use this Guide

*This Human Rights and Business Country Guide contains information regarding the potential and actual human rights impacts of businesses. The information in this Guide is gathered from publicly available sources, and is intended to help companies respect human rights and contribute to development in their own operations and those of their suppliers and business partners.*

## About the Human Rights and Business Country Guide

The Human Rights and Business Country Guide provides country-specific guidance to help companies respect human rights and contribute to development.

For companies to manage their potential human rights impacts, they must have comprehensive information about the local human rights context in which they operate. The Country Guide provides a systematic overview of the human rights issues that companies should be particularly aware of. For each issue, it provides guidance for companies on how to ensure respect for human rights in their operations or in collaboration with suppliers and other business partners.

The Country Guide is not only a resource, but a process. This Guide was produced through a systematic survey carried out by the Danish Institute for Human Rights (DIHR) and the Belgrade Centre for Human Rights (BCHR). The aim of this Guide is to improve the human rights practices of companies, including through facts-based dialogue regarding the issues presented here.

### **How the Human Rights and Business Country Guide can be used by companies**

- Develop company policies and procedures related to human rights issues in the local environment.
- Assess and track the potential human rights impacts of your own operations or in suppliers, business partners and investments.
- Raise awareness among staff, suppliers and other business partners.
- Engage with workers, potentially affected communities, consumers and other stakeholders whose human rights might be affected by your operations.
- Engage with civil society organisations, government bodies or international organisations on human rights-related issues.
- Provide background information for auditors.
- Establish or collaborate with mechanisms for workers, communities and other whose human rights might be affected by your operations.
- Contribute to development initiatives that align with human development needs and priorities in the local context.

### **How the Human Rights and Business Country Guide can be used by governments**

- Review and reform public policy and legislation relevant to the human rights impacts of business, including in the areas of labour, environment, land, equal treatment, anti-corruption, taxation, consumer protection or corporate reporting.
- Ensure respect for human rights in the state's own business affairs such as state-owned companies, sovereign wealth funds and other investments, public procurement, development assistance, export credit and other activities.
- Build awareness and capacity on human rights and business issues within relevant areas of public administration.
- Provide targeted advice to domestic companies.
- Inform the development of trade policy, trade and investment agreements and trade and investment promotion.
- Improve effective access to judicial and non-judicial remedies for victims of business-related human rights abuses.
- Enhance the contribution of the private sector in national and regional development programmes relevant to human rights.

#### **How the Human Rights and Business Country Guide can be used by civil society organisations**

- Inform human rights research and monitoring related to business operations.
- Work with affected workers and communities to define human rights and human development priorities related to the role of business.
- Provide capacity-building to government, business and civil society stakeholders on human rights and business.
- Work with local stakeholders to provide recommendations to business and government.
- Facilitate dialogue and engagement with, including multi-stakeholder forums, with state agencies and businesses.

The Country Guide aims to work with all stakeholders to promote, monitor and expand the activities described above. We request that all stakeholders who use the findings of the Country Guide in their work notify the Country Guide team of their activities and lessons learned. These experiences will be included in the Country Guide website, [HRBCountryGuide.org](http://HRBCountryGuide.org).

## Country Guide Process

The Serbia Country Guide was produced by the Danish Institute for Human Rights (DIHR) and the Belgrade Centre for Human Rights (BCHR).

The Country Guide is a compilation of publicly available information from international institutions, local NGOs, governmental agencies, businesses, media and universities, among others. International and domestic sources were identified based on their expertise and relevance to the Serbian context, as well as their timeliness and impartiality.

The initial survey of publicly available, international sources was carried out by BCHR in 2013. In 2016, the draft was updated, including feedback from local stakeholders.

The completed Country Guide aims to provide a comprehensive overview, on the basis of the information available, of the ways in which companies do or may impact human rights in Serbia. The current Country Guide is meant living document. It is intended to be the basis, and the beginning, of a process of dissemination, uptake and modification. DIHR and the BCHR seek further engagement with local stakeholders, and intend to update the Country Guide on that basis.

Serbia is currently at step 4 in the Country Guide process.

## Country Guide Content

*The Country Guide contains the following information:*

### Areas for Attention

Each section of the Country Guide identifies areas for particular attention by businesses. The Country Guide identifies these areas through an analysis of the country's legal framework for human rights protection; enjoyment of human rights in practice; and the proximity of third-party human rights violations to company operations.

The headline and risk description describe the relevance of each issue for businesses. The text that follows the risk description presents the quantitative and qualitative information upon which this determination was based.

- **Background & Context** gives an overview of economic, political and demographic characteristics.
- **Rights Holders at Risk** identifies groups that may be vulnerable to workplace discrimination or community impacts.
- **Labour Standards** identifies areas for attention related to employees and working conditions. This section includes child labour, forced labour, trade unions, occupational health & safety and working conditions.
- **Community Impacts** identifies areas for attention related to communities whose human rights may be affected by company operations. This section includes impacts related to environment, land & property, revenue transparency & management and security & conflict.
- **Access to Remedy** identifies judicial, state-based and non-state-based non-judicial grievance mechanisms, informal as well as regional and international avenues of redress for victims of corporate human rights abuse. Where possible, this also includes practice information about the effectiveness of such bodies, and the number of cases they have heard and redressed.
- **Sector Profiles** identifies human rights and business impacts related to a particular industry sector, such as extractive operations, manufacturing or agriculture.
- **Region Profiles** identifies regions of the country where the risk of adverse human rights impacts differs markedly from the national profile. This may include underdeveloped regions, export processing zones or conflict areas.

### Cases

Each rights issue includes cases from media and law where the rights issue in question has been allegedly violated. These cases are drawn from the Business and Human Rights Resource Centre, international and local NGOs and stakeholder consultations. The cases presented here should not be considered comprehensive.

## Human Rights Guidance for Businesses

This section includes guidance for businesses to prevent and mitigate their adverse human rights impacts. This guidance is drawn from the Danish Institute for Human Rights (DIHR) existing library of human rights due diligence recommendations, as well as international frameworks, principles and guidelines. Where available, this section includes recommendations issued by local NGOs and directed specifically at companies operating in the country.

This section also includes examples of initiatives carried out by companies to mitigate their human rights impacts. These are organized into Due Diligence Initiatives—activities that aim to meet the company’s responsibility not to violate human rights—and Development Initiatives—activities that aim to contribute to development beyond this baseline obligation.

## Engagement Opportunities

Companies have a responsibility to prevent negative human rights impacts, but they also have an opportunity to contribute to positive human rights impacts. Each section of this Guide includes information for companies to link their policies and community engagement processes to on-going governmental and institutional efforts to promote and fulfil human rights.

This includes Public Sector Initiatives—activities where the government is aiming to fulfil or promote the right in question through discrete programmes—as well as Civil Society Initiatives—description of activities and mandates that the organisations have in place in order to promote the right in question.

The purpose of the information in this section is to inspire further efforts and engagement by businesses, as well as to identify existing programmes that companies could support or take part in.

## About DIHR

The Danish Institute for Human Rights is a National Human Rights Institution accredited under the UN Paris Principles, and carries out human rights and development programmes in Denmark and around the world. Since 1999, the Danish Institute has worked closely with the business and human rights communities to develop tools and standards for better business practice.

*For more information, see [humanrights.dk](http://humanrights.dk).*

## About BCHR

The Belgrade Centre for Human Rights was established by a group of human rights experts and activists in February 1995 as a non-profit, non-governmental organisation. The main purpose of the Centre is the advancement of theory, legislation and practice of human rights.

*For more information, see [bgcentar.org.rs](http://bgcentar.org.rs)*

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# Background & Context

*Overview of political and socio-economic conditions in which businesses operate. This information is designed to inform businesses of the broader political and development trends in the country.*

Demographics & Economy	
Population	7.2 million (2011 census)
Ethnic Groups	Serb 83.3%, Hungarian 3.5%, Romany 2.1%, Bosniak 2%, other 5.7%, undeclared or unknown 3.4% (2011 est.)
Religious Groups	Serbian Orthodox 84.6%, Catholic 5%, Muslim 3.1%, Protestant 1%, atheist 1.1%, other 0.8%, undeclared or unknown 4.5% (2011 est.)
Languages	Serbian (official) 88.1%, Hungarian 3.4%, Bosnian 1.9%, Romany 1.4%, other 3.4%, undeclared or unknown 1.8%  note: Serbian, Hungarian, Slovak, Romanian, Croatian, and Rusyn all official in Vojvodina (2011 est.)

## Political, Economic & Development Statistics

*Quantitative indicators and country rankings*

Country Rankings & Ratings			
	2009	2011	2014
Reporters Without Borders: Press Freedom Index <i>(Where 1 indicates the highest degree of freedom)</i>	62	85	54
Freedom House: Map of Freedom - Political Rights	3	2	2

<i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>			
Freedom House: Map of Freedom - Civil Liberties <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	3	2	2
Form of government	Republic		
Most recent general election	last held on 24 April 2016		
Current head of state	<ul style="list-style-type: none"> <li>• President Tomislav Nikolić (since 11 June 2012)</li> <li>• Prime Minister Aleksandar Vučić (since 11 August 2016)</li> </ul>		
Ruling party	<ul style="list-style-type: none"> <li>• Serbian Progressive Party</li> </ul>		
Other major parties	<ul style="list-style-type: none"> <li>• Alliance for a Better Serbia</li> <li>• Alliance of Vojvodina Hungarians</li> <li>• Communist Party</li> <li>• Democratic Alliance of Croats in Vojvodina</li> <li>• Democratic Party</li> <li>• Democratic Party of Serbia</li> <li>• Dveri</li> <li>• Enough of Enough</li> <li>• For a Just Serbia</li> <li>• Together for Sumadija</li> <li>• Greens of Serbia</li> <li>• League of Social Democrats of Vojvodina</li> <li>• Liberal Democratic Party</li> <li>• Movement of Socialists</li> <li>• New Serbia</li> <li>• Party for Democratic Action</li> <li>• Party of Democratic Action of the Sandzak</li> <li>• Party of United Pensioners of Serbia</li> <li>• Reformist Party</li> <li>• Serbia is Winning</li> <li>• Serbian Progressive Party</li> <li>• Serbian Radical Party</li> <li>• Serbian Renewal Movement</li> <li>• Social Democratic Party</li> <li>• Social Democratic Party of Serbia</li> <li>• Socialist Party of Serbia</li> <li>• Strength of Serbia</li> </ul>		



- Together for Serbia

<b>Development Indicators &amp; Trends</b>			
	<b>2010</b>	<b>2011</b>	<b>2013</b>
GDP growth	1%	1.6%	2.6%
GDP growth in Europe and Central Asia	2.5%	2.2%	0.6%
GDP per capita (PPP)	\$10,500	\$10,600	\$13,600
Human Development Index rank	60	59	64
Human Development Index score	0.735	0.764	0.771
Human Development Index score— Europe and Central Asia	0.873/0.751	0.887/0.771	0.874/0.738
HDI discounted for inequality	n/a	n/a	0.689
Gini coefficient	29.7	NA	NA
Percentage of population below national poverty rate	n/a	n/a	24.5
Percentage of population below absolute poverty rate (\$1.25 per day)	n/a	n/a	n/a

## Political Context

### *Governance structures and political developments*

Serbia is an electoral democracy. Since elections were held in April 2016, the majority coalition is led by SNS (formed by members of SRS who also held high official posts during the Milošević regime). Serbia is a potential candidate for European Union membership. The first EU-Serbia Intergovernmental Conference was held in January 2014,<sup>1</sup> and in January 2015 the first two chapters were opened: Chapter 32 on financial control and Chapter 35 on the normalisation of relations with Kosovo.<sup>2</sup> Accession to the European Union remains a top foreign policy priority and is supported by a majority of citizens, though many citizens perceive Russia as Serbia's greatest ally on the international stage.<sup>3</sup>

Serbia became an independent state in 2006 when it parted from the State Union of Serbia and Montenegro. In 2008, the province of Kosovo proclaimed independence from Serbia, yet Serbia did not recognise Kosovo as an independent state. On-going negotiations between leaders from Serbia and Kosovo started in 2012 with assistance from the EU and led to signing a bilateral political agreement in April 2013.<sup>4</sup>

Slobodan Milošević, who held power since 1989, was overthrown in 2000, and during his autocratic regime civil and political rights were widely violated. He was indicted for war crimes before the International Criminal Tribunal for the former Yugoslavia (ICTY). In 2003, the first democratic Prime Minister Zoran Đinđić was assassinated by members of organised crime groups allied with Milošević-era security structures<sup>5</sup> and although the direct assassins were sentenced to maximum sentences, the political background of his murder was still unresolved as of 2016.

In its 2015 Progress Report for Serbia, the European Commission (EC) noted improvements as well as some shortcomings in the areas of rule of law (particularly the functioning of the judiciary), anti-corruption, organised crime, public administration reform and human rights protection.<sup>6</sup> There was no progress reported concerning freedom of expression, and the EC noted that the overall environment was not conducive to the full exercise of freedom of expression.<sup>7</sup>

## Socio-Economic Context

### *Human development indicators and trends*

Serbia is a middle-income country according to the World Bank.<sup>8</sup> Serbia's Human Development Index score for 2012 was 0.769, with a ranking of 64 out of 187 countries, above the average for countries with high human development (0.758), but below the average for countries in Europe and Central Asia (0.771). Between 2000 and 2012, Serbia's HDI value increased from 0.726 to 0.769.<sup>9</sup>

Market reforms in Serbia started later than in other transitional economies, only after international economic sanctions were lifted in the 1990s.<sup>10</sup> Economic growth was an average of 1 percent from 2008-2013.<sup>11</sup> In May 2014, Serbia was affected by the worst floods in its history. The European Bank of Reconstruction and Development (EBRD) at the time estimated that the total effect of the disaster was €1.5 million (approx. US\$1,6 million) to €2 million (approx. US\$2,21 million).<sup>12</sup>

Serbia's economy is recovering from its third recession in five years.<sup>13</sup> As reported by the EC in 2015, the informal economy remains a major obstacle to fair competition and business development, although the government introduced new measures in 2015.<sup>14</sup>

According to the Serbian government, regional disparities were among the highest in Europe. Out of 145 municipalities and cities, 46 are extremely underdeveloped, of which 23 were classified as devastated areas, i.e. municipalities whose development levels were below 50 percent the national average.<sup>15</sup>

The average income per capita was 36 percent of the EU average, as of 2014.<sup>16</sup> According to the 2015 Progress Report of the EC, the at-risk-of-poverty rate was 24.6 percent in 2013, and increased to 25.6 percent in 2014.<sup>17</sup> Only 15 percent of the population at risk of poverty exercised the right to financial benefits.<sup>18</sup>

As a consequence of the economic crisis between 2008 and 2012, unemployment increased by more than 540,000, mostly in the private sector, and informal employment decreased faster than formal employment.<sup>19</sup> Although still high, the unemployment rate decreased to 18.9 percent (from a record high of 23.9 percent in 2012).<sup>20</sup> The EC reported in 2015 that the labour market was characterised by high youth unemployment (47.1 percent), informal employment, highly skilled worker out-migration and skills mismatches.<sup>21</sup>

During 2015, the Serbian government adopted numerous strategic documents and policies aimed at improving the socio-economic situation, including the National Economic Reform Programme for 2015-2017,<sup>22</sup> the Industry Development Strategy and Policy of the Republic of Serbia 2011-2020,<sup>23</sup> the Strategy Supporting Development of Small and Medium Enterprises, the Entrepreneurship and Competition 2015-2020 and the National Programme for Reduction of the Grey Economy.

# Development Frameworks

*Companies should consult affected communities and align their development initiatives with national and local priorities. The following section identifies existing strategies for poverty alleviation and community empowerment.*

## National Development Strategies

***The Anti-Discrimination Strategy 2013–2018 and The Action Plan for the Implementation of the Anti-Discrimination Strategy***<sup>24</sup> prioritise the reduction of discrimination in labour and employment by improving the legal framework and applying affirmative measures for vulnerable social groups.

***The Education Development Strategy 2012–2020***<sup>25</sup> sets as a target that the educational system corresponds to the needs of the economy, and aims to establish an active institutional system of linking science and industry. Incentives should focus on innovation in the entrepreneurial sector.

***The Industry Development Strategy and Policy of the Republic of Serbia 2011–2020***<sup>26</sup> has set as its primary strategic development goal a sustainable and dynamic industry development in Serbia that could be integrated in the EU common market and that could withstand competitive pressure of the member states. The strategy is aligned with EU industry policy and strategic goals of Europa 2020.

***The National Anti-Corruption Strategy 2013–2018***<sup>27</sup> defines the following priority areas: political activities, public finances, privatisation and public-private partnerships, judiciary, police, spatial planning and construction, health, education and sport and media. Proposed legal instruments include obligations to perform a corruption risk assessment for newly adopted legislation, adoption of a law on whistle-blowers and a law on lobbying.<sup>28</sup>

***The National Economic Reform Programme 2015–2017***<sup>29</sup> is a strategy oriented toward meeting the criteria for EU accession. It includes: Ensuring the sustainability of the environment by good management of natural resources and decreasing pollution; developing the waste management system; improve water management; improving air quality by lowering emissions.

***The National Employment Strategy 2011–2020***<sup>30</sup> has the goal of establishing an efficient, stable and sustainable trend of employment growth and fully aligning the employment policy and the labour market indicators with the practices of EU member states.

***The National Programme for Reduction of Grey Economy 2015***<sup>31</sup> includes as one of major strategic goals increasing awareness amongst the general public and business entities the importance of reducing the grey economy and motivating them to follow regulations. It invokes the principle of joint responsibility for joint action by public bodies, organisations, businesses and citizens.

***The National Security Strategy 2009***<sup>32</sup> recognising the increasing significance of private security companies, sets cooperation as a precondition for approval and improvement of security among state institutions and entities providing private security services.

***The National Strategy for Gender Equality 2016–2020 and the Action Plan 2016–2018***<sup>33</sup> aims to improve the economic position of women and the status of women in the labour market. This includes measures to encourage and ensure unionisation of women employees; to support women's sections in trade unions and ensure their active and equal participation in collective bargaining; to support the adoption of internal anti-discrimination mechanisms; gender balanced human resources policies; enabling equal career progression for men and women, mandatory for public authorities and businesses; respect for equal pay for work of equal value principle for everyone; consistent implementation of legal provisions on equal access to employment and consistent sanctioning of violations of relevant legal provisions, particularly in cases of violation of rights of women at a reproductive age.

**The Occupational Safety and Health Strategy 2013–2017<sup>34</sup> and The Action Plan for the Implementation of the Occupational Safety and Health Strategy 2014<sup>35</sup>** strive to create socio-economic motivation for all participants in the labour process, in order to increase the number of businesses actively managing occupational health and safety. The Action Plan is a collection of specific measures and activities aimed at improving OSH of employees and thereby decreasing the number of injuries and professional diseases.

**The Strategy for Social Inclusion of Roma 2016-2025<sup>36</sup>** has set as one of its strategic objectives the effective involvement of representatives of the Roma community in the process of developing and implementing strategic measures and exercise of guaranteed human rights to employment. It has a special objective of encouraging the involvement of able-bodied members of the Roma national minority in the formal labour market, improving their employability and economic empowerment, especially of those Roma people who belong to categories of unemployed persons who are hard to employ on multiple grounds.

**The Strategy Supporting Development of Small and Medium Enterprises, Entrepreneurship and Competition 2015-2020<sup>37</sup>** includes the following priorities: supporting women entrepreneurs and youth and social entrepreneurship; inclusion of business representatives in the process of adoption of legislation and public policies and increasing predictability of conditions for doing business; increasing awareness among entrepreneurs and other interested parties of the availability and characteristics of non-banking financial instruments; development of training for existing and potential entrepreneurs; improvement support for highly-innovative SMEs, eco-innovations, improvement of energy efficiency and efficient use of resource.

## Regional Development Strategies

### European Commission's Indicative Strategy Paper for Serbia 2014-2020

The strategic paper sets out the priorities for EU financial assistance for the period 2014-2020 to support Serbia on its path to EU accession. It translates the political priorities set out in the enlargement policy framework into key areas where financial assistance is most useful to meet the accession criteria.<sup>38</sup>

### European Bank for Reconstruction and Development Strategy for Serbia 2014

The Strategy includes the following strategic goals:

- Enhancing the role and competitiveness of the private sector. This includes increasing private sector competitiveness with an added focus on the agribusiness value chain; assisting SMEs in financing projects conducive to sustainable growth; further supporting pre-privatisation and privatisation alongside strategic investors.
- Bolstering the banking sector and deepening the financial intermediation. This includes helping stabilise the financial sector, in line with the Joint IFI Action Plan for Growth in Central and South-Eastern Europe; continuing policy dialogue, directly with the National Bank and through the Vienna Initiative 2.0, to encourage local currency lending and improve cross-border cooperation on banking sector issues and help in resolving the problem of NPLs.
- Developing sustainable and efficient public utilities. This includes accelerating the implementation of its already financed projects; promoting energy efficiency and renewable

energy, while assisting with replacing the aging electricity generation capacity and bringing power generation into compliance with the EU environmental standards.<sup>39</sup>

## UN Country Partnership Strategy 2011-2015

*A programme document between the government and the UN Country Team describing collective actions and strategies toward achieving national development*

The framework was finalized in October 2015 and adopted in May 2016, though the final version of the document was yet to be published. It includes the following strategic priorities:

- Governance and Rule of Law;
- Social and Human Resources Development;
- Economic Development, Growth, and Employment;
- Environment, Climate Change and Resilient Communities; and
- Culture and Development.<sup>40</sup>

## World Bank Country Partnership Framework for Serbia 2016-2020

*International priorities and activities to help end extreme poverty, increase shared prosperity and drive private sector growth.*

The Partnership Framework supports reforms in key areas that can help Serbia maintain macroeconomic stability, create better conditions for private sector growth and job creation, improve infrastructure, and provide better public services for its citizens.

The following six priorities have been identified: restoring fiscal sustainability, and maintaining macroeconomic and financial stability; improving governance and institutional capacity to implement and monitor reforms; making the public sector more efficient by privatizing commercially oriented enterprises, restructuring large public utilities, and rightsizing the public sector; improving the business climate by creating an environment conducive to private sector-led investment, growth, and job creation; enhancing the quality of public infrastructure to better support international, regional and domestic connectivity; strengthen the labour market institutions to facilitate formal employment and create earning opportunities for the less well-off.<sup>41</sup>

Over the coming five-years, the World Bank Group will focus its support to Serbia on the following two key areas:

- Economic governance and the role of the state: The World Bank Group program in this area will address constraints to the effectiveness of economic governance; the size and management of the budget, public administration capacity to implement reforms and deliver services, the footprint of the state in the economy, the efficiency and performance of public utilities and transport companies.
- Private sector growth and economic inclusion: The program will focus on addressing key constraints that hinder private sector development and economic inclusion, such as strengthening the banking system, improving land management, improving infrastructure networks, increasing renewable energy capacity, developing better skills and reducing barriers to labour market entry.<sup>42</sup>

## International Labour Organization’s Serbia Decent Work Country Programme 2013-2017

The Programme identifies strategic priorities and outcomes to be achieved through joint action of the government, social partners and the ILO. The three country priorities for the relevant period are:

- Strengthening the capacity of government institutions and social partners to improve the functioning of the labour market;
- Increasing employment opportunities; and
- Strengthening social protection systems.<sup>43</sup>

## International Legal Commitments

*Accession and ratification of international human rights instruments*

<b>UN Conventions</b>	
International Covenant on Economic, Social and Cultural Rights	<b>RATIFIED</b>
International Covenant on Civil and Political Rights	<b>RATIFIED</b>
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty	<b>RATIFIED</b>
Convention Against Corruption	<b>RATIFIED</b>
Convention Against Torture	<b>RATIFIED</b>
Convention on the Elimination of All Forms of Racial Discrimination	<b>RATIFIED</b>
Convention on the Elimination of All Forms of Discrimination Against Women	<b>RATIFIED</b>
Amendment to article 20, paragraph 1 of the Convention on the Elimination of All Forms of Discrimination against Women (1995)	<b>ACCEPTED</b>
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)	<b>ACCESSION</b>
Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (1968)	<b>SUCESSION</b>
Convention on the Prevention and Punishment of the Crime of Genocide (1948)	<b>RESERVATION</b>
Amendment to article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination (1992)	<b>RATIFIED</b>
Convention on the Rights of Persons with Disabilities	<b>RATIFIED</b>
Optional Protocol to the Convention on the Rights of Persons with Disabilities	<b>RATIFIED</b>

(2006)	
Convention on the Rights of the Child	<b>RATIFIED</b>
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	<b>RATIFIED</b>
Optional Protocol on the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	<b>RATIFIED</b>
International Convention for the Protection of All Persons from Enforced Disappearance	<b>RATIFIED</b>
International Convention on the Protection of All Migrant Workers and Members of Their Families	<b>SIGNED</b>
Convention Against Transnational Organized Crime Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime	<b>RATIFIED</b>
<b>Regional Instruments</b>	
European Convention on Human Rights	<b>RATIFIED</b>
European Social Charter	<b>RATIFIED</b>
Convention against violence against women and domestic violence (Istanbul Convention)	<b>RATIFIED</b>
<b>International Labour Organization Conventions</b>	
ILO Hours of Work (Industry) Convention (C1, 1919)	<b>RATIFIED</b>
ILO Forced Labour Convention (C29, 1930)	<b>RATIFIED</b>
ILO Hours of Work (Commerce and Offices) Convention (C30, 1930)	<b>NOT RATIFIED</b>
ILO Night Work of Young Persons (Non-Industrial Occupations) Convention (C79, 1946)	<b>NOT RATIFIED</b>
ILO Labour Inspectors Convention (C81, 1947)	<b>RATIFIED</b>
ILO Freedom of Association and Protection of the Right to Organise Convention (C87, 1948)	<b>RATIFIED</b>
ILO Night Work of Young Persons Employed in Industry Convention (C90, 1948)	<b>RATIFIED</b>
ILO Protection of Wages Convention (C95, 1949)	<b>NOT RATIFIED</b>

ILO Right to Organise and Collective Bargaining Convention (C98, 1949)	<b>RATIFIED</b>
ILO Equal Remuneration Convention (C100, 1951)	<b>RATIFIED</b>
ILO Social Security (Minimum Standards) Convention (C102, 1952)	<b>RATIFIED</b>
ILO Abolition of Forced Labour Convention (C105, 1957)	<b>RATIFIED</b>
ILO Discrimination (Employment and Occupation) Convention (C111, 1958)	<b>RATIFIED</b>
ILO Social Policy (Basic Aims and Standards) Convention (C117, 1962)	<b>NOT RATIFIED</b>
ILO Equality of Treatment (Social Security) Convention (C118, 1962)	<b>NOT RATIFIED</b>
ILO Employment Policy Convention (C122, 1964)	<b>RATIFIED</b>
ILO Minimum Age (Underground Work) Convention (C123, 1965)	<b>NOT RATIFIED</b>
ILO Medical Care and Sickness Benefits Convention (C130, 1969)	<b>RATIFIED</b>
ILO Minimum Wage Fixing Convention (C131, 1970)	<b>RATIFIED</b>
ILO Holidays with Pay (Revised) Convention (C132, 1970)	<b>RATIFIED</b>
ILO Workers' Representatives Convention (C135 of 1971)	<b>RATIFIED</b>
ILO Minimum Age Convention (C138, 1973)	<b>RATIFIED</b>
ILO Migrant Workers (Supplementary Provisions) Convention (C143, 1975)	<b>RATIFIED</b>
ILO Working Environment (Air Pollution, Noise and Vibration) Convention (C148, 1977)	<b>RATIFIED</b>
ILO Occupational Safety and Health Convention (C155, 1981)	<b>RATIFIED</b>
ILO Workers with Family Responsibilities Convention (C156, 1981)	<b>RATIFIED</b>
ILO Termination of Employment Convention (C158, 1982)	<b>RATIFIED</b>
ILO Indigenous and Tribal Peoples Convention (C169, 1989)	<b>NOT RATIFIED</b>
ILO Night Work Convention (C171, 1990)	<b>NOT RATIFIED</b>
ILO Prevention of Major Industrial Accidents Convention (C174, 1993)	<b>NOT RATIFIED</b>
ILO Worst Forms of Child Labour Convention (C182, 1999)	<b>RATIFIED</b>
ILO Maternity Protection Convention (C183, 2000)	<b>RATIFIED</b>

### Environmental Instruments



Stockholm Convention on Persistent Organic Pollutants (2001)	<b>RATIFIED</b>
Kyoto Protocol (1997)	<b>RATIFIED</b>
United Nations Convention on Biological Diversity	<b>RATIFIED</b>
United Nations Framework Convention on Climate Change	<b>RATIFIED</b>
Montreal Protocol on Substances that Deplete the Ozone Layer, 1987	<b>SUCCESSION</b>
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, 1989	<b>ACCESSION</b>
<b>Other International Instruments</b>	
Declaration on the Rights of Indigenous Peoples	<b>SIGNED</b>
Rome Statute of the International Criminal Court	<b>RATIFIED</b>
UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	<b>RATIFIED (Notification of succession)</b>

# Rights Holders at Risk

*Societal groups particularly vulnerable to employment-related discrimination or poor development outcomes*

Operating Environment		
	Serbia	Europe & Central Asia
HIV/AIDS prevalence (ages 15-49)	0.1	0.8
Female labour participation rate	44.5	50.8
Percentage urban population	57.4	70.7
Percentage rural population	42.6	29.3
Human Development Index score	0.771	0.748
HDI adjusted for inequality	0.693	0.651
HDI Gender Equality Gap Index score	0.176	0.300
Population below PPP US\$1.25 per day (%)	0.1	n/a
Literacy rate, 15-24 years old (%)	99.3	99.7
Maternal mortality ratio (per 100,000 births)	17	16
Seats held by women in national parliament (%)	34	25.8
OECD Social Institutions and Gender Rank	SIGI Value 2014: 0.0097 SIGI Category 2014: Very Low	
Labour force	3,132,027	
Percentage of population who are 15-24 years	11.6%	
Discrimination prohibited on grounds of	Race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language,	

	religious or political beliefs, gender, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristics <sup>44</sup>
Major ethnic groups	Serb 83.3%, Hungarian 3.5%, Romany 2.1%, Bosniak 2%, other 5.7%, undeclared or unknown 3.4% (2011 est.)
Recognition of indigenous groups in law	n/a
Major Indigenous groups	n/a
Major religious groups	Serbian Orthodox 84.6%, Catholic 5%, Muslim 3.1%, Protestant 1%, atheist 1.1%, other 0.8%, undeclared or unknown 4.5% (2011 est.)
Major migrant groups	Refugees 35.309, Asylum Seekers 464, Internally Displaced Persons (IDPs) 220.227 (June 2015)
Persons with disabilities	571,780 persons with disabilities, or 8 % of the population <sup>45</sup>
Relevant legislation	<ul style="list-style-type: none"> <li>• The constitution</li> <li>• The Anti-Discrimination Act</li> <li>• The Criminal Code</li> <li>• The Labour Code</li> <li>• Act on the Protection of Rights and Freedoms of National Minorities</li> <li>• Act on the Basis of the Education System</li> <li>• Law On Prevention of Discrimination Against Persons with Disabilities</li> <li>• Act on Professional Rehabilitation and Employment of Persons with Disabilities</li> <li>• Gender Equality Act</li> <li>• Law on Youth</li> <li>• Law on Preschool Education</li> <li>• Law on Fundamentals of Education System</li> </ul>

	<ul style="list-style-type: none"> <li>• Law on Churches and Religious Communities</li> <li>• Law on Sports</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• The Commissioner for Protection of Equality</li> <li>• Courts</li> <li>• The Council for the Improvement of the Status of Roma and the Implementation of the Decade of Roma Inclusion</li> <li>• Coordination Body for Gender Equality</li> <li>• The National Assembly Committee for human and minority rights and gender equality</li> <li>• The Protector of Citizens</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Belgrade Centre for Human Rights</li> <li>• YUCOM</li> <li>• Praxis</li> <li>• Labris</li> <li>• Gay-Straight Alliance</li> <li>• Autonomous Women's Centre (AŽC)</li> <li>• Q-Club</li> <li>• Centre for Society Orientation (COD)</li> <li>• Group 484</li> <li>• European Roma Rights Centre</li> <li>• Liga Roma</li> <li>• IDEAS</li> <li>• Gayten</li> <li>• Centre for Queer Studies</li> <li>• The Association of Students with Disabilities</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The constitution<sup>46</sup> prohibits any direct or indirect discrimination on any grounds,<sup>47</sup> and envisages affirmative action to achieve the equality of groups who have long been exposed to discrimination.<sup>48</sup>

Numerous laws include anti-discrimination provisions.<sup>49</sup> The Anti-Discrimination Act<sup>50</sup> is a general anti-discrimination law that leaves room for special regulation of specific areas where discrimination occurs most frequently.<sup>51</sup> Discrimination is a criminal offence under the Criminal Code.<sup>52</sup> The Labour Code<sup>53</sup> contains a chapter on prohibition of discrimination.

The European Commission noted in its 2015 Progress Report that Serbia's non-discrimination legislation was generally in line with European standards, and indicated that alignment was needed regarding the

scope of exceptions from the principle of equal treatment, the definition of indirect discrimination and the obligation to ensure reasonable accommodation for employees with disabilities. The persons most discriminated against remained the Roma minority, lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, persons with disabilities and persons living with HIV/AIDS who, together with human rights defenders, often faced hate speech and threats.<sup>54</sup>

In 2014, opinion polls indicated that Serbian citizens thought that the most discriminated groups were women and Roma, followed by persons with disabilities, poor people and the elderly. More than a third of survey participants considered discrimination to be most frequently present in employment.<sup>55</sup>

## The Elderly

Ageism was becoming a widespread social phenomenon, including in areas of employment. Older people were more frequently laid off and it was harder for them to find new employment;<sup>56</sup> 26 percent of unemployed persons were older than 50 years.<sup>57</sup> The Commissioner for Equality found that employers were illegally setting specific ages as a job requirement.<sup>58</sup>

## National Minorities

National minorities are groups with a long-standing and firm bond to their own national territory and possess features that distinguish them from the majority, such as language, culture, national or ethnic affiliation, origin or religion. National minorities are further characterised by their concern for the preservation of their common identity, including culture, tradition, language and religion. Only citizens of Serbia may be considered persons belonging to national minorities.<sup>59</sup>

The law prohibits discrimination against persons belonging to ethnic minorities and their equality is guaranteed.<sup>60</sup> The Anti-Discrimination Act forbids discrimination against national minorities.<sup>61</sup> The Act on the Protection of Rights and Freedoms of National Minorities<sup>62</sup> affords specific protection to groups of nationals that are large enough to be representative, but constitute a minority.

The largest ethnic minorities in Serbia were Hungarians, Roma, Albanians and Bosniaks.<sup>63</sup> As reported by the Belgrade Centre for Human Rights (BCHR) in 2014, Albanians in South Serbia boycotted the 2011 Census, and the extraordinary census announced in September 2013 by the Chairman of the Government Coordination Body for the Municipalities of Preševo, Bujanovac and Medveđa was not held in 2014.<sup>64</sup> Elections to the National Minority Councils took place in October 2014, when 20 national minorities elected their councils.<sup>65</sup>

The Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities emphasised that national minorities remained significantly under-represented in state-level public administration and public enterprises.<sup>66</sup>

In 2011, the European Commission against Racism and Intolerance (ECRI) reported that Albanians and Bosniaks faced considerably higher rates of unemployment compared to the majority of the population and were underrepresented in government offices.<sup>67</sup>

## Roma

According to the 2011 census, 147,604 Roma lived in Serbia at the time,<sup>68</sup> an increase from 108,000 in 2002. In 2012, an estimated 6,500 legally invisible persons (their births were not registered and they have no identification documents) lived in Serbia, most of whom belong to the Roma national minority.<sup>69</sup> The EU reported in 2015 that the number of unregistered persons was decreasing, but emphasised the need for immediate registration of children born to undocumented parents.<sup>70</sup>

Unemployment was a major challenge faced by the Roma community in Serbia, and significantly determined their social status (59 percent of Roma were not employed, compared to the national average of 22.4 percent).<sup>71</sup>

In 2011, the World Bank reported that low skills, lack of official documents and prejudice among employers remained major barriers for access to employment of Roma.<sup>72</sup> In 2013, almost 90 percent of unemployed Roma registered at the National Employment Agency were unskilled workers (around 10 percent had completed secondary education, and only 0.4 percent had completed higher education).<sup>73</sup> Unemployed Roma were often not registered by the National Employment Agency. Of those who were registered, only 17.8 percent were included in active labour market measures.<sup>74</sup>

Informal labour was often the only source of income for Roma people and it entailed serious consequences—it was underpaid, workers did not enjoy any social security benefits, jobs were often hazardous, and in cases of injury or illness they were often replaced by their children who were then engaged in child labour and were not attending school.<sup>75</sup> Out of 139 Roma women surveyed by Praxis in 2011, only two were formally employed—both as cleaning staff.<sup>76</sup> The most common informal work performed by Roma was the collection of recyclable materials. YUROM Centre estimated that about 8,000 families (50,000 people) collected around 75 percent of the recycled material in Serbia, earning around €100 (approx. US\$111) per month.<sup>77</sup>

In 2011, employed Roma were also earning significantly less than non-Roma (48 percent less), according to the European Commission against Racism and Intolerance (ECRI).<sup>78</sup> ECRI also noted cases of discriminatory job advertisements.<sup>79</sup> In 2014, BCHR reported that the number of Roma working in public administration remained negligible.<sup>80</sup> Inactive and dependant Roma population was drastically increasing. A 2013 survey conducted by Praxis showed that 66 percent of employed Roma respondents supported 4 to 6 family members.<sup>81</sup>

As reported by the League of Roma, compared to the rest of the population, Roma more often borrowed money from friends and informal creditors. As such, they had low income and limited access to borrowing funds from banks for starting their own business.<sup>82</sup>

Roma were severely poverty stricken. According to a 2014 UNHCR report, 78 percent of Roma lived below the poverty line, and 94 percent of Roma families could not afford to pay for basic living expenses including food, utilities, health care, hygiene, education and local transportation.<sup>83</sup> The 2015 Progress Report by the European Commission stated that Roma continued to face difficult living conditions and discrimination in access to social protection, health, employment and adequate housing.<sup>84</sup>

European Union and Council of Europe bodies noted that during eviction and relocation of informal Roma settlements, the respect of relevant standards were not ensured.<sup>85</sup> In 2014 BCHR reported that Roma who suffered major damages during the May 2014 floods, have not received the same problem solving assistance as the rest of the affected population, and have spent much longer periods of time in collective centres, including in facilities not satisfying the requisite hygienic conditions.<sup>86</sup> Data from 2014 indicated that Roma life expectancy in Serbia was 12.4 years shorter than the general population.<sup>87</sup>

According to the European Roma Centre, consulted in September 2013, Roma were subjected to physical and verbal abuse by the police and the general public.<sup>88</sup> BCHR reported in 2012 that discrimination against Roma in most cases went unpunished.<sup>89</sup>

## Internally Displaced Persons

There were 220,227 internally displaced persons (IDPs) in Serbia as of 2015, according to the UNHCR.<sup>90</sup>

Roma IDPs were particularly vulnerable, even more than domiciled Roma: 92 percent lived below the poverty line. Most employed Roma IDPs were in the informal economy, or doing occasional and low-

paid jobs. Two-thirds of Roma IDPs did not finish compulsory primary education, compared to 50 percent of domiciled Roma.<sup>91</sup>

## Returnees

According to Serbia's 2009 Strategy for the Reintegration of Returnees under Readmission Agreements, between 50,000 and 100,000 people lived in Serbia as stateless persons, expelled from EU member states for failing to comply with immigration regulations.<sup>92</sup>

An agreement on readmission was signed in 2007 between Serbia and the European Union, and came into force January 1<sup>st</sup>, 2008.<sup>93</sup> Under the agreement, Serbia must readmit any third-country national if it can be proven or validly assumed that this person entered into an EU member state after staying in, or transiting through, Serbia.<sup>94</sup>

Though no up-to-date and comprehensive statistics exist on the demographic characteristics or human rights conditions of returnees to Serbia, it was generally reported that most returnees belonged to vulnerable minorities, usually Roma. The National Employment Agency recognises returnees as a vulnerable group in the labour market.<sup>95</sup>

Returnees were mostly unemployed, and major barriers to employment included low education and skills. According to a 2014 survey as part of a project implemented by the International Organisation for Migration, the Commissariat for Refugees and the Ministry of Labour, only 13 percent of returnees were employed.<sup>96</sup> The same survey indicated that returnees were poorly educated, around 50 percent of them only had primary education, around 25 percent had no formal education, and 25 percent graduated from secondary school. The survey also reported that only 4 percent were computer users, around 30 percent had a driver's licence and 28 percent had skills in trade.<sup>97</sup>

## Persons with Disabilities

The Law on Antidiscrimination of Persons with Disabilities prohibits discrimination against persons with disabilities seeking jobs or in the workplace.<sup>98</sup> The 2009 Act on Professional Rehabilitation and Employment of Persons with Disabilities<sup>99</sup> introduced a quota system.<sup>100</sup> Companies that employ between 20 and 49 people must hire one person with disabilities and an additional person with disabilities for every 50 employees beyond that. Employers who do not fulfil this requirement are subjected to pay a penalty amounting to triple the minimum wage for each person with disabilities they were obliged to employ.<sup>101</sup>

According to the 2011 Census, 571,780 persons with disabilities (8 percent of the population) lived in Serbia. Of the population with disabilities, 53 percent were men and 47 percent were women. Sixty percent of persons with disabilities were older than 65 years.<sup>102</sup> NGOs disputed these findings and the methodology used, and instead agreed with assessments by the World Health Organisation, the World Bank and Eurostat that estimated that the actual figure was around 10-15 percent.<sup>103</sup> Serbia's Commissioner for Equality has noted that persons with disabilities were among the groups facing the most severe discrimination.<sup>104</sup>

Persons with disabilities were in a difficult socio-economic position, with a high poverty rate and low employment rates. In 2014, BCHR reported that according to the Ministry of Labour, Employment, Veteran and Social Policy, 70 percent of persons with disabilities lived in poverty, only 13 percent were employed, and more than half lived on social benefits.<sup>105</sup> Additional difficulties in obtaining work included the lack of adequate workplace facilities for person with disabilities.<sup>106</sup> In 2013 the Commissioner for Equality emphasised that persons with mental disabilities faced particular difficulties in finding employment.<sup>107</sup>

Persons with disabilities were facing barriers in relation to the use of transport, services and products, and access to private buildings,<sup>108</sup> while access to public buildings needed to be further improved, especially in rural areas.<sup>109</sup>

In late 2014, the National Employment Service (NES) had 20,780 registered persons with disabilities, 6,981 of whom were women.<sup>110</sup> The Minister of Labour, Employment, Veteran and Social Affairs stated that 4,575 persons with disabilities were hired during 2015; 1,758 were women who were employed by protected workshops for persons with disabilities. NGOs reported that around 10 percent of work-age persons with disabilities had jobs, and that almost all of them (around 9 percent) were employed at sheltered employment companies, meaning that the number of persons with disabilities employed in open labour market was very low.<sup>111</sup> There was reportedly a lack of qualified persons with disabilities to fill job openings in the private sector.<sup>112</sup> Reasons behind could include low education levels, lack of adequate vocational training services offered by the NES, as well as a fear of extreme poverty as being part of the labour market means losing the right to social assistance.<sup>113</sup> According to NGOs there is a risk of companies benefitting from unpaid work in their supply chain when purchasing from institutions for occupational therapy of PWDs, where two thirds of PWDs are deprived of their legal capacity.<sup>114</sup>

The Law on Foundations of the Education System provides for equal right and accessibility of education to every child without discrimination, while at the same time ensures additional support in accordance with the child's individual functioning.<sup>115</sup> As a result of a lack of its implementation, it was estimated that the number of children with disabilities in education had increased. 80 percent of citizens in Serbia believed that children with sensory and physical disabilities attending mainstream schools had a negative impact on other children, while 65.2 percent believed the same was true for children with intellectual disabilities.<sup>116</sup> In 2015, fewer than 500 youths with disabilities were enrolled in faculties.<sup>117</sup>

## Persons Living with HIV/AIDS

According to data provided by the Public Health Institute "Dr. Jovan Batut", there were 2,076 persons living with HIV in Serbia in 2015, and an estimated 1,100 were reportedly unaware of their condition.<sup>118</sup> Vulnerable groups at risk of HIV infection were the MSM population in Serbia, intravenous drug users and young Roma.<sup>119</sup> In 2014 the Commissioner for Equality reported that there was evidence of persons living with HIV who had lost their employment due to their health status.<sup>120</sup>

The government provides persons living with HIV/AIDS only with the first generation of medical treatment, which - compared to newer generation of treatments - had caused numerous side-effects on patients, and thereby directly contributed to their victimisation in the workplace. Patients were reportedly in need of additional medical care, and were therefore more often absent from their workplace, placing them in a greater risk of being fired. In addition to that, their productivity was affected, therefore their competitiveness in the labour market was impacted.<sup>121</sup>

The NGO Stav Plus noted in 2013 that there was no official information on discrimination against persons living with HIV/AIDS in their access to employment or in the workplace, as such persons did not report cases of discrimination due to fear of further stigmatisation.<sup>122</sup>

## Sexual Minorities

The Anti-Discrimination Act establishes that sexual orientation is a private matter and that no one may be requested to publicly declare their sexual orientation. Furthermore, everyone is entitled to express their sexual orientation and discrimination based on such an expression is prohibited. The Anti-Discrimination Act also prohibits discrimination based on transgender status.<sup>123</sup> The provisions of the valid laws, strategies and bylaws prohibiting discrimination were reportedly not enforced consistently.<sup>124</sup> Same-sex marriages and civil unions are unrecognised by law.<sup>125</sup>



Throughout 2012 and 2013, a number of Serbian NGOs reported attacks against LGBT persons. There were, however, no official data on crimes committed against LGBT persons or whether they were motivated by hatred of this group. In September 2014, the Pride Parade was successfully held in Belgrade for the first time without incidents or organised violence.<sup>126</sup>

Reports by the European Commission, the U.S. Department of States and other sources indicated that societal discrimination against LGBT persons was severe. Hate speech and attacks on LGBT persons were frequent and severe, according to the U.S. Department of States in 2015. Little information on workplace discrimination existed presumably due to fear by LGBT persons of being out of the workplace.<sup>127</sup>

A 2015 qualitative study conducted by the Centre for Queer Studies indicated widespread discrimination of LGBT persons, both in their access to employment and in promotion.<sup>128</sup> In a 2014 survey of priorities of the LGBT community in Serbia published by the Centre, combating labour discrimination was the second highest-ranking priority, only after personal safety, which was an additional indicator that discrimination of that group was widespread in the labour market.<sup>129</sup>

According to a 2012 Centre for Advanced Legal Studies (CUPS) study, transgender persons faced discrimination in hiring due to their inability to obtain new personal identification documents.<sup>130</sup> In some workplaces transgendered persons were harassed by colleagues and sometimes fired over their gender identity.<sup>131</sup>

## Women

### *Employment discrimination*

The constitution guarantees equality between women and men and the Anti-Discrimination Act prohibits discrimination based on gender.<sup>132</sup> Violence, exploitation, expression of hatred, humiliation, blackmail and harassment on grounds of sex are also prohibited, as are public advocacy, condoning or compliance with prejudice, customs and other patterns of social behaviour based on gender hierarchy or domination including stereotyped gender roles.

The Labour Act<sup>133</sup> prohibits the most frequent forms of work-related discrimination and allows for the enforcement of affirmative action measures. Special protection is provided to maternity and breastfeeding working women. Pregnant and breastfeeding workers are entitled to statutory protection, and employers are under the obligation to assign them to another adequate job or, if such jobs are unavailable, send them on paid leave. Pregnant workers have the right to paid leave or time off from work to undergo pregnancy-related medical check-ups. Pregnant workers are not allowed to perform jobs that the competent authority had established as injurious to their health or that of their children, particularly jobs entailing heavy lifting, harmful radiation or exposure to high temperatures.

In 2009, Serbia adopted the Law on Gender Equality, which put into place the legal framework for creating the conditions for the implementation of equal opportunity policies and equal enjoyment of human rights by women and men, and special measures for the prevention and elimination of gender-based discrimination.<sup>134</sup> According to a 2012 BCHR report, numerous provisions in this law pertaining to attainment of gender equality in political, economic and cultural life were not enforced in practice.<sup>135</sup>

Serbia ranked 45th out of 145 countries on the World Economic Forum's 2015 Gender Gap Index (a higher ranking indicates lower levels of gender disparity). In 2014 Serbia ranked 54th and in 2013 42th. After Bulgaria, Serbia was ranked highest among its neighbouring countries, and mid-ranked among countries of Europe and Central Asia. Serbia ranked 43rd in political empowerment, 52nd in education attainment, 74th in economic participation and 79th in access to health.<sup>136</sup>

According to the European Equality Gender Institute, Serbia ranks 22<sup>nd</sup> on the joint gender equality list with EU countries, with a score of 40.6 out of 100, while the EU average was 52.9 points. Overall, the

lowest results were achieved in the spheres of work (only 38.2 points while the EU average was 61.9) and finances (39.2 points versus 67.8 EU average).<sup>137</sup>

In 2015 the Commissioner for Equality reported that the majority of complaints concerned discrimination in access to employment or in the workplace, and were predominantly submitted by women. Commissioner's statistics from previous years corroborated the conclusion that women were the most discriminated group in the labour market.<sup>138</sup> According to the Commissioner for Equality, women in rural areas and Roma women faced additional workplace discrimination.<sup>139</sup>

Women, as the biggest vulnerable group on the labour market, were disadvantaged. The employment rate of women was significantly lower than of men, 35 percent vs. 50 percent.<sup>140</sup> The Gender Equality Act<sup>141</sup> obliges employers to monitor staff gender balance, install measures to mitigate or eliminate imbalances and report on progress in achieving equal gender representation.<sup>142</sup>

According to information gathered in 2016 from various sources, these obligations were not observed by the vast majority of companies.<sup>143</sup> Women were predominantly employed in the service sector (76 percent). Fourteen percent of women of working age were self-employed, a proportion that was half that of men. Women entrepreneurs said that they have been treated differently than their male colleagues, and 76 percent considered that women were not accepted and taken seriously when doing business.<sup>144</sup> According to the 2015 Annual Human Rights Report by BCHR, fixed-term employment contracts were the most widespread form of discrimination of young women.<sup>145</sup>

A 2012 Institute of Economic Sciences report indicated that the employment rate for women over 55 had steadily decreased since the beginning of the privatisation process. Women in this age group were more likely to be working part-time and for lower pay than men.<sup>146</sup>

According to the network Women Against Violence, consulted in 2016, women were frequently asked discriminatory questions during job interviews.<sup>147</sup> According to the Victimology Society of Serbia, 52.3 percent of women suffered from discrimination during the job application process over the period 2006 - 2011. This included questions regarding their private life during job interviews (48 percent); commenting on the physical appearance of a woman (9.7 percent); pregnancy and motherhood as an obstacle for obtaining a job (5.1 percent); and expectations of a sexual relationship as a means of obtaining a job (0.7 percent).<sup>148</sup>

#### *Wage gap*

Women in Serbia were also not paid equally for performing work of equal value, and were not promoted on an equal basis. In 2015, according to the director of the Office for Human and Minority Rights of the Serbian Government, women on average were paid 11 percent less than men doing the same job, meaning they would have to work an additional 40 days per year to earn as much as men for equal work. Women constituted the majority of employees in lower paid professions – health sector, education, social work and textile industry, and even in these industries they were not in managerial positions.<sup>149</sup>

A 2014 survey commissioned by the Serbian Ministry of Labour, Employment, Ex-Servicemen's and Social Issues showed that for every 100 employed men with higher education there were 114 women, but men in the same category earned 5.1 percent more.<sup>150</sup>

Only 25.8 percent of managerial positions were held by women. Less than a third of entrepreneurs were female, and in 66 percent of cases out of necessity, predominantly in the service sector.<sup>151</sup>

#### *Maternity leave*

Women are entitled to a total of 365 days for pregnancy, maternity and child care leave. While on leave due to pregnancy-related complications, pregnant women receive allowances from the Republican

Health Insurance Fund equalling 65 percent of their wages, and the remaining 35 percent is covered from the state budget.<sup>152</sup>

Maternity leave starts 28 to 45 days before the estimated delivery day and lasts for up to a year.<sup>153</sup> Workers are compensated depending on the duration of employment, a provision that is not in accordance with ILO standards.<sup>154</sup>

Decisions of the Commissioner for Equality adopted in 2015 indicated that labour discrimination was particularly prominent toward pregnant women and mothers of babies.<sup>155</sup>

It was harder for women to achieve work-life balance, according to the 2015 National Gender Equality Strategy. In 2014, childcare services were not adequately accessible, and women were predominantly the ones to stop working to care for a child or other family members.<sup>156</sup>

Women holders of registered agricultural holdings, as well as women working as temporary or occasional staff did not have the right to pregnancy, maternity or childcare leave.<sup>157</sup>

#### *Sexual harassment*

A 2011 survey by the Confederation of Autonomous Trade Unions of Serbia in 12 Serbian cities showed that one-third of female workers had been harassed at work.<sup>158</sup>

In 2011 the Labour Inspectorate performed 33,861 inspections, 7,227 of which regarded the enforcement of the Act on the Prohibition of Harassment at Work. The Inspectorate keeps gender-disaggregated statistics of workers' complaints of harassment at work, and recorded 77 complaints by women and 67 by men in 2011.<sup>159</sup>

#### *In rural areas*

Inequality was particularly pronounced in rural areas, and in relation to agricultural production. Men were the sole owners of both homes and land in more than 80 percent of cases, and women almost never had production equipment in their position. Women also made up the majority of unemployed and informally employed rural population. As much as 74 percent of unpaid members of agricultural family holdings were women.<sup>160</sup>

#### *Political empowerment*

In terms of political participation of women, Serbia was highly ranked among European states with 34 percent of female MPs, though they were predominantly represented in Parliamentary Committees focusing on human rights, child rights, culture, and family protection, while underrepresented in those focusing on finances, security and infrastructure.<sup>161</sup> Still, the EU noted in 2015 that political participation of woman and in the private sector remained very low.<sup>162</sup>

## Consumer & Employee Privacy

Serbia is party to the CoE Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data<sup>163</sup> and the Additional Protocol to the Convention.<sup>164</sup> The constitution of Serbia does not guarantee the right to privacy as such, but the Constitutional Court adopted the view that this right is an integral part of the constitutional right to dignity and the free development of the personality.<sup>165</sup> The constitution includes provisions on the inviolability of physical and mental integrity (Art. 25), inviolability of the home (Art. 40), and confidentiality of letters and other means of communication (Art. 41). The constitution guarantees the protection of personal data, and provides everyone with the right to be informed of personal data collected about him (Art. 42).

The Personal Data Protection Act<sup>166</sup> and other legislation further regulated this area. According to BCHR, the Personal Data Protection Act<sup>167</sup> sets extremely broad grounds for the processing of personal data.<sup>168</sup> In 2015, the European Commission reported that the legal framework for personal data protection was

not fully aligned with EU standards and that a new law should be adopted.<sup>169</sup> According to the Commissioner for Information of Public Importance and Personal Data Protection, seven years into the application of the Personal Data Protection Law, only 1,619 data controllers, out of an estimated 350,000, submitted registers of personal databases to the CentralRegistry.<sup>170</sup>

The majority of databases were registered by companies, and in the opinion of the Commissioner, this was due to the fact that they were also operating in other legislations with similar demands. Companies that registered the largest number of databases were: Leoni Wiring Systems Southeast from Prokuplje (89), Nestle Adriatic from Beograd (25) and Fresenius medical care (23).<sup>171</sup>

Unregulated areas include video surveillance, direct marketing, security checks, processing of biometric data and personal identification numbers, and have caused major problems in personal data protection.<sup>172</sup> According to the Commissioner, this was a direct consequence of inadequate legislative framework on personal data protection, and as a result, private persons were unable to freely enjoy their right to privacy.<sup>173</sup>

In September 2013, in a letter to the Minister of Labour, Employment and Social Policy, the Commissioner highlighted a number of issues related to the personal data of workers. This included cases in which enormous volumes of personal data had been gathered and processed by companies without purpose or justification; employer surveillance of employees' electronic communications; employee surveillance through video and GPS tracking; processing of biometric data; and processing of sensitive data such as medical diagnoses and criminal convictions. The Commissioner noted that personal data processing in the context of labour relations was not specifically regulated by law, but that such practices were contrary to the constitution and the Law on Personal Data Protection.<sup>174</sup>

In 2014, the Commissioner inspected the implementation of and compliance with data protection legislation by all 29 commercial banks in Serbia, and established that approximately 65 percent of banks performed inadmissible processing of personal data by photocopying identity documents of individuals (usually personal identity cards and passports) with no proper legal basis. Some 30 percent of banks performed personal data processing by photocopying employment record cards, extracts from birth registers, utility bills and other documents containing personal data of their existing or prospective clients etc. Regarding processing medical data of individuals identified by law as particularly sensitive personal data, 10 percent of banks engaged in unlawful personal data processing by photocopying medical reports or health questionnaires of their customers or prospective customers, usually in the loan granting procedure or where banks act as insurance agents on behalf of insurance companies. Further, approximately 30 percent of banks made photocopies of health insurance cards and thus engaged in unlawful personal data processing.<sup>175</sup>

According to the 2015 BCHR Report, the media had over the past few years been in the habit of publishing the personal data of citizens, even particularly sensitive data.<sup>176</sup>

The Electronic Communications Act<sup>177</sup> obliges operators to retain electronic communication data for the purposes of investigation or criminal proceedings or the disclosure of a crime or for the purpose of protecting national and public security. The Commissioner for Information of Public Importance and Personal Data Protection and the Protector of Citizens reported that from March 2011 to March 2012, public authorities filed 4,400 requests to access data gathered by companies, and that companies provided access in 90 percent of cases. Authorities specified the legal grounds for accessing the retained data in only 50 percent of the requests.

Only one of the four major telecom operators in Serbia, Telenor, tracks whether user data has been accessed, and in the same period, 270,000 instances of access by government bodies were registered, without the consent of the company.<sup>178</sup> Companies in the information and communication technology sector have reportedly circumvented regulations in the field of data protection.<sup>179</sup>

As reported in 2014, the Commissioner sent a questioner to inspect 184 internet service providers whose customers were natural persons. An analysis of the collected replies by operators raised various concerns. The Commissioner concluded that there was a high risk of unlawful data processing and invasion of privacy.<sup>180</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *May 2016, Autonomous Women's Centre (AŽC):* A woman was killed by her husband following an appearance on the reality show "DNK" broadcasted on Pink TV (The theme of "DNK" is establishing paternity. Women's rights organisations questioned whether women were voluntarily appearing in this TV show, regardless of whether they have signed a consent, particularly in cases when they have been victims of family violence). AZC sent letters to a number of companies and requested they stop advertising during this show. Only Telenor agreed to stop advertising, some companies replied and explained that they get advertising packages from agencies and were not able to choose when they will be advertised, while other companies never responded.<sup>181</sup>
- *2015, Commissioner for the Protection of Equality:* Discrimination was established in several cases when employment was terminated due to maternity. This includes the employment contract of an Austrian citizen being fired when she informed her employer that she was pregnant; a worker who was considered redundant when she was to return to work after maternity leave; a worker who was demoted when she returned to work after child care leave; an employee who, after returning from maternity leave, was given an ultimatum to either quit or be demoted.<sup>182</sup>
- *2015, Commissioner for the Protection of Equality:* In two cases, ageism was established in banks' credit requirements.<sup>183</sup>
- *2015, Commissioner for the Protection of Equality:* A construction company discriminated against an employer based on his medical status by terminating his employment as a result of him taking leave for medical reasons.<sup>184</sup>
- *2015, Commissioner for the Protection of Equality:* A company and a law firm asked job applicants about their marital status and made their selection based on that discriminatory criteria.<sup>185</sup>
- *2015, Commissioner for the Protection of Equality:* An employee was demoted after submitting a complaint to the Commissioner for Equality.<sup>186</sup>
- *2015, Belgrade Centre for Human Rights Annual Human Right Report:* In 2015, the Commissioner for Information of Public Importance and Personal Data Protection launched the oversight of the enforcement and implementation of the Personal Data Protection Act by seven joint stock companies that published on their websites the names, addresses and personal identification numbers of their stock holders and the number of their votes and stocks.<sup>187</sup>
- *2015, Belgrade Centre for Human Rights Annual Human Right Report:* The state security authorities were authorised under relevant laws to access retained data. Only two of the 207 electronic communication operators retaining communication data (Telenor and Telekom Serbia) forwarded the annual records to the Commissioner for Information of Public Importance, in accordance with the law. Because of a new oversight procedure that was

initiated by the relevant Ministry, another 146 electronic communication operators contacted the Commissioner by 1 June 2015.<sup>188</sup>

- *2014, Commissioner for the Protection of Equality:* A director of a company that refused to rent premises to organise a party that was to be attended by LGBT persons was considered to commit a discriminatory act.<sup>189</sup>
- *2014, Commissioner for the Protection of Equality:* A spa hotel was recommended to make its premises accessible to persons with disabilities. The hotel did not comply with this recommendation.<sup>190</sup>
- *2014, Commissioner for the Protection of Equality:* In two separate cases against two health institutions the Commissioner found discrimination against persons living with HIV. In one case, the person's HIV positive status was clearly marked in red letters on the front cover of his medical file, and in the other, the patient was denied treatment and redirected to another institution.<sup>191</sup>
- *2014, Commissioner for the Protection of Equality:* An employer violated a prohibition of discrimination by posting a notice that no Roma raspberry pickers will be hired.<sup>192</sup>
- *2014, Commissioner for the Protection of Equality:* 'Elektrodistribucija' discriminated against inhabitants of a Roma settlement by issuing group electricity bills.<sup>193</sup>
- *July 2014, NGO Praxis:* The Commissioner for the Protection of Equality established that in a hiring process, Pizza Shop 'Marconi—Rim' from Nis denied the possibility of employment to a Roma woman, exclusively because of her ethnicity.<sup>194</sup>
- *December 2013, Blic online:* Alpha Bank fired one employee who was six months pregnant and two employees that were on maternity leave.<sup>195</sup>
- *July 2012, Commissioner for the Protection of Equality:* The Commissioner presented charges<sup>196</sup> against McDonald's in Novi Sad over allegations that security personnel prohibited Roma children, accompanied by an adult, from entering the restaurant.<sup>197</sup>
- *January 2012, Commissioner for the Protection of Equality:* The Higher Court in Belgrade established that JAT Airways committed a severe form of discrimination against an employee, a pilot who was reportedly harassed, humiliated and called abusive names related to his German nationality and Catholic religion. Managers also allegedly stopped informing him of his flight schedule after he requested judicial protection from discrimination.<sup>198</sup>
- *November 2011, Commissioner for the Protection of Equality:* A public company from Novi Sad was sentenced by the court for discriminating against an employee based on his membership to a political party. The plaintiff was relocated to unfavourable duties and a year later fired.<sup>199</sup>
- *September 2011, Commissioner for the Protection of Equality:* A clinic published a notice for the temporary employment of a nurse-technician through the National Employment Agency, where one of the proposed conditions was that applicants should not be older than 35 years of age. The Commissioner found this to be direct discrimination based on age.<sup>200</sup>

## Company Initiatives

*Private-sector programmes that aim to ensure respect for human rights or contribute to development*

### Company Development Initiatives

**Telenor:** In partnership with the Ministry of Health and UNICEF Serbia, the company implements the project “Povezivanje” that aims to improve the health and lives of Roma families. In only a few years, Roma health mediators helped bring about tremendous improvement in the lives of Roma families. Not only was access to health services drastically increased and the child mortality in Roma settlements reduced by 50%, but their efforts also helped Roma families exercise many other rights they were entitled to. Initially identified as healthcare workers, Roma mediators evolved into social workers and became a unique bond between the Roma population and the entire institutional system.<sup>201</sup>

**Erste Bank a. d. Novi Sad—Superstep:** Since 2011, the program is supporting educated unemployed young people who are trying to start a business with trainings and workshops on relevant topics including development of business ideas and plans, access to a specific credit line, a one year of mentorship, etc.<sup>202</sup>

**Societe General Serbia and Youth with Disabilities of Serbia:** The company, in collaboration with Youth Disabilities of Serbia, is organising Inclusion Academy to train, develop the skills and build the capacity of persons with disabilities to access the labour market.<sup>203</sup>

**Ernst & Young:** The company has launched a number of initiatives aimed at reducing discrimination. This includes: Cooperation with the NGO Youth with Disabilities of Serbia to recruit young professionals with disabilities; organising special trainings and facilitating networks of women leaders within the company; offering women with small children a possibility to work from home and provides them with all necessary technical equipment; organising educational programmes and soft-skills trainings on career development for young people.<sup>204</sup>

**Declaration On Respect For Women’s Empowerment:** Seven major companies operating in Serbia—Actavis, Avon, Intesa Bank, Coca Cola, Carlsberg, Erste Bank, and IBM—signed a declaration on respect for women with the aim of improving the position of women in the labour market.<sup>205</sup>

**International Advertising Association, Serbian Chapter (2013):** The association adopted a national Code of good advertising and marketing communications that will also serve as a working document for the development of a law in this field by the Ministry of Trade. The Code will be followed by a regular independent body to serve as a mediator.<sup>206</sup>

### Stakeholder Recommendations

**Commissioner for Information of Public Importance and Personal Data Protection:** The Commissioner recommended that companies in Serbia adopt the following actions:

- If an employer intends to in any way control records of an employee’s e-mail account, employer-provided mobile phone or internet access, the employee must be notified in advance and in writing, and must give written consent.<sup>207</sup>
- Businesses that have databases of personal data of citizens, formed on the basis of consent, secure that the consent is free and completely informed, and that the purpose of data processing should be stated as clearly and precisely as possible, so that there is no dilemma as to whether it is allowed.<sup>208</sup>

**Gender Equality Directorate:** The Directorate recommended that women should be more represented in the IT sector on all levels, particularly in managerial positions, and that there should be more women in managerial positions.<sup>209</sup>

**Commissioner for the Protection of Equality:** In a written statement submitted in 2013 during Country Guide consultation process, The Commission recommended that companies:<sup>210</sup>

- Educate employees on discrimination, use affirmative measures in employment and make their premises fully accessible if they are providing services; and
- When publishing job advertisements, not to include discriminatory conditions related to sex, appearance or age of applicants.

**Commissioner for the Protection of Equality:** The Commissioner recommended that banks should not discriminate citizens based on their age to access bank services, and that they should assess on a case by case basis whether their clients are eligible for a specific credit or other service.<sup>211</sup>

**Minister of Labour, Employment, Veteran and Social Affairs:** The Minister recommended that companies set aside part of their procurement funds to favour companies that employ or are owned by persons with disabilities.<sup>212</sup>

**The Commissioner for the Protection of Equality** in the 2015 Annual Report, made the following recommendation to the government, relevant for companies:<sup>213</sup>

- Oblige all public authorities and private employers to develop internal mechanisms for elimination and protection from discrimination, gender balanced HR policies and management of national, ethnic, linguistic and other diversities.

**The Commissioner for the Protection of Equality** in the 2014 Annual Report, made the following recommendation to the government, relevant for companies:<sup>214</sup>

- Employers should be obliged to provide reasonable accommodation in the workplace to persons with disabilities.

**The Commissioner for the Protection of Equality** also submitted a number of recommendations for new provisions in the Labour Law. While these recommendations are intended for the government, they may also be relevant for companies. Recommendations include:

- Recognise the right of working mothers to breastfeeding breaks amounting to 90 minutes per day and the right to decide on her own when and how many breaks she would like to take.
- If a working day lasts up to six hours, the breastfeeding break should last a minimum of 45 minutes; mothers of twins or more babies or prematurely born babies should have a break lasting minimum 120 minutes; one parent of an adopted child should be guaranteed breaks for feeding under same conditions.<sup>215</sup>
- Recognise the right of an employee to be reinstated after parental leave to the same or other adequate position, including if the previously held position had been terminated. If necessary, provide the employee with professional training if work processes were modified during their leave.<sup>216</sup>
- As a protective measure for pregnant employees and employees undergoing artificial insemination, employers with more than 20 permanently employed women should provide them with a separate room for rest and hygiene.<sup>217</sup>

**Autonomous Women's Centre (AZC):** The Centre recommend that companies explicitly state in their policies that they will provide support to women victims of family violence.<sup>218</sup>



**Autonomous Women's Centre (AZC)** made the following recommendations to the government, which is also relevant for companies: it should be mandatory for both parents to use childcare leave for an equal period, i.e. 6 months.<sup>219</sup>

**Strategy for Social Inclusion of Roma 2016-2025**<sup>220</sup> includes the following measures that could be applied by companies:

- Involvement of recruitment agencies in education activities and building capacity for working with less employable categories of unemployed persons, in order to increase the number of Roma who seek employment through employment agencies;
- Organising seminars and trainings on the prohibition of discrimination in relation to the access to the labour market, employment and labour rights of employees in employers' associations
- Promoting examples of good practice in the employment of Roma men and women, as well as ways of eliminating prejudices and stereotypes.<sup>221</sup>

**The UN Committee on the Elimination of Discrimination Against Women** made the following recommendations to the government, which are also relevant for companies:<sup>222</sup>

- Adopt measures to implement the principle of equal pay for work of equal value in order to narrow and close the gender wage gap;
- Encourage women's participation in occupational areas where they are traditionally underrepresented;
- Strengthen measures to prevent and combat sexual harassment of women in the workplace by establishing effective reporting mechanisms and sanctions.

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

### Discrimination

*Does the company ensure that employment-related decisions are based on relevant and objective criteria?*

- The company identifies different types of discrimination, including those rooted in formal structures and cultural traditions.
- It is company policy to ensure that decisions concerning hiring, wages, promotion, training, discipline, retirement and termination are based only on unbiased criteria, and are not linked to any of the discriminatory characteristics listed in the description for this question.
- Each job category in the company has a written description stating the salary level and the qualifications required for that job category.
- The company ensures that employment advertisements do not reference discriminatory criteria, such as race, gender or age (unless listed as part of a legal equal opportunities promotion).

- The company ensures that job applicants are not asked to give information about their marital status, pregnancy, intent to have children, number of dependents, or similar information that may lead to discriminatory hiring decisions.
- All hiring managers receive training regarding the company's non-discrimination policies.
- The company has established a procedure, accessible and known to all workers, where workers can safely report incidents of workplace discrimination.
- The company takes reasonable steps to enable qualified persons with disabilities or health conditions to gain employment opportunities with the company, for example by providing wheel chair access, flexible working hours, longer breaks etc.

## Fair Treatment

*Does the company protect workers from workplace harassment including physical, verbal, sexual or psychological harassment, abuse, or threats?*

- The company has a commitment to prevent workplace harassment.
- The company actively informs workers of their obligations to refrain from violent, threatening or abusive conduct.
- Managers receive training on how to identify and deal with instances of harassment in the workplace.
- The company investigates all complaints of workplace harassment and takes appropriate preventative and disciplinary action including reporting of criminal actions to the appropriate authorities.

## Privacy

*Does the company respect the privacy of its employees whenever it gathers private information or monitors the workplace?*

- The company has a procedure stating which kinds of workplace monitoring are allowed; what kind of personal worker information is retained; where it is stored; who has access; and why the information is necessary.
- Workers are made aware of all workplace monitoring, including cameras and Internet or e-mail monitoring, and the specific purpose of the monitoring.
- The company obtains the worker's prior written consent before gaining information from an individual with whom the worker has a privileged relationship, including a former employer, doctor or lawyer.
- Workers have access to all personal data collected about them, including data concerning disciplinary decisions and data obtained through monitoring, but excluding confidential management specific information related to performance evaluations, salary negotiations, promotions, rotation and similar employment decisions.

## Community Engagement

*Does the company engage with local communities on the actual or potential human rights impacts of its operations?*

- The company has a commitment to engage openly with communities in and around its area of operations, prior to, during and after commencing activities that may negatively impact their access to resources (e.g. water, food, land) or livelihoods (e.g. fishing or hunting grounds).

- The company communicates and consults with local communities prior to, during and after commencing activities to prevent, reduce and mitigate impacts.
- The company takes steps to remedy the legitimate concerns of local communities regarding any negative impacts of the company's operations on the access to resources or livelihoods.

## Country Risk

*Does the company seek to avoid involvement in human rights abuses owing to government or societal practices?*

- If operating in a country or region with systematic human rights abuses, the company seeks to become aware of and avoid the risk of contributing to, endorsing or benefiting from such abuses.
- Where the company risks involvement in systematic human rights abuses owing to government or societal practices, the company seeks to identify solutions through dialogue with other businesses, civil society organisations, experts and other relevant stakeholders, including where possible with the authorities.
- The company ensures that it does not endorse any state imposed discriminatory limitations on the right to vote, and does not pass along information concerning religious, racial, political affiliations or other characteristics of employees which could be used by the government as a reason to restrict the right to vote.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- International Labour Organization Core Labour Standards on Non-discrimination and the ILO Bureau for Gender Equality: Non-discrimination comprises one of the four core areas of the ILO Declaration on Fundamental Principles and Rights at Work, which comprises the ILO core labour standards. The ILO integrates gender throughout its work, with the objective of achieving gender equality as an essential feature of decent work. This can include advisory services, research and information dissemination, training and capacity building.
- Oxfam Australia: Women, Communities and Mining: The Gender Impacts of Mining and the Role of Gender Impact Assessment (2009): This Guide is intended to inform mining company staff of potential gender impacts of mining projects and introduces some tools and approaches that can be used to conduct a gender impact assessment.
- Women's Empowerment Principles (2010): Developed in collaboration between UN Women and the UN Global Compact, the Women's Empowerment Principles are a set of principles for businesses offering guidance on how to empower women in the workplace, marketplace and community.
- The Forest Peoples Programme: Established in 1990, the Programme is dedicated to supporting Indigenous Forest Peoples protect their land rights and human rights. The Programme works directly with indigenous communities, assisting them in building their own capacities and exercising their human rights.
- IFC Performance Standard 7: Indigenous Peoples (2012): The IFC PS7 and its accompanying guidance offer directions on how private sector projects can respect the human rights of Indigenous Peoples through following the stated requirements.

- International Council on Mining and Metals Good Practice Guide: Indigenous Peoples and Mining (2010): The ICMM is the industry organisation for the mining and metals sector. The Guidance provides advice to companies on how they can build effective relationships with Indigenous Peoples, as well outlining ways in which companies can effectively engage throughout the lifecycle of a project.
- International Working Group for Indigenous Affairs (est. 1968): IWGIA is an international human rights organization specialising in Indigenous Peoples' rights. IWGIA works to further the understanding, knowledge, and engagement with the rights of Indigenous Peoples through publications, advocacy programmes and support of local projects.
- The Manila Declaration of the International Conference on Extractive Industries and Indigenous Peoples (2009): The Declaration is a statement on behalf of Indigenous Peoples and support organisations from 35 countries that calls on different stakeholder groups, such as extractive companies, communities and civil society organisations, to respect and uphold the recognised rights of Indigenous Peoples.
- Tebtebba Foundation (Indigenous Peoples' International Centre for Policy Research and Education): The Foundation's main purpose is to work for the respect, protection and fulfilment of Indigenous Peoples' rights and the operationalisation of Indigenous Peoples' self-determined sustainable development. The Foundation offers a number of relevant resources on issues such as traditional knowledge and traditional livelihoods, biodiversity and climate change.
- UN Permanent Forum on Indigenous Issues (est. 2000): The Forum was formed to advise the United Nations Economic and Social Council on a number of Indigenous Peoples' rights issues, such as economic and social development, culture, education, environment, health and human rights.
- UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples (est. 2001): The Special Rapporteur mandate is to advise on and monitor the human rights situation of Indigenous Peoples. This includes country reports, promoting good practice, addressing relevant human rights violations and contributing to thematic study on topics related to Indigenous Peoples.

## Engagement Opportunities

*Development initiatives by public and private actors that provide opportunities for companies to contribute to human development*

### Public Sector Initiatives

**Subsidising Roma Employment:** The National Employment Service is subsidising employers intending to hire up to 19 Roma persons with one-time financial aid from 100,000 up to 400,000 dinars (approx. US\$900 – US\$3600). Bigger sums would be allocated to employers from less developed municipalities, and those planning to hire more than 11 Roma persons.

**Strategy for the Improvement of the Status of Roma:** The government launched several initiatives with the aim of improving the status of Roma in the areas of housing, education, employment and health, as well as including representatives of Roma communities in the process of policy implementation.<sup>223</sup>

**Protocol to protect women:** Acting upon recommendations from several women's NGOs, the Ministry of Interior decided in 2011 to develop a special Protocol defining specific actions to be taken by the police to protect women from family or partner violence.<sup>224</sup>

**Toll-Free Hotline for Female Victims of Violence:** Established in Vojvodina, the provincial Secretariat for Gender Equality provided training for hotline volunteers. Technical and financial support was further provided.

**International Labour Organisation:** The project was piloting a solution for providing formal employment to disadvantaged and vulnerable groups in the City of Belgrade by engaging informal waste collectors in a dialogue with local government and key private operators dealing with recycling. The lessons learned have been prepared and presented.<sup>225</sup>

## NGO Initiatives

**IDEAS:** The NGO implements the project Building Socially Responsible Business in Serbia that aims to facilitate the development of socially responsible businesses in Serbia by establishing a multi-stakeholders dialogue for the local understanding of the role, implications and impact of businesses on human rights; development of benchmark mechanism for evaluating businesses; provide with expert support to businesses for the development of human rights oriented internal guidelines and procedures; support businesses in the field of community development and investment (more sustainable CSR investing) and increasing awareness and competitive spirit among businesses.<sup>226</sup>

# Child Labour

*Work that interferes with the health, development, education or family life of persons under 18*

Operating Environment		
	Country	Central and Eastern Asia
Net Enrolment Ratio in Primary Education (% both sexes)	95	95.8
Percentage of pupils starting grade 1 and reaching last grade of primary	99.2	98.5
One-year-old children immunised against measles (%)	92	94.4
Mortality rate of children under 5 years old (per 1,000 live births)	7	11.2
Percentage of population below 14	14.74	
Restrictions on children under 18 from working	Employment of children under 15 prohibited; hazardous work under 18 prohibited.	
Minimum age of employment	15 years	
End of compulsory education	14/15 years	
Relevant legislation	<ul style="list-style-type: none"> <li>• Labour Law</li> <li>• Criminal Code</li> <li>• Law on the Foundations of the Education System</li> </ul>	
Responsible ministries	<ul style="list-style-type: none"> <li>• The Ministry of Labour, Employment, Veteran, and Social Policy</li> <li>• The Labour Inspectorate</li> <li>• Ministry of Internal Affairs</li> <li>• Ministry of Justice</li> <li>• Ministry of Education</li> </ul>	
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Praxis</li> <li>• Child Rights Centre</li> </ul>	

- Astra
- Bibia
- Minority Rights Centre

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The constitution and Labour Act guarantee special protection to the family and the child, and prohibit the employment of children under 15 and for hazardous work under 18.<sup>227</sup> These provisions are in line with international standards.

According to the U.S. Department of Labour's 2011 Findings on the Worst Forms of Child Labour, 6 percent of children 5 to 14 were working.<sup>228</sup>

According to UNICEF's 2014 Serbia Multiple Indicator Survey (MICS), 10 percent of children were involved in child labour. Boys, children from other residence areas and the poorest children were more likely to be involved in economic activities. In Roma settlements, 5 percent of children were involved in child labour.<sup>229</sup>

In 2014, the Ministry of Labour, Employment and Social Policy employed 241 inspectors in the Serbian Labour Inspectorate.<sup>230</sup> The Labour Inspectorate generally lacked funding to provide specialized training and the necessary equipment, such as computers and vehicles, to facilitate the adequate enforcement of laws prohibiting child labour.<sup>231</sup>

The Labour Inspectorate report for 2015 noted that inspectors did not find any case of child labour in the group under 14 years, but registered 25 persons aged 15 to 18 working in the construction, industry and services sectors.<sup>232</sup> In 2014, inspectors reported that there were 25 cases of minors, ages 15 to 18, employed without parental or guardian approval in violation of the labour law, but it was not clear whether this work was hazardous.<sup>233</sup>

The government also lacks a national policy to combat child labour and a mechanism to effectively coordinate efforts to address child labour across government agencies.

## Worst Forms of Child Labour

There are no legal provisions that outline a specific list of activities or occupations that are hazardous and prohibited for children.<sup>234</sup> In addition to that, the Criminal Code of Serbia prohibits child prostitution, trafficking and enslavement of children, providing penalties of at least five years in prison for individuals found guilty of trafficking minors.<sup>235</sup>

UNICEF reported in 2014 that 3 percent of children were involved in the worst forms of child labour, while UNCHR noted in 2015 that many children were engaged in begging.<sup>236</sup> Roma children, poor children, and children living in foster homes were the most vulnerable to the worst forms of child labour.<sup>237</sup> 4 percent of Roma children in particular were working under hazardous conditions.<sup>238</sup>

According to the U.S. Department of Labour report for 2011, forced eviction of Roma families increased the vulnerability of children in such families to their involvement in worst forms of child labour.<sup>239</sup> The NGO Praxis reported in 2013 that many Roma children worked in open markets or in the streets selling small goods or doing delivery or cleaning. The problem of child labour was reportedly exacerbated by the social protection system, which did not compensate those working in the informal market for

injuries or lost wages. When they were unable to work, parents sent their children into the labour market, sometimes in the same job, to compensate their absent.<sup>240</sup>

To a lesser extent, children worked on family farms. Children's work in agriculture commonly involved the use of potentially dangerous machinery and tools, carrying of heavy loads, and the application of harmful pesticides.<sup>241</sup>

In addition to that, more than 50,000 people worked in small-scale waste collection, including many children.<sup>242</sup>

Serbia was a destination, transit and source country for the trafficking of children for the purposes of sexual and labour exploitation. Many children were trafficked from Eastern Europe and Central Asia to Western European countries.<sup>243</sup>

In 2013, Astra reported that internal trafficking in human beings included 18 children.<sup>244</sup>

Child prostitution, according to NGO reports, was present in Serbia. The NGO Astra operated an SOS hotline and during 2015 out of 38 potential trafficking reports they received, 10 trafficking victims were identified, four of them children and all of them were female.<sup>245</sup>

## Education

In Serbia primary and secondary education are free of charge and primary education is mandatory. Under the constitution, all citizens have equal access to higher education and the state provides free tuition to talented students.

In mid-2012, the government adopted the Education Development Strategy until 2020.<sup>246</sup> Strategy priorities related to the educational system should correspond to the needs of the economy, to establish active institutional system of linking science and industry and that policy of incentives should be focused towards innovation in entrepreneurial sector. The Strategy, however, suffers from specific shortcomings, including the failure to address human rights and rights of the child in education.

Preschool education was attended by about 50 percent of children under 6 years. The EU target for 2020 is 95 percent.<sup>247</sup>

Although the percent of men and women with university education is almost the same (around 16 percent), there were more women than men who have not completed primary school or have no more than primary education (39 percent vs. 29 percent). The educational levels of various ethnic communities were extremely divergent as well—e.g. 87 percent of the Roma population had incomplete primary education or had only primary education; less than 1 percent had completed higher education. The educational breakdown of persons with disabilities was also unfavourable: 52.7 percent of those over 15 years of age have not completed primary school or had no more than primary education, while only 6.5 percent had completed higher education.<sup>248</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*



- The company does not employ workers under 15 years of age for full-time work, 13 years of age for light work and 18 years of age for hazardous work (please see the question description for exceptions).
- If the company employs minors below the age of 18, the company has a list of job functions that can safely be performed by minors.
- The company is aware of local age-levels for completion of compulsory education and does not employ workers under that age for work that may interfere with such education.
- The company has a reliable procedure to check the age of young job candidates by birth certificate, other official forms of identification, or by alternative means such as physical appearance or knowledge of historic events.
- Company apprenticeship programmes do not constitute the main portion of the workforce, are limited in duration, are performed in conjunction with a school programme (or supervised by Labour Ministers or Labour Organisations), and do not interfere with the child's compulsory education.
- If the company becomes aware that it is employing young workers below minimum age, it ensures that they are enrolled in education programme, and that their dependents are compensated for the resulting loss of income.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- Business and Human Rights Resource Centre, Business & Children Portal: The Portal is an information hub developed to give practical assistance to people from all business sectors in their work and decision-making, leading to better protection of the rights and welfare of children. The Portal has sections on: issues, positive initiatives, alleged abuses, lawsuits and guidance.
- Children's Rights and Business Principles (2012): Developed by UNICEF, UN Global Compact and Save the Children, these Principles are the first comprehensive set of principles to guide companies on the full range of actions that they can take in the workplace, marketplace and community to respect and support children's rights.
- ILO Programme on the Elimination of Child Labour (est. 1992): The Programme has the overall goal of the progressive elimination of child labour, to be achieved through strengthening the capacity of countries to address it and promoting a worldwide movement to combat child labour.
- UN Committee on the Rights of the Child General Comment No.16 on State obligations regarding the impact of the business sector on children's rights (2013): The Committee is the body of independent experts that monitors the implementation of the Convention on the Rights of the Child and the Optional Protocols. In April 2013, the Committee issued a general comment on business and children's rights. The objective of General Comment No.16 is to provide States parties with a framework for implementing the CRC, particularly with regard to the business sector.
- Children's Rights in Impact Assessment – A Tool For Companies (2013): Developed by UNICEF and the Danish Institute for Human Rights, this checklist is a practical tool intended to help companies to identify and manage their impact on children's rights. The checklist contains a set of questions and indicators covering the 10 Children's Rights and Business Principles, addressing different aspects of company policies and operations and the impact on children's rights.

- Better Work (ILO, IFC): Guidance Sheet on Child Labour (2009)

## Engagement Opportunities

*Development initiatives by public and private actors that provide opportunities for companies to contribute to human development*

### Public Sector Initiatives

**General Protocol on Child Protection from Abuse and Neglect:** Adopted under the National Plan of Action for Children, the Protocol defines the general policy for children until 2015. Its aim is to create an efficient and coordinated procedure for protection of child victims of abuse and adequate intervention and rehabilitation for such children.

**Child Allowance Program:** The government operates a cash benefits programme for poor families conditional on school enrolment of children age 7 or older, to keep children from working.<sup>249</sup>

**Prihvatilište:** A public facility managed by the municipality, Prihvatilište, welcomes various categories of minors in trouble, including street children and those with no parental care. Although beneficial, it has only 16 beds –far from enough to host all the minors in trouble who are entitled to care.<sup>250</sup>

**Parliamentary Committee on Children:** The government established the Parliamentary Committee with the aim of reviewing and monitoring all legislation pertaining to children and their rights, and to align it to international standards.

**Programs Under Social Security Law:** A government program that provides a range of social services, including assistance to trafficking victims. The law requires Social Services Centres in 140 communities to maintain 24-hour duty shifts in order to protect children from abuse and neglect, including Roma children.

**Protection for street children:** A government program that establishes teams within local centres for social services to provide protection for children living and working on the streets. Teams include representatives from the Ministry of Interior, health care professionals, educators and social workers. In 2014, the program provided social services to 60 children.<sup>251</sup>

**International Labour Organization:** In February 2016, the ILO launched a project called “Country Level Engagement and Assistance to Reduce Child Labour (CLEAR)”, whose four components were: aiming to improve specific aspects of national legislation on child labour including its worst forms; to improve monitoring and enforcement of laws and policies related to child labour; to build national capacity to develop, validate, adopt and implement their National Action Plans on the elimination of child labour (NAP); and to enhance implementation of national and local policies and programs and to improve social policies and programs.<sup>252</sup>

### NGO Initiatives

**BejglBejgl:** Social enterprise bakery founded by NGO Atina, an organisation that has been advocating for the rights of victims of human trafficking and other forms of exploitation with the aim to support sustainability of its programs.<sup>253</sup>

# Forced Labour

*Debt bondage, human trafficking or other coercion that makes workers unable to freely leave employment*

Operating Environment	
U.S. Department of Labour Trafficking in Persons: Tier Placement	Tier 2
Relevant laws	<ul style="list-style-type: none"> <li>• Labour Law</li> <li>• Criminal Code</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Ministry of Labour, Employment, Veteran, and Social Policy</li> <li>• Labour Inspectorate</li> <li>• Ministry of Internal Affairs</li> <li>• Ministry of Justice</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• ASTRA</li> <li>• ATINA</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The constitution prohibits slavery, keeping persons in conditions tantamount to slavery and all forms of trafficking in persons.<sup>254</sup> The Law on the Protection Program for Participants in Criminal Proceedings regulates the protection of and assistance to victims of human trafficking.<sup>255</sup>

According to a 2012 Belgrade Centre for Human Rights report, cases of forced labour were rare.<sup>256</sup> Nevertheless, victim identification significantly increased, particularly of forced labour, though victim care suffered from the absence of government procedures to refer victims to NGO service providers and a lack of training for social welfare centre staff on trafficking victim assistance.<sup>257</sup>

## Trafficking

The Criminal Code prohibits trafficking in human beings,<sup>258</sup> setting penalties ranging from three to 15 years' imprisonment. It prohibits sex trafficking and non-sexual exploitation, but does not distinguish between commercial sexual exploitation and forced labour.<sup>259</sup>

According to the U.S. Department of State's 2014 Trafficking in Persons report, Serbia was a source, transit and destination country for men and women subjected to sex trafficking and forced labour, including domestic servitude and forced begging.<sup>260</sup>

Foreign victims of trafficking found in Serbia reportedly originated primarily from other countries in Europe. During 2014, foreign trafficking victims in Serbia were from Montenegro, Bosnia, Moldova, Bulgaria and Romania.<sup>261</sup>

According to the European Commission's Serbia 2015 Progress Report, the government of Serbia did not fully comply with the standards for the elimination of trafficking but was making efforts to do so.<sup>262</sup> Very few cases of trafficking in human beings were successfully investigated.

The draft Anti-Trafficking Strategy and Action Plan are still pending. According to the EU Progress Report, the Centre for Protection of Victims of Human Trafficking needs to strengthen its capacity. No state-run emergency shelter was available for the victims of trafficking and there was no appropriate centre for child victims.<sup>263</sup>

According to the Centre for Human Trafficking Victims Protection, 40 victims of trafficking were identified in 2015; most of them were women and girls who were trafficked for commercial sexual exploitation.<sup>264</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *October 2013, Novosti:* Serbian police arrested 10 persons for human trafficking and smuggling of illegal migrants over Hungarian border.<sup>265</sup>
- *February 2013, Blic online:* Austrian police successfully broke up a criminal organisation that illegally trafficked people across Europe, including in Serbia, and earned more than 50 million euros (approx. US\$55 million).<sup>266</sup>

## Company Initiatives

*Private-sector programmes that aim to ensure respect for human rights or contribute to development*

### Company Development Initiatives

**Komercijalna Banka:** The company financially supported ASTRA's media campaign 'STOP Trafficking in Children'.<sup>267</sup>

**Vip Mobile:** The company and its customers donated 2 million Dinars (approx. US\$18,000) in 2012 to the NGO ASTRA, which fights human trafficking. The donation was intended for the procurement of modern telephone exchange which will enhance the work of SOS line for human trafficking victims, as well as for the procurement of service vehicle which will help ASTRA to directly provide aid to human trafficking victims all around Serbia.<sup>268</sup>

### Stakeholder Recommendations

The **NGO ASTRA** recommends that companies operating in Serbia:

- Advance cooperation with NGOs involved in the protection of victims of trafficking and with competent state agencies. Further cooperation should aim to establish a more effective

network of protection for victims, including timely legal assistance and representation, psychological and medical support;<sup>269</sup>

- In the hotel service sector in particular, to provide training to their staff on their Anti-trafficking policy, when existed.<sup>270</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

- Workers can give notice and leave employment within a reasonable length of time. This is clearly communicated to workers prior to starting employment.
- The company (or its recruitment agencies) ensures that it does not withhold wages or bonuses and that it pays them in a timely and regular manner.
- The company ensures it does not make deductions from wages for disciplinary measures or other deductions not authorised by national law.
- Within normal working hours workers are able to earn a living wage sufficient to meet the basic needs of themselves and their closest dependents.
- Overtime work is paid, voluntary and not compelled through threat of pay deductions, termination or other sanctions.
- The company (or its recruitment agencies) ensures that it does not retain identity cards, passports, travel documents or other personal items without which workers cannot leave employment. If letters of release or other documents are needed for the worker to leave employment, such letters are issued without delay.
- All workers are allowed to leave company premises during breaks and at the end of their shifts, and workers in company housing may freely enter and exit their accommodation at any time.
- The company (or its recruiting agencies) ensures that it does not require workers to pay recruitment fees or lodge money deposits.
- Loans or salary advancements to workers are based on fair terms that are clearly explained to the worker, are not granted to cover basic living expenses, are limited in size, and do not require the worker to remain with the company until repayment is completed.
- If the company uses prison labour it ensures that all prison workers have been convicted by a court of law, and that the work is voluntary and supervised by a public authority.
- The company ensures that it does not use labour from agencies or firms involved in human trafficking or other forms of bonded labour.

# Occupational Health & Safety

*Unsafe or unhealthy working conditions that expose workers to the risk of accidents or occupational illnesses*

Operating Environment	
Relevant laws	<ul style="list-style-type: none"> <li>• The Labour Law</li> <li>• Health Protection Act</li> <li>• Health Insurance Act</li> <li>• Pension and Disability Insurance Act</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• The Occupational Safety and Health Directorate within the Ministry of Labour, Employment, Veteran and Social Affairs</li> <li>• The Labour Inspectorate within the Ministry of Labour, Employment, Veteran and Social Affairs</li> <li>• The Institute of Occupational Health within Ministry of Health</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Serbian Association of Employers'</li> <li>• Confederation of Autonomous Trade Unions of Serbia (CATUS)</li> <li>• Association of Independent Trade Unions Serbia</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The constitution guarantees the right to occupational safety and health and the right to protection at work, as well as special protection at work for women, young persons and persons with disabilities.<sup>271</sup>The Occupational Safety and Health Act<sup>272</sup> was significantly amended in 2015 to be aligned with EU standards. The concept of employers was expanded and includes natural persons providing work to workers on any legal grounds, with the exception of persons providing work in the household and heads of family agricultural holdings performing work together with their family household members.

The Labour Law,<sup>273</sup> Health Protection Act,<sup>274</sup> Health Insurance Act<sup>275</sup> and Pension and Disability Insurance Act<sup>276</sup> also regulate various aspects of safety and health at work. Under the Labour Law, employees have the right to health and safety at work, and are obliged to abide by safety and health regulations so as not to endanger their own health and safety or those of other employees or persons. Numerous by-laws regulate specific issues.<sup>277</sup>

A list of occupational diseases and bodily injuries has been approved by the Ministry of Labour and Social Policy and the Ministry of Health.<sup>278</sup>

The Occupational Safety and Health Directorate is charged with monitoring the implementation of occupational safety and health regulations. It also oversees the work of employers with respect to safety and health at work, collects data on work-related injuries, organises counselling and professional training for the employers and informs the general public of the state of health and safety at work.<sup>279</sup>

According to the Occupational Safety and Health Directorate, consulted in November 2013, occupational health and safety regulations were not respected by companies in general, though some companies in Serbia had introduced high protection standards.<sup>280</sup>

According to the government's OSH Development Strategy 2013-2017, there were discrepancies in records of public bodies charged with tracking the number of occupational diseases and injuries (the Occupational Safety and Health Directorate, the Labour Inspectorate, the National Health Insurance Fund and The Disability and Pension Fund of the Republic of Serbia). A unified registry did not exist.<sup>281</sup>

In 2013, a representative of the Ministry of Labour and Social Affairs stated that the number of people who suffered from injuries or disease in the workplace was on average 50 percent higher than in any other EU country.<sup>282</sup> According to the Occupational Safety and Health Directorate, roughly 40 employees were killed in the workplace each year, over 1,000 employees sustained serious injuries and approximately 2,000 employees sustained light injuries. This amounted to two workers killed each year per 100,000 employees.<sup>283</sup>

The government reported that from 2008 to 2012, the greatest figures of work-related injuries were registered in the fields of manufacturing, construction, transport, storage and communication, health and social work and wholesale and retail.<sup>284</sup> However, according to the Occupational Health and Safety Directorate, the number of accidents among construction workers and the number of fatal accidents was halved between 2010 and 2015, and only seven such accidents occurred in the first four months of 2015.<sup>285</sup> Nevertheless, in the construction industry, which employs 70,000 workers, accidents in workplace occurred more frequently than in other sectors.<sup>286</sup>

According to the International Labour Organisation (ILO) in 2013, the system of reporting occupational injuries and diseases required modernization as it has been estimated that nearly two-thirds of all cases remained unreported due to the complicated and out-dated reporting system, which did not provide the right incentives to employers to report such cases.<sup>287</sup> Representatives of the independent trade union Sremska Mitrovica, interviewed in the newspaper Blic Online, alleged that work-related injuries were not reported to doctors and labour inspectors, and that employers reportedly offered workers compensation in exchange for silence.<sup>288</sup>

The ILO also reported that the Labour Inspectorate only inspected and recorded fatal, collective and severe injuries.<sup>289</sup> In the first four months of 2015, labour inspectors issued 33 misdemeanour fines and filled 1,327 misdemeanour motions and 19 criminal reports against employers violating health and safety regulations.<sup>290</sup>

The Occupational Safety and Health Directorate, consulted in November 2013, identified a number of challenges in the implementation of OHS laws. Many employers reportedly considered costs for OHS an outlay rather than an investment. Workers reportedly ignored OHS instructions and were not required to take precautionary safety measures.<sup>291</sup>

According to the Occupational Safety and Health Directorate and the ILO, companies with a large number of employees, as well as some foreign companies, had more capacity to apply OHS measures than small and medium enterprises, and tend to have better OHS conditions.<sup>292</sup>

According to official statistics, the Ministry the Labour Inspectorate performed 15,194 OHS inspections from January to November 2012, covering 333,974 workers. In this period, the Inspectorate rendered 4,577 decisions instructing employers to rectify OHS shortcomings and 374 decisions prohibiting company operations due to OHS hazards. The Ministry also performed 1,109 investigations of fatal work-related injuries.<sup>293</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *May 2016, ASTRA:* The NGO ASTRA was contacted by workers of a cable factory who were not provided with adequate protective equipment including gloves. They feared that this could be the reason for the increased number of workers who got cancerous diseases.<sup>294</sup>
- *September 2015, Novosti Online:* Four workers were injured in a fire that broke out in the military Milan Blagojević factory in Lucani. The Ministry of Defence stated the accident occurred due to human error.<sup>295</sup>
- *May 2015, Blic Online:* Seven workers were injured in an explosion that took place in the military factory Krušik in Valjevo. The Ministry of Defence stated the accident occurred due to human error.<sup>296</sup>
- *April 2015, Novosti Online:* In the TigarTajers factory in Pirot three workers were killed, six were heavily injured and two sustained light injuries. The Labour Inspectorate established multiple shortcomings in the application of health and safety provisions, mainly inadequate risk assessments for specific work posts.<sup>297</sup>
- *August 2014, Blic Online:* A seasonal worker died after he suffered serious burns while operating a can sterilizing machine at Prima Produkt factory. The Labour Inspectorate confirmed that safety production procedures were not observed by his superiors.<sup>298</sup>
- *January 2013, crnonabelo.com:* An employee of Varmetal who was working on the roof of the TigarTajers factory died. Varmetal reportedly did not previously inform the Labour Inspectorate about the work being performed on the building site, and security measures at the building site were not in place. Varmetal's permit was revoked and misdemeanour and criminal proceedings were to be initiated against the responsible persons.<sup>299</sup>
- *December 2012, Blic Online:* A worker at Panonskeelektrane TE-TO in Sremska Mitrovica died after a fall from a 3.8 metre scaffold. The scaffold was reportedly missing a protective fence, and the worker was not wearing a helmet.<sup>300</sup>
- *December, 2012, Blic Online:* A worker who suffered leg injuries in a furniture workshop was reportedly offered 100,000 dinars (approximately US\$750) by the owner in exchange for silence and not pressing charges.<sup>301</sup>
- *September 2012, safetynews.co.uk:* A private contractor and two servicemen of the Serbian Air Force were killed during mine sweeping work on Kopaonik mountain.<sup>302</sup>



- *June 2012, safetynews.co.uk*: An explosion occurred at the Milan Blagojević factory in Lučani when a press used in the manufacturing of rocket fuel and gunpowder exploded. One worker sustained light injuries.<sup>303</sup>

## Company Initiatives

*Private-sector programmes that aim to ensure respect for human rights or contribute to development*

### Company Due Diligence Initiatives

**TITAN Cementara Kosjerić**: The company implements the programme 'A Step Towards Health and Safety at Work', which introduces a system of safety management to ensure continuous improvement.<sup>304</sup>

### Stakeholder Recommendations

**Occupational Safety and Health Directorate**: The Directorate recommended that companies operating in Serbia:

- Consider OHS allocations an investment rather than a cost; and
- Work with smaller companies and suppliers to implement best practices on OHS.<sup>305</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Does the company ensure that its workers are provided safe, suitable and sanitary work facilities?*

- Responsibilities for health and safety tasks are clearly defined.
- The company routinely monitors its production processes, machinery and equipment to ensure that they are safe and in good working order.
- Workers and managers are trained to respond to workplace emergencies; first aid kits and fire extinguishers are readily available; and escape exits are clearly marked and free from obstruction.
- The workplace is maintained to ensure clean and comfortable conditions including a suitable temperature, ventilation and lighting; suitable washing and sanitation areas appropriate for both genders.
- Residential or overnight facilities are safe and sanitary and meet the basic needs of workers including with regard to safety, space, temperature, lighting, ventilation, food, water, sanitary facilities, privacy, and affordability.

- The company provides safe drinking water for workers and facilities for clean and sanitary food storage and eating.
- Where relevant the company has put in place special health and safety precautions for pregnant women, employees with disabilities, night workers, young workers and other vulnerable groups.

*Does the company ensure that workers are provided with the protective equipment and training necessary to perform their tasks safely?*

- The company has a procedure to ensure that all workers are provided, free of charge or deposits, with the protective equipment necessary to safely perform their job functions.
- The company is committed to ensuring that workers use the protective equipment provided and understand why it is necessary to use the equipment.
- The company ensures that all workers have the necessary training to safely perform their job functions and keeps workers fully informed, in a language and form understandable to them, of the health and safety procedures.
- An accurate record is kept of who has been trained and for what tasks.
- On a regular basis and when assigned to new tasks, workers receive training in the safe use of equipment and processes.
- A company function or member of staff is responsible for keeping informed of scientific and technological developments regarding health and safety risks and protective equipment.

*Does the company actively involve workers in health and safety work?*

- The company consults employees on health and safety issues either directly or through a freely elected safety representative(s) for relevant groups of employees.
- A health and safety committee has been established including employee safety representatives and representatives from management.
- Health and safety accidents are reported and investigated including involving the relevant worker(s), and actions are taken to prevent recurrences.
- Health and safety near-misses (accidents not resulting in injury) are reported and investigated to help improve safety.
- Health and safety accidents are monitored including hours lost as a result of injury or illness and e.g. compared to total hours worked (lost time injury frequency).

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- IFC Performance Standard 2: Labour and Working Conditions (2012): FC PS2 is guided by the international labour standards as outlined by the ILO and covers health and safety.
- Portal for Responsible Supply Chain Management: The Portal is designed to support companies in improving the social and environmental conditions within their supply chain. The Portal offers tools and guidance on a number of supply chain issues, such as child labour, corruption and discrimination. In addition, the Portal also details sector specific resource material and pertaining legislation.

- Ethical Trading Initiative Base Code (2012) and ETI Principles of Implementation (2009): The Ethical Trading Initiative is an alliance of business stakeholders promoting the implementation of corporate codes of practice that cover supply chain working conditions. The alliance consists of companies, NGOs and trade union organisations. The ETI Base Code has been developed as a code of labour practice, targeted generally for supply chains, and is in line with the key international labour standards. The accompanying ETI Principles of Implementation outline the requirements needed by corporate members to implement the ETI Base Code in their supply chains, including the necessary commitments, management practices and behaviours.

## Engagement Opportunities

*Development initiatives by public and private actors that provide opportunities for companies to contribute to human development*

### Public Sector Initiatives

**European Good Practice Awards Competition (2012-2013):** The Ministry of Labour and Social Affairs participated in the 11th European Good Practice Awards Competition, part of the 2012–13 Healthy Workplaces Campaign on Working together for risk prevention organised by the European Agency for Safety and Health at Work (EU-OSHA). The event aimed to identify examples of good practice in achieving risk prevention through cooperation between workers and managers.<sup>306</sup> The Serbian nominees were the Museum of Contemporary Art in Belgrade and Galeb Metal Pack DOO.<sup>307</sup>

**28th of April Awards:** The Occupational Safety and Health Directorate gives awards for contributions, results and achievements in the area of occupational safety and health to companies, entrepreneurs and individuals.<sup>308</sup>

**'Improvement of Occupational Safety and Health in Serbia':** Grants totalling €250,000 (US\$400,000) were awarded to 10 companies from the textile, garment, leather and footwear industry. The project is implemented by the International Management Group and the Ministry of Labour, Employment and Social Policy, and is funded by the Norwegian government.<sup>309</sup>

**OHS Software:** Developed through a cooperation between the Ministry of Health and the Occupational Safety and Health Directorate in 2013, the ILO committed to train medical doctors in more than 15 health centres throughout Serbia in the use of the software. The software is to be installed in all health institutions in Serbia and oughts to create a platform for reporting work-related injuries to government authorities.<sup>310</sup>

# Trade Unions

*Restrictions on the right of workers to collectively represent their interests*

Operating Environment	
Largest trade unions and union confederations	<ul style="list-style-type: none"><li>• The Alliance of Independent Unions of Serbia (SSSS)</li><li>• United Branch Trade Unions (UGS) Independence</li></ul>
Relevant laws	<ul style="list-style-type: none"><li>• Labour Act</li><li>• The Employment and Unemployment Insurance Act</li><li>• The Peaceful Settlement of Labour Disputes Act</li><li>• The Act on the Prevention of Harassment at Work</li><li>• The Social Protection Act</li></ul>
Responsible agencies	<ul style="list-style-type: none"><li>• Ministry of Labour</li></ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"><li>• Centre for Democracy Foundation</li></ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

### Barriers to Unionisation

The constitution guarantees the freedom of association in trade unions.<sup>311</sup>

The freedom to associate in trade unions is the only trade union-related right guaranteed by human rights protection instruments ratified by Serbia.<sup>312</sup> This freedom entails the right to establish a trade union and join it of one's own free will, the right to establish associations, national and international alliances of trade unions and the right of trade unions to act independently, without interference from the state.<sup>313</sup>

Specific regulations related to the exercise of trade union rights are contained in the Labour Act. The Act defines a trade union as an autonomous, democratic and independent organisation of workers for the purposes of advocating, representing, promoting and protecting their professional, economic, social, cultural and other individual and collective interests.<sup>314</sup>

Trade union organisations are registered at the Ministry of Labour.<sup>315</sup> Trade unions are established by entry in a register and do not require prior consent. The Constitutional Court is the only authority that

can prohibit the work of any association, including a trade union, and only in cases explicitly defined by the law.<sup>316</sup>

On the institutional level, social dialogue is conducted within Social and Economic Councils, as defined in the Law on the Social and Economic Council.<sup>317</sup> The National Social and Economic Council of Serbia (SEC) includes the government, employers' associations and trade unions.<sup>318</sup> The SEC has 18 members and four working bodies (on collective bargaining, occupational safety and health, legislation and economic issues). The European Commission reported in 2015 that consultations at the Socio-Economic Council on legislative amendments were limited.<sup>319</sup>

According to the European Commission's 2015 Progress Report, both bilateral and tri-partite social dialogue needed to be further developed.<sup>320</sup> On several occasions representatives of trade unions walked out from working groups in charge of preparing important legislation.<sup>321</sup> During the Labour Law reform in 2014, trade unions opposed the Labour Law, the Law on Pension and Disability Insurance and other laws in the field of labour and social insurance legislation. The representative trade unions walked out of the Labour Law working group session in protest of the Labour Ministry's proposal regarding the effect of collective agreements that, in their view, were inapplicable in practice.<sup>322</sup>

An estimated 22,000 trade unions have been established in Serbia.<sup>323</sup> Most of these unions are organised under six major union confederations. Union membership was most prevalent among unqualified or semi-qualified workers (37 percent of whom are unionised), white-collar workers (36 percent) and technicians (34 percent). This was followed by university graduates (29 percent) and qualified and highly qualified workers (28 percent).<sup>324</sup>

Eurofound reported that over 60 percent of public sector workers and 20 percent of private sector workers were unionised, representing 35 percent of the total workforce.<sup>325</sup>

According to a 2012 U.S. Department of State report, many registered trade unions were dormant. The law requires that unions request their removal from official records, and many fail to do so following a bankruptcy or the restructuring of companies whose workforces they represent.<sup>326</sup>

In 2016, union representatives reported mass bullying and attempts to prevent workers from unionising.<sup>327</sup> According to a 2012 International Trade Union Confederation (ITUC) report, workers seeking to form trade unions have been advised by employers not to do so or were threatened with reprisals.<sup>328</sup>

The Belgrade Centre for Human Rights (BCHR) reported in 2012 that union activity was lowest in newly created private firms. In practice, trade union activities were reportedly limited to just a few issues, and primarily focused on proper execution of redundancy programmes and regular wage payment.<sup>329</sup>

Trade unions were tied to political parties, according to a 2011 Friedrich Ebert Foundation report.<sup>330</sup> Unions reportedly formed alliances with political parties to secure their interests.<sup>331</sup>

The general impression, as reported by BCHR, was that the unions and other external stakeholders were not included in governance processes such as the adoption of the budget, development policy and strategies of privatisation and restructuring of large systems. Social dialogue was reportedly non-existent in most municipalities, as it remained difficult to establish local Social and Economic Councils, mainly due to the lack of representative social partners on the employers' side.<sup>332</sup>

According to the 2015 Progress Report, poor respect for tripartite dialogue was an issue of concern. The procedures and criteria for determining the representativeness of trade unions needed to be agreed in a transparent way.<sup>333</sup>

BCHR also reported that only 15 percent of citizens trusted their trade unions, while the percentage of those who absolutely or mostly mistrusted them was nearly 50 percent.<sup>334</sup>

## Collective Bargaining

The national law requires collective bargaining agreements for any company with more than 10 employees. To be recognised as a collective bargaining agent, a union must comprise 15 percent of the workforce.<sup>335</sup> The collective agreements may apply on the general, sectorial or at company level.

In July 2014, the government adopted amendments to the Labour Law, allowing it to extend collective bargaining agreements to employers who are not members of the employers association or do not take part in collective bargaining. The new law stipulates that employers subject to a collective agreement must prove they employ at least 50 percent of workers in a given sector to apply for the extension of collective bargaining agreements to employers outside the agreement.<sup>336</sup> The harmonization of the Labour Law with equivalent legislation from many EU member states in relation to the requirement of having at least 50 percent +1 members in order for a collective bargaining agreement to receive an “extended application” (to become applicable to all workers and companies in the branch, rather than only to the workers and employers belonging to the signatory parties) from the Ministry was still pending.<sup>337</sup>

The European Foundation for the Improvement of Living and Working Conditions reported in 2012 that only two sectors, agriculture and construction, had branch agreements, and that such agreements were not universally applied. Some individual companies had their own collective agreements with unions. As of 2012, collective agreements (apart from the expired and never fully implemented General Collective Agreement) covered an estimated 50 percent of formally employed workers.<sup>338</sup>

According to a 2012 European Foundation for the Improvement of Living and Working Conditions report, mechanisms for collective bargaining in the private sector were decentralised, with most bargaining taking place at the company, rather than at the sectorial level.

The Social and Economic Council is in charge of negotiating and adopting the General Collective Agreement (if the council fails to reach a consensus, the Minister of Labour makes a decision).

Serbia does not have a General Collective Agreement (it expired in 2011) and applicable collective agreements existed mainly in the public sector, where the state appears as an employer. Collective agreements with employers in the private sector were the exception, rather than the rule.<sup>339</sup>

In 2016 two major collective agreements, for the construction and agriculture industries, were signed. This was significant because in the last 10 years, due to employers' and the government's rigidity, there were few new collective agreements signed.<sup>340</sup>

In the new collective agreement for the construction industry in particular, the issues of health and safety was regulated better than before, as well as a hot meal allowance, a supplement for vacation and different salaries for different jobs.<sup>341</sup>

A new collective agreement covering workers in agriculture, food/tobacco and waterworks was also signed in 2016, and it set new minimum wages. Trade unions were of the opinion that the agreement was balanced and in line with the EU trends.<sup>342</sup>

## Strikes

The right to strike is guaranteed by the constitution.<sup>343</sup> Workers are entitled to stage strikes in accordance with the law and collective agreements. The right to strike may be restricted only by law and in accordance with the type and nature of activity.

Under the Strike Act,<sup>344</sup> the right to strike is limited by the obligation of the strikers' committee and workers participating in a strike to organise and conduct a strike in a manner ensuring that safety, property and health are not jeopardised. Beyond the general restriction, a special strike regime is also

established in public services or other services where work stoppages could endanger public health or life or cause major damage.<sup>345</sup>

The European Committee of Social Rights noted in its January 2015 report that Serbia violated the right of workers and employers to collective action in cases of conflicts of interest with respect to minimum services of public interest as the law did not precisely define these services. Under Article 6 of the ESC, the state may prohibit the organisation of strikes only under conditions established by law. This issue is regulated to the even greater detriment of the workers in the latest draft law on strikes available to the general public.<sup>346</sup>

A new law on strikes is long overdue. The 2015 Progress Report noted that initial steps have been taken to revise the law on strikes. The draft Strike Act, prepared in 2011, was aligned with ILO Conventions in April 2013. Although a public debate was organised in July 2013, it still had not entered the parliament pipeline as of 2016.<sup>347</sup>

The US Department of States reported in 2015 that both public and private sector employees freely exercised the right to strike.<sup>348</sup> Most strikes in recent years have reportedly been related to privatisation of state-owned enterprises.<sup>349</sup>

According to a 2012 European Foundation for the Improvement of Living and Working Conditions report, most strikes related to unpaid wages, elimination of wage arrears, severance payments, restitution of workers' ownership rights or the takeover of firms by the government.<sup>350</sup>

Public protests or strikes in private companies were rare, although some firms experienced strikes shortly after privatisation.<sup>351</sup>

Numerous strikes were organised in 2014 and 2015, including by teachers, scientists, the police, former health workers, workers of unsuccessfully privatised companies and companies undergoing restructuring.<sup>352</sup>

## Anti-Union Discrimination

The law prohibits discrimination on the basis of trade union membership but does not provide any specific sanctions for anti-union harassment, nor does it expressly prohibit discrimination for trade union activities. According to the U.S. Department of State in 2015, the law provides for the reinstatement of workers fired for union activity, and fired workers generally returned to work quickly.<sup>353</sup> In addition to that, the Labour Act prohibits the termination of an employment contract or any other ill treatment of workers' representative, as long as the workers' representative is acting in keeping with the law, general enactments and the employment contract.<sup>354</sup>

According to a 2012 ITUC report, trade union leaders have been threatened with dismissal for organising industrial actions or speaking publicly about working conditions. Court protection from such illegal actions on behalf of the employer was reportedly inefficient due to the slowness of the judiciary system, and labour inspectorates did not investigate or report signs of anti-union behaviour.<sup>355</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *January 2015, Naslovi:* As in 2014,<sup>356</sup> the teachers' strike received the most public attention. After the Ministry of Education refused the mediation of the Republican Agency for the Peaceful Settlement of Labour Disputes, the trade unions adhered to their demand that talks

should continue with the representative trade unions as the only legitimate partners representing the teachers and school staff. The teachers' January wages were reduced for the one day they did not hold any classes.<sup>357</sup>

- *July 2013, Ilovenovisad*: A trade union in the communal company Novi Sad filed a criminal complaint against the director of the company for violating the law on strikes, as he dismissed trade union representatives who joined it.<sup>358</sup>
- *2012, Glas Javnosti*: Kronospan in Lapovo reportedly fired 10 young workers due to their union affiliation. Company management claimed that financial difficulties in the business were the only criterion for termination of employment.<sup>359</sup>
- *July 2012, B92*: Employees of the factory Jura claimed that trade union activities were prohibited. They further claimed that leadership was mentally and physically abusing them and that five union leaders were fired.<sup>360</sup>
- *2012, Belgrade Centre for Human Rights*: The European Court of Human Rights rendered two major judgments against Serbia: One in which it ruled that Serbia should pay per diems to around 8,500 reservists who served the Army in 1999 and another in which it ruled that Serbia should pay back wages and US\$9,000 in damages to former employees of state-owned companies.<sup>361</sup>
- *2012, Refoworld*: During a strike at the food processing company Banat, the employer suspended 77 out of 105 workers who were on strike. Thirty subsequently received telegrams inviting them to return to work. After they did not respond, they received warnings before dismissal. During the strike, the employer reportedly hired security guards who tried to prevent the workers from going on strike inside the company. After the Labour Inspectorate confirmed the strike was lawful, workers were allowed to continue the strike inside the company's premises.<sup>362</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Does the company recognise the rights of its workers to freedom of association and to bargain collectively?*

- The company has a commitment to recognise the rights of its workers to freedom of association and collective bargaining, including the right to freely form and/or join independent trade unions, and this commitment is clearly communicated to all employees.
- The company recognises workers' organisations for collective bargaining purposes and has procedures in place to ensure regular collective bargaining with authorised worker representatives concerning all workplace related issues.
- The company allows worker representatives access to collective bargaining agreements, company premises, employees and other relevant documentation needed to fulfil their duties.



- The company prohibits discrimination or adverse actions against worker representatives or employees for participating or refraining to participate in lawful trade union activities.
- The company has agreed with workers' representatives about the requirements of a fair hearing to be followed in relation to all disciplinary cases and employee grievances.
- The company has a committee, with participation of employee-elected representatives, which is responsible for hearing, processing, and settling disciplinary cases and employee grievances.

*If independent trade unions are either discouraged or restricted, does the company enable workers to gather independently to discuss work-related problems?*

- The company allows employees to engage in regular employee-only meetings within normal working hours, where employees can discuss concerns regarding working conditions.
- Where allowed by local legislation, and if independent trade unions are not present, the company informs employees of their right to form independent collective representation at the workplace.
- Where allowed by local legislation, the company informs workers of their right to engage in regular collective bargaining concerning all workplace issues.
- Company management meets regularly with worker representatives to discuss work-related problems and any concerns/complaints employees may wish to raise.

# Working Conditions

*Employment status, wages, working hours and social security*

Operating Environment	
Minimum wage	121 dinars (US\$1) per hour
Relevant laws	<ul style="list-style-type: none"> <li>• The Labour Act</li> <li>• The Employment and Unemployment Insurance Act</li> <li>• The Peaceful Settlement of Labour Disputes Act</li> <li>• Law on Employment of Foreigners</li> <li>• The Act on the Prevention of Harassment at Work</li> <li>• The Social insurance against old age and disability is regulated by the Pension and Disability Insurance Act</li> <li>• The Act on Voluntary Pension Funds and Pension Plans</li> <li>• The Social Protection Act</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Labour Inspectorate</li> <li>• Courts</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Stop-Mobbing</li> <li>• Centre for Democracy Foundation</li> <li>• SeCons</li> <li>• Centar za dostojanstven rad</li> </ul>

Working Conditions: National Law		
	Serbia	International Standard
Standard workweek	40	48
Overtime pay rate	1.26x	1.25x
Holidays with pay, per year	20 working days	3 weeks

Maximum daily working hours	12	10
Maximum weekly working hours	48	48
Uninterrupted weekly rest period	24 hours per 7 days	24 hours per 7 days

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The constitution protects the right to fair and favourable working conditions and equal access to work. Working conditions are primarily regulated by the Labour Law<sup>363</sup> and the Employment and Unemployment Insurance Act.<sup>364</sup> The employment of foreign citizens in Serbia is regulated by the Law on Employment of Foreigners.<sup>365</sup> Representatives of the public and private sectors, consulted in 2013 and 2015, reported that the Labour Law did not sufficiently allow flexible forms of employment.<sup>366</sup>

According to the Belgrade Centre for Human Rights (BCHR), the 2014 amendments to the Labour Law reduced worker protection in cases of dismissal. Some of the new provisions were vague (e.g. wording such as ‘lesser’ and ‘greater’ violations); the six-month period before workers could be made redundant was reduced to three months; and disciplinary sanctions were introduced without provisions on disciplinary proceedings.<sup>367</sup>

According to the 2015 Annual Report by the Protector of Citizens, relevant state bodies had not taken necessary actions against employers who did not pay salaries or social security benefits to their employees.<sup>368</sup>

## Workplace Harassment

The Act on the Prevention of Harassment at Work<sup>369</sup> obliges employers to inform workers in writing of the provisions of the law and to ensure, among others, that work is organised in a manner precluding harassment and that it protects workers from harassment. The Act applies also to sexual harassment, and provides employees with the opportunity to obtain faster and more efficient protection than the one provided by the Labour Law.

According to the Social Democratic Party of Serbia, surveys have shown that 43 percent of employees have been, over a longer period of time, exposed to harassment in the workplace.<sup>370</sup>

The NGO Stop–Mobbing reported in 2012 that harassment was equally present in the private and public sectors, but that employees in the private sector were more reluctant to file complaints, as they would have difficulties finding witnesses willing to testify.<sup>371</sup> Therefore, 90 percent of complaints came from public sector employees. There was a slight increase in complaints from employees in the banking sector.<sup>372</sup>

## Wages

The constitution guarantees the right of workers to fair remuneration for work.<sup>373</sup> According to the Labour Law, employment contracts violating the principle of an appropriate wage shall be deemed null and void.

The overtime rate is at least 26 percent higher than the wage base, as is work in shifts or at night, in the event the employment contract does not specify remuneration for such work. This is in line with international standards. During a public holiday a pay rate should be minimum 110 percent of the wage base, which is not in line with European standards of at least double the usual rate.<sup>374</sup> In the event that an undertaking halts work or reduces the volume of work, the Labour Law allows employers to order employees to take a leave of absence lasting up to 45 days, as long as the company pays such employees at least 60 percent of their average wage for the past three months, and not less than the minimum wage.<sup>375</sup>

The minimum wage is set by the Social-Economic Council in September for the following year. If the Council fails to reach a decision, the minimum wage is set by the government. As of 1 January 2015 the minimum monthly wage was 28,430.50 dinars (approx. US\$250) per month (gross), a 5.2 percent increase from the previous year.<sup>376</sup> In 2016, the minimal wage was set by the government and the amount was not changed.<sup>377</sup>

In 2015, the average income per household was 57,814 dinars (approx. US\$500), while individual consumption expenditures of households amounted to 59,052 dinars (approx. US\$490).<sup>378</sup> In the agriculture sector in particular, a collective agreement signed in 2016 set the minimum wage at 21,000 dinars (approx. US\$190) and included a hot meal allowance of 4,200 dinars (approx. US\$40).<sup>379</sup> Construction workers reportedly received salaries below the national average.<sup>380</sup>

According to the Director of the Serbian Association of Employers, only 21.8 percent of private sector companies paid their workers on a regular basis. Around 39 percent paid salaries within 60 days and the remaining 39 percent paid them with delays exceeding 60 days.<sup>381</sup> Trade unions reported in 2015 that around 600,000 workers in the private sector were paid their salaries with two months or greater delays. As many as 50,000 workers were not paid at all. In the first four months of 2015, the labour inspectors issued 1,088 rulings over employer's failure to pay wages.<sup>382</sup>

The Confederation of Autonomous Trade Unions of Serbia warned in 2015 that companies were not providing employees with payroll statements, as prescribed by the Labour Law.<sup>383</sup> The 2014 Labour law amendments made payroll statements enforceable instruments, and courts can order the garnishment of unpaid earnings from the company accounts and their payment to the workers.<sup>384</sup>

## Working Hours

The constitution guarantees the right to limited working hours, daily and weekly rest and paid annual vacations.<sup>385</sup> Working hours are comprised of time workers spend at work and time during which employees are at the disposal of their employers to perform the tasks in accordance with their employer's instructions. The Labour Act stipulates an eight-hour workday, a five-day working week and a 40-hour full-time working week. It allows for up to four hours of overtime per day (i.e. a maximum of twelve hours per day), but no more than eight hours per week. The law exempts some categories of workers from overtime, including workers with shorter working hours and breast-feeding workers.

The employer can reschedule the working hours up to 60 hours a week and rescheduling of working hours shall not be considered overtime work, as long as the workers' total working hours during a six-month period does not on average exceed their working hours under their employment contracts.

According to BCHR's 2014 Human Rights Report, employers abused rescheduling in order to disqualify their employees' after-hours work from overtime pay. Employers reportedly did not keep records of overtime or kept in-house records that were adjusted to conform with the legal regulations.<sup>386</sup>

The Confederation of Autonomous Trade Unions of Serbia reported in 2013 that two-thirds of employees worked overtime, most without overtime pay.<sup>387</sup> Overtime work was reportedly common in the retail sector, food industry, tourism and catering, healthcare and financial and technical services.<sup>388</sup>

The Office for Statistics found 315,000 employees working 50 hours per week and 203,126 working over 60 hours per week, but the Union of Employees challenged this data.<sup>389</sup>

The Confederation of Autonomous Trade Unions of Serbia reported that timesheets were often missing, resulting in a relatively small number of violations (152) following more than 492,000 checks by the Labour Inspectorate.<sup>390</sup>

## Social Security

The constitution guarantees the rights of workers and their families to social protection and insurance, the right to compensation in case of temporary inability to work and to temporary unemployment allowances and the right to pension insurance.<sup>391</sup> The social security system covers nine benefits: old age, invalidity, survivors, sickness, maternity, employment injury, unemployment, medical care and family benefits.<sup>392</sup> The unemployed are entitled to allowances paid out for a maximum of 12 months, ranging from 80 to 160 percent of the minimum wage.<sup>393</sup>

As reported by RTS in February 2013, as many as 55,000 companies did not pay social contributions for their employees.<sup>394</sup> According to the Protector of Citizens, this was possible because of loopholes in the legislation and a lack of action from state authorities.<sup>395</sup>

The 2014 Serbia Progress Report noted that the pension fund deficit remained large and more than 40 percent of the revenues of the pension fund came from the budget (some 14 percent of GDP was spent on pensions in 2013).<sup>396</sup>

During 2009 and 2010, as a result of the economic crisis, the government reached an agreement with the International Monetary Fund to freeze all public pensions.<sup>397</sup> In 2014 pensions and public sector salaries were slashed until 2017, pensions above 25,000 dinars (approx. US\$225) were cut by 22 percent, and public sector wages above 25,000 dinars (approx. US\$225) were cut by 10 percent.<sup>398</sup>

According to BCHR, many workers have been unable to exercise their rights to health care and health insurance because their employers, including the state, have not been paying health contributions, and only one out of five residents in Serbia had health insurance in accordance with the Mandatory Social Insurance Act.<sup>399</sup>

The 2014 Serbia Progress Report also noted that the at-risk-of-poverty rate in Serbia stood at 24.6 percent.<sup>400</sup>

## Informal Sector

According to 2011 and 2012 BCHR reports, high unemployment and the lack of secure employment were causing more workers to seek employment in the informal sector. Unemployment fell during 2014, but remained high in 2015 at 18.9 percent (in 2002 it was 14.5 percent and in 2012 23.9 percent).<sup>401</sup> People aged 15-24 were the only demographic group that did not have witnessed a trend of employment growth over the past two years,<sup>402</sup> and youth unemployment remained high at 18.6 percent. Nearly half of the unemployed workforce was 15-24.<sup>403</sup>

A large number of new jobs were observed in registered private employment, especially for women, however mostly in low-pay, low-productivity sectors.<sup>404</sup> As reported by the European Commission in the 2014 Progress Report, fiscal consolidation measures and restructuring of socially owned enterprises in 2015 were expected to have negative effect on employment.<sup>405</sup> BCHR stated that around 400 state-owned companies were shut down in 2015 and over 20,000 workers took severance packages.<sup>406</sup>

The estimated number of people working in the grey economy ranged from 300,000 to 1 million in 2012.<sup>407</sup> The Occupational Safety and Health Directorate estimated the number at around 500,000 in 2013.<sup>408</sup> In 2013 the NGO NALED estimated that 28 percent of businesses operated in the informal

sector.<sup>409</sup> According to the Labour Inspectorate, one out of nine workers in Serbia and one out of seven in Belgrade in particular were undeclared. Most were young, the vast majority were unskilled and had primary education or less, and were performing high-risk jobs.<sup>410</sup>

Results of research published in 2013 by the Foundation for the Advancement of Economics indicated that the share of employees working without formal contracts ranged from 1.9 percent to 23.9 percent of employees, while the portion of their wages paid informally ranged from 3.8 to 24.7 percent.<sup>411</sup> A 2014 survey indicated that employers paid the salaries into the workers' current accounts in only 67 percent of the cases.<sup>412</sup> The Ministry of Labour, Employment, Veteran and Social Affairs stated that from 26 April until 31 October 2015, the Labour Inspectorate conducted 79,081 inspections and found 17,440 unregistered workers, 13,886 were subsequently formally employed.<sup>413</sup>

Informal operations were particularly prevalent in construction (42.9 percent of sectorial activity was informal), agriculture (33.8 percent), catering (33.1 percent) and transportation (32.7 percent). Entrepreneurs and start-ups were also likely to engage in the informal economy. Geographically, businesses in Central Serbia (excluding Belgrade) were the most likely to operate in the shadow economy.<sup>414</sup> According to NGO reports, more than 50,000 people worked in small-scale, informal waste collection, including many children.<sup>415</sup>

## Employment Contracts

In the 2014 Amendments to the Labour Act staff leasing remained unregulated, including setting the leased workers' salaries, working hours, whether their employer is the agency or the employers on whose behalf they have been engaged, etc. The practice of private employment agencies to temporarily lease workers to companies in the absence of clear legal grounds reportedly creates major problems, as they were not fully protected under the Labour Act since they were not formally considered as employees.<sup>416</sup> The work of limited liability companies involved in leasing unemployed people and mediating in employment was also unregulated.<sup>417</sup>

The Confederation of Autonomous Trade Unions of Serbia reported in 2013 that some temporary employees were asked to sign an undated letter of resignation alongside the employment agreement. The Labour Inspectorate reportedly did not see this as a violation.<sup>418</sup> The Confederation also reported that employers asked workers to perform jobs above their pay level and responsibilities without a pay raise and outside of their original contract.<sup>419</sup> Another tactic, as reported in the newspaper Blic in 2013, was for companies to hire employees for a trial period of 1 or 2 months, then fire them without pay, claiming to be unsatisfied with their work performance.<sup>420</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *April-May 2016, Danas:* Employees at "Jura" factory and representatives of trade union "Sloga" claimed numerous irregularities and violations of workers' rights including harassment and mobbing at the workplace.<sup>421</sup>
- *January 2016, Confederation of Autonomous Trade Unions of Serbia:* A bakery owner murdered a former employee after she sued him and the court ordered her reinstatement and the payment of 100,000 dinars (approx. US\$900).<sup>422</sup>
- *October 2015, Confederation of Autonomous Trade Unions of Serbia:* The following companies have not provided employees with payroll statements: Ratko Mitrović, Mostogradnja JSC

Beograd, Dairy Velika Plana, Agrokoop from Subotica, Komunalac, Lazarevac, Komunalac, Beliizvor, Gradskogroblje and Gradske tržnice.<sup>423</sup> Many of these companies were publicly owned.

- *September 2015, NIN Weekly:* Foreign investors, including Benetton, Johnson Electric, Bosch and Technic Development Geox, have been subsidised by the government of Serbia for opening new jobs, but have reportedly not hired as many people as they pledged to.<sup>424</sup>
- *May 2013, Autoedicione.com:* In Kragujevac, workers complained about a severe increase in the workload due to the growing demand for the Fiat 500L. Some employees were reportedly working 12 hours a day with only a few short breaks.<sup>425</sup>

## Company Initiatives

*Private-sector programmes that aim to ensure respect for human rights or contribute to development*

### Company Due Diligence Initiatives

**2012, Stop-Mobbing:** The company NIS–NAFTAGAS asked for assistance from the NGO Stop-Mobbing Serbia regarding peaceful resolution of disputes with employees of a maintenance section and have managed to reach an agreement.

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

### Working hours

*Does the company ensure that the workweek is limited to 48 hours; that overtime is infrequent and limited; and that workers are given reasonable breaks and rest periods?*

- Normal company working hours are limited to 48 per week by both company policy and practice, or fewer if provided by national law, collective agreement or industry standards.
- Overtime is infrequent, remunerated at premium rate, and does not exceed 12 hours in any one week, or 36 hours per month.
- The company has a system to plan, record and monitor hours worked by each employee, and regularly evaluates whether the number of workers is sufficient to meet production targets without resorting to overtime.
- Where overtime per worker systematically exceeds 12 hours per week, the company increases its workforce to correspond to production targets, or puts in place measures to increase worker productivity and reduce overtime.

- Workers are allowed at least 24 consecutive hours of rest (or more if provided by national law or industry standards) in every seven day period.
- The company ensures that workers have no less than a 30-minute break for every 4 hours of work (or more if provided by national law or industry standards) and that workers are allowed to use toilet facilities whenever necessary and not just during designated breaks.

## Wages

*Does the company provide a living wage that enables workers to meet the basic needs of themselves and their dependents?*

- It is company policy to provide workers with a living wage sufficient to meet basic food, clothing and housing needs and provide some discretionary income for themselves and their dependents.
- The company is aware of whether the legal minimum wage in the country of operation meets the requirement for a living wage.
- If no national minimum wage is established, or if national minimum wage standards are insufficient to meet the basic needs of workers and their dependents, the company calculates a living wage based on the cost of living in its area of operation.
- Part-time workers receive wages and benefits that are proportionate to those of full-time workers, and receive overtime compensation at a minimum of 1.25 times their hourly salary.
- The company pays wages at regular intervals and does not take deductions from wages for disciplinary measures or other deductions not authorised by national law.
- Bonus and piece-rate payment systems are monitored to ensure that the total salary paid meets living wage requirements without resort to overtime.

## Leave

*Does the company ensure that workers are paid holiday leave, sick leave, and parental leave in accordance with international minimum standards?*

- Workers are granted at least three weeks of paid holiday leave per year or more if required by national law or collective agreements. Part-time and short-term workers are provided with paid holiday leave proportionate to the number of hours worked, at a rate equal to that of permanent full time employees.
- Workers are entitled to paid sick leave in accordance with the applicable national law. If sick leave is not provided for in national law, the company consults with union or worker representatives to establish alternative means of protection in case of illness or injury.
- The company ensures that sick leave is not deducted from workers' vacation time.
- Female workers are entitled to no less than fourteen weeks of paid maternity leave per child.
- The company grants compassionate or parental leave to workers who have recently adopted a child or children, or have taken on the responsibility to care for foster children or other dependent children.

## Employment status

*Does the company ensure that all workers have an official employment status?*

- The company ensures that all employees receive employment contracts prior to starting work for the company, and that contracts are understood by each employee.



- Contracts detail each employee's rights and obligations of employment, including clear job description, bonus and salary systems, and reasonable notice periods.
- Reference to company handbooks or other relevant documents on employment terms are integrated into the contract.
- The company ensures that contractors provide workers operating within company premises with an official employment status in line with company standards.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- Ethical Trading Initiative Base Code (2012) and ETI Principles of Implementation (2009): The Ethical Trading Initiative is an alliance of different business stakeholders promoting the implementation of corporate codes of practice that cover supply chain working conditions. The alliance consists of companies, NGOs and trade union organisations. The ETI Base Code has been developed as a code of labour practice, targeted generally for supply chains, and is in line with the key international labour standards. The accompanying ETI Principles of Implementation outline the requirements needed by corporate members to implement the ETI Base Code in their supply chains, including the necessary commitments, management practices and behaviours.
- Institute for Human Rights and Business and Global Business Initiative on Human Rights, State of Play: The Corporate Responsibility to Respect Human Rights in Business Relationships (2012): The Report examines how the UN Guiding Principles can contribute and guide the complex network of business relationships that now exist in a global economy. It explores how companies of all sizes are now beginning to implement human rights considerations and the UN Guiding Principles into both traditional and contemporary business relationships.
- Portal for Responsible Supply Chain Management (est. 2008): The Portal is designed to support companies in improving the social and environmental conditions within their supply chain. The Portal offers tools and guidance on a number of supply chain issues, such as child labour, corruption and discrimination. In addition, the Portal also details sector specific resource material and pertaining legislation.
- IFC Performance Standard 2: Labour and Working Conditions (2012): IFC PS2 is guided by the international labour standards as outlined by the ILO and covers a range of aspects, including: terms and conditions of employment, non-discrimination, health and safety, and forced labour. The Standard addresses employees, contracted workers and supply chain workers.
- International Labour Organization: The International Labour Organization (ILO) is the UN agency responsible for preparing and overseeing international labour standards. The mission and objectives of the ILO are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.
- OECD Guidelines for Multinational Enterprises (2011): The OECD Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. Chapter 5 is on employment and industrial relations, aligning with the international labour standards of the ILO.

# Environment

*Company impacts on the environment that affect the health or livelihoods of local communities*

Operating Environment	
Percentage of population with access to improved water sources	99 <sup>426</sup>
Environmental Performance Index rank	31 <sup>427</sup>
Food Security Index rank	49 <sup>428</sup>
Relevant laws	<ul style="list-style-type: none"> <li>• Environmental Protection Act<sup>429</sup></li> <li>• Environmental Impact Assessment Act<sup>430</sup></li> <li>• Strategic Environmental Impact Assessment Act<sup>431</sup></li> <li>• Integrated Pollution Prevention and Control Act<sup>432</sup></li> <li>• Environmental Protection Law<sup>433</sup></li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Ministry of Agriculture and Environmental protection</li> <li>• Department for Environmental Protection</li> <li>• Department of Planning and Management in the Environment</li> <li>• Inspection department for environmental protection</li> <li>• Agency for Environmental protection</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• European Policy Centre</li> <li>• Ecological Centre Habitat</li> <li>• Citizen Association 'Serbia on the Move'</li> </ul>

# Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

According to the 2015 European Commission Progress Report, the legislative framework for environmental protection in Serbia was still in need of improvement, and no significant progress on legislation was made.<sup>434</sup> The report also noted a lack of an effective and permanent financing system for environment and climate action, including stable financing for essential basic services such as environmental monitoring.<sup>435</sup>

Serbia's economy was highly energy-intensive and carbon-intensive due to its heavy reliance on fossil fuels.<sup>436</sup> Nonetheless, in 2015, Serbia ranked 48th out of 180 countries on Yale University's Environmental Performance Index, one of the highest ranks in the region.<sup>437</sup>

The Serbian Environmental Protection Agency (SEPA),<sup>438</sup> under the Ministry of Agriculture and Environmental Protection, is in charge of the development, management and coordination of the national environmental information system, collection and integration of environmental data, production of yearly state of the environment reports and issuing recommendations for future environmental improvements.

The National Committee for Environment and Climate Change was established in November 2014.<sup>439</sup> Some progress was made in further aligning policies and legislation with the EU standards related to environment and climate change in particular as Serbia submitted its intended nationally determined contribution (INDC) to the expected 2015 Paris climate agreement.<sup>440</sup>

Full alignment with EU energy efficiency standards has not yet been achieved. According to the Progress report 2015, the Ministry of Agriculture and Environment Protection lacked administrative capacity to draft by-laws.<sup>441</sup>

Almost all misdemeanours and commercial offences prescribed under the relevant environmental laws contain provisions that regulate responsibility of *'responsible persons'* (including directors) for acts executed by the company. Pursuant to the provisions of the Corporate Law, directors are legal representatives of companies and, as such, they have certain responsibilities for the company's actions. Fines for responsible individuals, ranging from monetary fines to prohibition to perform business activities in a certain period of time, are prescribed.<sup>442</sup>

## Participation & Access to Information

Laws governing environmental impact assessments (EIAs) include the Environmental Protection Act,<sup>443</sup> the Environmental Impact Assessment Act,<sup>444</sup> the Strategic Environmental Impact Assessment Act<sup>445</sup> and the Integrated Pollution Prevention and Control Act.<sup>446</sup>

Responsibilities for EIAs are divided between national, provincial and municipal authorities, depending on which kind of project implementation permit has been issued. Impact assessment is mandatory for projects in the industry, mining, energy, transport, tourism, agriculture, forestry, water management, waste management and utilities sectors, as well as on all projects planned in a protected natural area.<sup>447</sup>

According to the 2014 Implementation of the Environmental Impact Assessment in Serbia in the EU Integration Context Study, Serbia's legislation was mostly aligned with the minimum EU standards, but certain harmonization gaps were also identified. Deadlines for submission of requests for decision on the EIA study and for commencement of a project were reportedly too extensive, which could lead to a temporal incoherence between the EIA study decision and the decision on the use permit. There were

no guarantees that the public will receive a timeframe of 30 days to participate in the EIA decision-making process.<sup>448</sup> According to the study, further problems included conflicts of interest; incoherencies and inconsistencies between the Law on EIA and the Law on Planning and Construction; and insufficient information by electronic means.<sup>449</sup> Approximately 10 percent of local governments reportedly used the internet to inform the public, leading to a low turnout of citizens.<sup>450</sup>

The Serbian Environmental Protection Agency (SEPA) has the responsibility to prepare a national State of the Environment (SOE) report on a yearly basis.<sup>451</sup> The SOE report is to support decision makers as well as to provide environmental information to the scientific community and the general public. According to the European Environmental Agency, the overall quality of the SOE report had improved in 2015 by increasing the amount and quality of collected data and information in support of updating existing and creating new environmental indicators.<sup>452</sup>

## Waste Management

In Serbia only 1 percent of community waste was recycled, and composting did not occur resulting in 99 percent of waste deposited in landfills.<sup>453</sup>

Serbia did not have a national wastewater strategy, had a small number of wastewater treatment plants and its sewage sludge treatment was unsatisfactory.<sup>454</sup> Most wastewater run straight into local waters untreated or seeps into the ground. This invariably caused long-term pollution of soil, groundwater and local and transboundary waters, to the detriment of people and the environment. Almost all waste was landfilled improperly or recycled very inefficiently. Local authorities thus squander potential revenues from using waste resources.<sup>455</sup>

The European Environment Agency reported in 2010 that 164 landfills were used by local utility companies to dispose of waste. Twelve of these were situated within 100 meters of a settlement and 25 were within 50 meters of a water source.<sup>456</sup> A 2008 Swedish International Development and Cooperation Agency and Göteborg University report noted that the poorest groups in Serbian society, particularly the Roma, refugees and displaced persons, were most likely to have their health damaged by improper waste disposal.<sup>457</sup>

The European Commission's Progress Report 2015 stated that the necessary laws were in place, but that implementation of sustainable waste management practices was not a priority.<sup>458</sup>

According to EUROSTAT, waste statistics in Serbia recorded the highest share of hazardous waste in total waste generation (26.3 percent) due to intensive activity in mining and quarrying.<sup>459</sup> Serbia reportedly had no chemical waste combustor.<sup>460</sup>

## Food & Livelihoods

Following the May 2014 floods, special programmes on flood recovery and risk management were needed. The agriculture sector, which accounts for about 10 percent of GDP in Serbia, has been particularly badly affected. Most of the arable land in flooded areas has been destroyed and the damage was immense.<sup>461</sup>

According to the EU Progress Report 2015, Serbia was moderately prepared in the area of food safety, veterinary and phytosanitary policy. Progress was made by opening a phytosanitary laboratory and the re-alignment of the maximum level of aflatoxins in milk with the level in the EU.<sup>462</sup>

An area of particular concern was the management of animal by-products and that Serbia should strengthen enforcement of legislation on separation and treatment of animal waste and adopt and implement a strategy to align it with EU legislation. The new law on genetically modified organisms was yet to be adopted.<sup>463</sup>

## Water

Serbia has aligned its legislation with EU standards on emission limits for water pollutants and has set deadlines for compliance.<sup>464</sup> According to the 2015 EU Progress Report, no national strategy or action plan on water protection was adopted.<sup>465</sup>

Surface and ground water quality monitoring, performed in 2015 by the SEPA, showed that in most cases concentrations of BOD (biochemical oxygen demand), ammonium ion, nitrates and orthophosphates remained within the range defined as excellent or good ecological status (I and II class of water quality). The worst quality of water was detected in surface waters (rivers and channels) in the province of Vojvodina in particular as concentration of polluting substances of almost half of the samples were not within ranges prescribed for particular water bodies.<sup>466</sup>

A 2008 Swedish International Development and Cooperation Agency and Göteborg University report identified industrial and municipal wastewater, agricultural run-off, dumpsite run-off and contamination from water transport as the major causes of water pollution in Serbia. In central Serbia, up to 40 percent of water samples were contaminated, posing the risk of adverse health effects.<sup>467</sup>

In 2012, SEPA released data showing that companies were avoiding their legal obligations to regulate and measure wastewater.<sup>468</sup> According to the EU Delegation to Serbia, only 10 percent of wastewater was being processed.<sup>469</sup>

## Air Pollution

According to the 2015 EU Progress Report, the annual update on air quality showed that seven of Serbia's eight urban agglomerations exceeded the margin of tolerance of several pollutants. The air quality plan for Belgrade remained to be adopted and air quality planning for the remaining agglomerations needed to be accelerated.<sup>470</sup>

According to a 2013 Health and Environment Alliance (HEAL) report on Serbia, 73 percent of the population in urban or urban-industrial agglomerations was potentially exposed to the high concentrations of pollutants above the reference.<sup>471</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *December 2015, Večernje Novosti:* Municipal leaders and citizens in Srbobran were reportedly dissatisfied with the work of fishery officers and inspectors. They were convinced that pollution in the river and the canal came from the factory and the farms in the surrounding municipalities Backa Topola, Mali Idoš, Vrbas and Kula.<sup>472</sup>
- *September 2013, Blic:* A Refinery in Pancevo reportedly released chlorine into the air. The amount was unknown because the available pollution monitoring equipment in Pancevo could not measure the concentration of chlorine. Local residents complained that as a result of the pollution, they kept handkerchiefs over their mouths for hours.<sup>473</sup>
- *February 2013, Večernje Novosti:* In the area of Medvedja more than 30,000 hectares of forest was illegally cut during 2012.<sup>474</sup>
- *2013 European Commission:* The concentration of sulphur dioxide in Boris was reportedly among the highest in Europe, exceeding the permissible limit by 1,000 percent.<sup>475</sup>

- *September 2011, The Greens of Serbia:* Air and soil in the proximities of Belgrade were reported to be heavily polluted by ash from the thermal electric power plant Nikola Tesla in Obrenovac. The ash could not be processed because of the high percentage of arsenic in it.<sup>476</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

## Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

### *Precautionary Approach*

*Does the company support a precautionary approach to environmental issues?*

- The company provides information to stakeholders about uncertainties and potential risks to workers, consumers, the public and the environment of the company's products and processes.
- The company identifies any soil and water contamination at its site or sites, assesses the environmental impacts and remedies any significant contamination.
- The company tries to avoid environmental damage by regular maintenance of production processes and environmental protection systems (air pollution control, waste water treatment systems etc.).
- The company conducts systematic risk assessments of materials used, products and processes to apply the precautionary approach.
- The company ensures transparency and engages in regular stakeholder dialogue with neighbours, civil society organisations and others with an interest in the company on critical environmental issues.
- If relevant, the company supports scientific research on environmental issues relating to the company's products and processes.

## Emergency Response

*Does the company have emergency procedures in place to prevent and address accidents affecting the environment and human health?*

- The company has identified the hazardous operations and the potential consequences on human health and the environment if an accident occurs.
- The company has detailed procedures, plans, equipment and training programmes to prevent accidents and emergencies.
- The company has detailed procedures, plans and equipment to effectively respond to accidents and emergencies if they occur.
- The company trains workers to respond to accidents and emergencies, including carrying out emergency drills at least once a year involving all workers.
- Where there is significant risk of impacts on local communities, the company has a procedure that enables it to immediately notify affected local communities about industrial emergencies, and informs about emergency response, evacuation plans and medical response.

## Energy Consumption and Climate Change

*Does the company take measures to reduce energy consumption and emissions of greenhouse gasses?*

- The company complies with regulation regarding use of energy resources and emissions of greenhouse gases.
- The company has a climate strategy that identifies opportunities to reduce the company's energy consumption and/or emissions of greenhouse gases.
- The company has initiated practical activities to reduce energy consumption and/or greenhouse gas emissions.
- The company provides information and trains employees to implement energy reduction measures.
- The company monitors its energy consumption and/or emissions of greenhouse gases.
- The company has defined a baseline for its greenhouse gas emissions, which includes a definition of the business operations and activities, and the greenhouse gases that are accounted for e.g. as described in the Greenhouse Gas Protocol.
- The company has targets for reducing its energy consumption and/or emissions of greenhouse gases.
- The company engages with the government and civil society organisations to develop policies and measures that provide a framework for the business sector to contribute to building a low carbon economy.

## Water and Waste Water

*Does the company take measures to reduce water consumption and treat waste water?*

- The company has the necessary permits to extract water or obtain water from the public water supply and for any waste water discharges.
- The company treats waste water before discharge to reduce adverse environmental impacts. If waste water treatment takes place outside the company's premises, the company is aware of the effectiveness of the treatment.
- The company monitors waste water discharges, including types, limit values and quantities of pollutants in the waste water.
- The company has targets for reducing water consumption and/or increasing the amount of water reused or recycled in different business operations and activities.
- The company provides information and trains workers to implement measures to reduce water consumption and reduce the need for waste water treatment.
- The company's use of water and its waste water discharges do not negatively affect the sustainability of water resources, the natural environment or the availability of water for drinking and sanitation purposes.
- The company engages with national, regional and local public authorities, and civil society organisations to address water sustainability issues related to affected water resources.

## Waste Management

*Does the company take measures to prevent and reduce the production of waste and ensure responsible waste management?*

- The company has the necessary permits for the handling, storage, recycling and disposal of waste, and, if relevant, complies with requirements for transporting hazardous waste across borders.
- The company has a strategy to manage waste responsibly and continuously attempts to prevent and reduce the production of waste.

- The company ensures that waste relevant for recycling is sorted and handed over to a recycling company.
- The company monitors the types and quantities of waste produced, including where and how waste is recycled, treated or disposed of.
- The company has targets for reducing waste production and/or increasing waste reused/recycled and measures its progress against these targets.
- The company provides information and trains workers on the safe handling, storage, transport and disposal of hazardous and special waste types.
- The company marks areas used for storage of waste, and properly labels all containers for storing waste, including a relevant symbol of danger for hazardous waste.
- The company requests recycling/treatment/disposal receipts from transport contractors.
- The company uses licensed contractors for the transport, recycling, treatment and disposal of hazardous waste.

## Air Emissions

*Does the company prevent, reduce and treat air emissions?*

- The company has the necessary permits for emissions to air, and complies with legal requirements (e.g. air pollution standards and limit values).
- The company provides information and trains workers on how to manage air emissions.
- The company monitors the types and quantities of relevant emissions to air.
- The company treats relevant pollutants before they are emitted to the atmosphere (e.g. by using filters).
- The company continuously attempts to prevent and reduce air emissions.

## Noise, Odour, Light and Vibrations

*Does the company prevent and reduce impacts on the surrounding environment from noise, odour, light and vibrations?*

- The company has the necessary permits for levels of noise, odour, light and vibrations, and complies with legal requirements (e.g. standards or procedures).
- The company provides information and trains workers to manage noise, odour, light and vibrations.
- The company monitors levels of noise, odour, light and vibrations on the surrounding environment.
- The company treats/minimises impacts to ensure that there are no significant levels of noise, odour, light and vibrations.
- The company continuously attempts to prevent and minimise the levels of noise, odour and light (e.g. enclosed production, shielding, etc.).

## Chemicals and Other Dangerous Substances

*Does the company minimise the use and ensure safe handling and storage of chemicals and other dangerous substances?*

- The company has the necessary permits and complies with legal requirements for the handling, use and storage of chemicals and other dangerous substances.
- The company does not manufacture, trade and/or use chemicals and other dangerous substances subject to national or international bans or phase-outs.
- The company provides information and trains workers on the safe handling and use of chemicals and other dangerous substances.



- The company monitors the quantities of all chemicals and other dangerous substances used in production and maintenance.
- The company marks areas used for storage of chemical substances and products.
- The company properly labels all chemical substances and products including name of the chemical and a relevant symbol of danger.
- The company considers substitution important and continuously tries to use less harmful chemicals and substances.

## Biodiversity

*Does the company prevent, minimise and remedy significant impacts on biodiversity?*

- The company has the necessary permits to operate in or alter the natural environment, and complies with legal requirements.
- The company is committed to operating within the framework of international conventions addressing biodiversity (e.g. the Convention on Biological Diversity, Cartagena Protocol on Bio-safety and the CITES Convention).
- The company has assessed important positive and negative impacts of its operations and activities on the natural environment and biodiversity (e.g. IUCN's Red List of Threatened Species and no alien invasive species).
- The company has previously and/or is currently taking measures to prevent and reduce the impacts of its operations and activities on biodiversity.
- The company clearly labels products containing GMOs and indicates if GMOs have been used in the production process.
- The company ensures that it has not had any unintended releases of GMOs.
- The company documents that workers have been adequately trained to handle GMOs.

## Natural Resources

*Does the company ensure that natural resources are used in a sustainable manner?*

- The company has the necessary permits and complies with legal requirements regarding the cultivation, harvest, extraction and/or use of natural resources (e.g. wood, fish, metals, oil, coal etc).
- The company complies with legal requirements regarding the cultivation, harvest, extraction and/or use of natural resources (e.g. wood, fish, metals, oil, coal etc.).
- The company ensures that workers are trained in the sustainable cultivation, harvesting, extraction and/or use of natural resources.
- The company continuously attempts to prevent, minimise and remedy significant impacts on natural resources through environmentally friendly methods and alternative resource use.
- The company ensures that its use of renewable resources does not negatively affect the sustainability of the resource (i.e. the resource's ability to regenerate).
- The company demonstrates efforts to substitute non-renewable resources used in production with renewable resources.
- The company works with local and national public authorities as well as with international institutions to address sustainability issues related to natural resources (e.g. wood, water, fish, metals, oil etc.).

## Environmentally Friendly Technologies

*Does the company encourage the development and use of environmentally friendly technologies?*

- The company uses environmentally friendly technology.
- The company regularly evaluates its processes and technologies to see if there are more environmentally friendly alternatives.
- When developing new technologies and products, the company focuses on developing environmentally friendly technology e.g. by using life cycle assessments (LCA), design for sustainability or a cradle-to-cradle approach.
- When planning new investments in technology, the company considers the best available technology and stipulates minimum environmental criteria.
- When investing in new buildings, the company implements environmentally responsible and resource-efficient materials and/or technologies.
- The company makes information describing the environmental performance and benefits of using environmentally friendly technologies available to stakeholders.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- **CEO Water Mandate (2011):** Launched as a collaborative initiative of the UN, UN Global Compact, the Government of Sweden and a dedicated group of companies, the CEO Water Mandate is a public-private initiative designed to assist companies with the development, implementation and disclosure of policies and practices relating to water sustainability. It covers six core elements: direct operations, supply chain and watershed management, collective action, public policy, community engagement and transparency.
- **IFC Performance Standards on Environmental and Social Sustainability (2012):** The IFC Performance Standards provide directions to businesses on due diligence on environmental and social matters. Several of the standards are pertinent to environment, including: Assessment and Management of Environmental and Social Risks and Impacts (PS1), Resource Efficiency and Pollution Prevention (PS3), Community Health, Safety, and Security (PS4), and Biodiversity Conservation and Sustainable Management of Living Natural Resources (PS6).
- **Institute for Human Rights and Business, Business, Human Rights & the Right to Water – Challenges, Dilemmas and Opportunities:** This report summarises the views of various stakeholders on issues pertaining to the right to water, including consideration of the scope of a company's responsibility to respect the human right to water; the applicability of the human rights-based approach to management of water-related issues; and the business case for engaging with water-related issues.
- **ISO 14000 Standards on Environmental Management Systems:** Developed by the International Organisation for Standardisation, the ISO 14000 Standards provide businesses and organisations with a number of tools to assist in their environmental management systems. The key objective of the standards is to encourage different actors to reduce the negative impact that their activities may have on natural resources such as air, water or land.
- **United Nations Special Rapporteur on the Human Right To Safe Drinking Water and Sanitation (est. 2008):** Amongst a range of issues, the mandate of the Special Rapporteur includes consideration of the regulation of the private sector in the context of private provision of safe drinking water and sanitation.

- **Global Water Tool (2007):** Developed by the World Business Council for Sustainable Development, this tool is designed for companies and organisations to map their water use, including risks associated with water use in global supply chains.

## Engagement Opportunities

*Development initiatives by public and private actors that provide opportunities for companies to contribute to human development*

### Public Sector Initiatives

**Monitoring, Reporting and Verifying System for the Successful Implementation of the EU Emissions**

**Trading System project:** The government of Serbia launched the project that aims to accelerate harmonization with the implementation of the establishment of the EU Emission Trading System (EU ETS) in the country.<sup>477</sup>

**Air Quality Mangement Plan:** The city of Bor adopted the plan and other cities that also committed to do so were Belgrade and Novi Sad.<sup>478</sup>

# Land & Property

*Human rights impacts related to company acquisition, use and management of land*

Operating Environment	
International Property Rights Index rank	110 out of 129 countries
Heritage Foundation: Economic Freedom Index Property Rights score	50
Relevant law	<ul style="list-style-type: none"><li>• Property law</li><li>• Public property law</li><li>• Property tax law</li><li>• Law on property restitution and compensation</li></ul>
Responsible ministries	<ul style="list-style-type: none"><li>• Ministry of Economy</li><li>• Ministry of Finance</li></ul>
Local NGOs addressing this issue	

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The constitution guarantees the right to property, which is further governed by numerous laws.<sup>479</sup> Serbia has an adequate body of laws for the protection of property rights, but enforcement of these rights can be extremely slow.<sup>480</sup>

Companies reported that bribery (money, gifts, or counter favours) sometimes occurred during interactions with land registry officials.<sup>481</sup> According to a 2015 UN Office on Drugs and Crime survey, land registry officials were considered the third most corrupt public officials, with nearly 6 percent of citizens claiming they had been asked to pay a bribe.<sup>482</sup>

## Land Administration

During the socialist period all land was owned by the state, and citizens acquired 'rights of use' when they wanted to live or build on a piece of land. Though private land ownership, conversion and transfer are recognised in the 2006 Constitution and the 2009 Law on Planning and Construction,<sup>483</sup> the U.S. Department of State's 2015 Investment Climate statement reported that a number of challenges remained. These included local authorities lacking expertise in valuing land; poor land registries; irregularities in permitting and legalisation of property titles.<sup>484</sup>

Serbia's real property registration system was based on a municipal cadastre and land books. According to the U.S. Department of State's 2015 Investment Climate statement Serbia had the basis for an organized real estate cadastre and property title system. However, the problem of legalizing tens of thousands of structures built over the past twenty years without proper licenses remained, as 1.5 million buildings in Serbia were not registered in the cadastre. Of this total, only 800,000 building owners have applied for legalization.<sup>485</sup>

A 2012 World Bank report highlighted many issues in purchasing and managing land, including: insecure property rights; poor land management and institutional inefficiencies; problems with conversion and restitution of land; issuance of permits; and complex processes to regularize illegal developments. The process of privatisation of land had resulted in a number of conflicts that remained unresolved.<sup>486</sup>

The Law on Agricultural Land prohibits the sale of agricultural land to foreign entities. According to the European Commission 2012 Progress Report, foreign corporations have bypassed this law by registering them as domestic companies.<sup>487</sup> According to Serbia's EU Stabilization and Association Agreement, the government must lift the agricultural land ownership prohibition by 2017, unless Serbia requests and receives an extension on the ban.

Construction permitting was a serious problem. The Doing Business Report noted that obtaining a permit required 264 days, placing Serbia at 139th out of 189 countries. The recent amendments to the Construction Law cut the administrative deadline for issuing construction permits to a potential investor to 30 days and introduced a one-stop shop for issuing permits.<sup>488</sup> Changes included the building quality control index that measures good practices in construction regulation and assesses the quality control and safety mechanisms in place for an economy's construction permitting system, as well as the quality of the building regulations. This new index was a component indicator of the ranking on dealing with construction permits.<sup>489</sup>

The U.S. Department of State's 2015 Investment Climate Statement noted that Serbian law granted broad discretionary powers to state authorities to expropriate land for the public interest. Furthermore, the government was not obligated to provide housing for resettled populations.<sup>490</sup>

The 2013 Report on state and cooperative property written by the Anti-Corruption Council pointed to a systemic problem in the privatization of agriculture companies. The report noted problems in state and cooperatively owned land by 146 privatized companies.<sup>491</sup> The companies had registered in the Land Registry's 'right of use' for agricultural land despite diverse forms of ownership (social, public and cooperative), and regardless of corporate form (conglomerates, companies or cooperatives).<sup>492</sup>

## Restitution

Starting in 2011, Serbia began a process to pay restitution to persons whose land had been confiscated with the advent of socialism following World War II. While the proximity of this issue to company operations is likely to be limited, cases have been reported in which confiscated property became the asset of state-owned companies, and may be eventually subject to a restitution claim.<sup>493</sup> According to the Serbian Restitution Agency, it had resolved about 40 percent of non-agricultural claims and 5 percent of agricultural claims. Based on its estimates, the agency would need two more years to act on all claims for in-kind property restitution and five years to complete compensation claims.<sup>494</sup>

## Evictions

In 2015 the Protector of Citizens reported a lack of legislation regulating actions of public bodies during forced evictions of informal settlements and human rights of people who were being evicted.<sup>495</sup>

In 2012 more than one hundred Roma families from the Belvil settlement in Belgrade were forcibly evicted. The majority of these families were still living in squalid racially segregated metal containers

<sup>496</sup>and not one of the planned new housing blocks had been finished. Evicted Roma lived far from schools, social services and access to employment.<sup>497</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

*July 2014, Danas:* Farmers in Kulamade formal complaints about an Abu Dhabi company, Al Rawafed Agriculture, which was trying to acquire land.<sup>498</sup> Serbia offered agricultural land leases under 99-year contracts, but farmers were seeking a termination of the contract, with Al Rawafed saying it was a breach of agricultural land laws, which prohibited the sale of land to foreign individuals and legal entities.

*September 2013, Bankwatch:* Serbian media reported that police arrested several individuals connected to the EPS-owned and EBRD-financed Kolubara lignite mine. They were suspected of fraud in land expropriation proceedings around the Kolubara mine.<sup>499</sup> In the case of expropriations for the Kolubara coal mine, there were complaints and reaction of the Ombudsperson, as well as court proceedings.<sup>500</sup> In relation to expropriations for the construction of highways, the Ombudsperson stated that the Tax Administration Office in Nis, when acting on the request of the Court to make estimations of the market value of expropriated land, was using differing criteria to determine the value, creating inequality.<sup>501</sup>

*June 2013, Politika:* The competent ministry reversed the decision on the return of Belgrade hotels 'Splendid' and 'Beograd' to heirs.<sup>502</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Before buying, renting, acquiring or otherwise accessing land or property, does the company ensure that all affected owners and users of the land or property, have been adequately consulted and compensated?*

- Prior to buying, renting, acquiring or otherwise accessing land or property, whether directly or through a third party, the company identifies all existing owners and users of the land or property, including information land users and customary owners.
- The company investigates the past usage and ownership of the land or property to ensure that past users and owners have not been wrongfully removed, and that any expropriations by the authorities have been conducted in accordance with international law.
- The company consults with affected users and owners of the land or property (including women, tenants, settlers, minorities and other vulnerable groups including indigenous peoples) and seeks their free, prior and informed consent before continuing to acquire or access the land or property.

- The company ensures that its lease or purchase of residential property and sourcing of food commodities does not considerably make housing and food scarce or too expensive for the local people.
- The company ensures that affected owners and users of the land or property are adequately compensated to help them restore their standards of living or livelihoods to the same or higher than before, and that the compensation standards are transparent and applied consistently to all communities and persons affected.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- **FAO Voluntary Guidelines on the Responsible Governance of Tenure (2012):** Developed by the Food and Agriculture Organisation of the UN (FAO), the Guidelines promote responsible governance of tenure of land, fisheries and forests by outlining the principles and internationally accepted standards for the responsible governance of tenure. The Guidelines inform States and non-government actors on relevant policies, strategies and activities.
- **IFC Performance Standard 5: Land Acquisition and Involuntary Resettlement, and IFC Handbook for Preparing a Resettlement Action Plan (2002):** The IFC Performance Standards are contractually binding on certain projects receiving IFC finance. PS5 is accompanied by a Guidance Note and a Resettlement Handbook that gives detailed guidance on managing resettlement and associated impacts.
- **Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (2010):** A joint initiative of UNCTAD, FAO, IFAD and the World Bank, these seven principles cover all types of investment in agriculture, including between principal investors and contract farmers. The Principles provide a framework for national regulations, international investment agreements, global corporate social responsibility initiatives, and individual investor contracts.

# Revenue Transparency & Management

*Human rights impacts related to transparency of government revenues received from business and the distribution of such revenues*

<b>Operating Environment</b>	
World Economic Forum Global Competitiveness Ranking	94 out of 140 countries, score 3.9
Legatum Prosperity Indexrank: Governance	73
Ease of Doing Business Index <i>(where 1 indicates greatest ease for doing business)</i>	59/189
Transparency International: Corruption Perceptions Index rank <i>(where 1 indicates the lowest level of corruption)</i>	71/167
<b>World Bank Good Governance Indicators</b>	
Voice and Accountability	0.2
Political Stability	0.2
Government Effectiveness	0.1
Regulatory Quality	0.1
Rule of Law	-0.2
Control of Corruption	-0.2
Government revenue	34.91 percent of GDP
Government expenditure	39.22 percent GDP
EITI Country	No
Relevant law	<ul style="list-style-type: none"> <li>The Law on the Anti-Corruption Agency</li> </ul>



Responsible ministries	<ul style="list-style-type: none"> <li>• Ministry of economy</li> <li>• Ministry of finance</li> <li>• Ministry of labour, employment, veterans and social welfares</li> <li>• Ministry of trade tourism and telecommunication</li> <li>• Ministry of construction transport and infrastructure</li> </ul>
Local NGOs addressing this issue	<ul style="list-style-type: none"> <li>• Transparency Serbia</li> <li>• BIRODI</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

The law criminalizes trade in influence<sup>503</sup> as well as soliciting and accepting bribes and abuses in public procurement.<sup>504</sup> The Criminal Law also defines additional corruption-related offenses, including misfeasance in business (Article 234), causing bankruptcy (Article 235), causing false bankruptcy (Article 236) and abuse of authority (Article 238).

The Heritage/WSJ Index of Economic Freedom ranked Serbia as 77th, with an overall score of 62.1.<sup>505</sup> According to the index, the main challenge was loss-making state-owned enterprises, particularly in transportation and energy, which continued to receive budget support.<sup>506</sup>

The government continued to appoint top management positions in the public administration in violation of the law governing civil service. Although there was a requirement for open competition for the positions, the law did not provide for additional criteria (in addition to formal education) for the job, such as, for example, the opinion of an independent vocational/professional association. This practice left room for political hiring.<sup>507</sup>

According to the survey 'Business, Corruption and Crime in Serbia: The impact of bribery and other crime on private enterprise' carried out by the UN Office on Drugs and Crime in 2014, of all the businesses that had contacts with a public official in the 12 months prior to the survey, 17 percent had paid a bribe to a public official.<sup>508</sup> According to the survey, the most common purpose of paying bribes by businesses was to 'speed up business-related procedures' (40.3 percent of all bribes).<sup>509</sup>

## Corruption

The legal framework for the fight against corruption is broadly in place. The European Commission's 2015 Progress Report noted that Serbia had made progress in implementing existing legislation and adopting a new law on whistle-blower protection.<sup>510</sup>

Serbia has ratified all major international instruments against corruption and is party to the UN Convention against Corruption. It has signed and ratified the Council of Europe anti-corruption conventions. In 2013, the government adopted the Anti-Corruption Strategy for 2013-2018. The Action Plan was adopted in August 2013.<sup>511</sup> Although the Anti-Corruption Strategy and Action Plan were being implemented, several measures have been delayed. The Inter-Ministerial Group to Coordinate Action, set up in 2014, had only met once and hence had not had the intended impact.<sup>512</sup> In addition to that, the

strategy has so far not yielded the expected results, and corruption remained prevalent in many areas and continued to be a serious cause of concern.<sup>513</sup>

Serbia was ranked 40 out of 176 countries surveyed in Transparency International's 2015 Corruption Perceptions Index.<sup>514</sup>

Since the 2012 elections, the fight against corruption was a state priority.<sup>515</sup> The Anti-Corruption Agency, an independent and autonomous governmental body accountable to the Serbian National Assembly, was established in 2010. The Agency, established under the Anti-Corruption Agency Act,<sup>516</sup> is mandated to unify anti-corruption activities, enforce the National Strategy to Fight Corruption<sup>517</sup> and its Action Plan,<sup>518</sup> monitor conflicts of interest, track politicians' property and assets, monitor political party financing and facilitate international anti-corruption cooperation.<sup>519</sup>

Although the Anti-Corruption Agency issued numerous recommendations and concerns over various problems in 2015, the state authorities, both at the local and the national levels, have reportedly failed to act on its findings sufficiently.<sup>520</sup> In response, the Agency called for broader powers, which would enable it to perform its duties more efficiently.<sup>521</sup>

Although there were numerous cases before the court on corruption, they were not considered as high level. As of 2016, there had been no final conviction for high-level corruption.<sup>522</sup>

According to the European Commission 2015 Progress Report, health care,<sup>523</sup> education, construction, spatial planning, infrastructure projects and the privatisation of public enterprises were particularly vulnerable to corruption. Independent supervision and capacity for early detection of wrongdoing and conflicts of interest in the management of state-owned companies, in privatisation procedures, public private partnerships and in relation to public procurement procedures, were underdeveloped. Internal control departments lacked equipment, resources and competent staff. Financial investigations were not yet being launched systematically in cases of corruption and organised crime. In a few corruption cases, assets have been confiscated.

Amendments to the Criminal Code were still under consideration to provide for a sustainable legal solution to effectively prosecute cases of criminal economic offences. Procedures for investigating corruption cases, especially cases of high-level corruption, were often prolonged due to lack of capacity and an inadequate legal framework for financial investigations and asset recovery. Resources were inadequate and the relevant action plan had not been adopted.

## Public Procurement

The legal framework on public procurement, including the Public Procurement Law (PPL), is broadly in line with the EU standards.<sup>524</sup> In October 2014, the government adopted a public procurement strategy for 2014-2018 and a related action plan that includes measures to further strengthen the regulatory framework and align with EU standards.<sup>525</sup> Amendments to the Public Procurement Law, adopted in 2015, include changes related to the obligation of authorities to carry out procurements in an efficient and cost effective way, with a strong emphasis on transparency and non-discrimination.

The law also introduces some human right-related considerations that bidders need to meet at various stages of the tender process. Changes to the PPL in 2015 aimed at aligning Serbian legislation with the 2014/24/EU Directive, introduced the option of taking environmental and social considerations in all stages of the public procurement procedure and prioritise bids by companies that employed and rehabilitated persons with disabilities.

In 2012, the Criminal Code was amended to include corruption related to public procurement as a criminal offence. The Law on Public-Private Partnership follows the basic rules of the EU standards, but needs to be aligned with the new EU Directive on Concessions.<sup>526</sup>

In 2015, according to the EU Progress Report, Serbia was particularly vulnerable to corruption in public procurement.<sup>527</sup> It was noted that in the previous period several improvements happened, namely the introduction of more discipline in reporting: In 2014, reports on public procurement were submitted by 4,933 contracting authorities, compared to 3,264 in 2013.<sup>528</sup>

Progress was also noted in relation to transparency, which was achieved primarily by means of preventing the use of non-transparent and non-competitive negotiating procedure without prior notice.<sup>529</sup> However, transparency of public spending through procurements reportedly needed further improvement. The Commissioner for Information of Public Importance and Personal Data Protection reported that during 2015, 34 percent of the complaints he received were regarding access to information about public procurement and privatisation.<sup>530</sup>

Implementation of the Law on Public Procurement is supervised by the Public Procurement Office, an independent state body. The public procurement portal was increasingly used, with 50 percent more notices published in 2014 than in 2013. The office did not have enough administrative capacity for its numerous responsibilities, but its capacity to manage public procurement processes was improved through the certification of an additional 890 public procurement officials.<sup>531</sup>

According to the Director of Public Procurement Office, the two main challenges were the tendency to avoid public tenders and the poor administrative capacities of his office. In 2012, 28 percent of the total procurement value was contracted in non-competitive, negotiated procedures, while in 2014, this figure dropped to only 5 percent, which was in line with European standards.<sup>532</sup>

## Revenue Sharing

Serbia has struggled with a rising fiscal deficit and has looked to plug the budget gap with new revenue measures. In 2012, the National Assembly adopted Amendments to the Law on Corporate Profit Tax that increased the corporate-profit tax rate from 10 to 15 percent, and in 2013, the government cancelled a tax holiday for investments in new equipment. Still, the government continues to offer incentives designed to attract foreign investors, including a 10-year corporate tax holiday for companies that invest more than US\$9.1 million and hire at least 100 new employees.

State-owned enterprises (SOEs) do not have preferential access to land and raw materials, and have the same tax burden and rebate policies as their private sector competitors. SOEs were under soft budget constraints and received large subsidies from the government, including direct subsidies and guarantees for banks' loans, which reached two percent of GDP in 2014, according to IMF estimates. However, as part of its IMF deal, the government committed to stop providing subsidies to SOEs.

Revenue collection continued to improve in 2015, partly due to excise duties and non-tax revenue (e.g. telecom licences and SOEs dividends).

## Privatisation

In 2012, the Anti-Corruption Council identified privatisation as one of largest generators of systemic corruption in Serbia.<sup>533</sup> The Council and OSCE experts have analysed regulation on privatisation and have identified numerous norms that enabled corrupt practices, but none of their recommendations were included in the amendments enacted in 2005.<sup>534</sup>

According to the president of the Anti-Corruption Council, the biggest flaw of the Serbian privatisation framework was an absence of external control over the processes, since the agency that creates, implements and controls privatisation was a state body without independent oversight.<sup>535</sup>

In April 2013, The U.S. Department of State reported that 2,350 companies had been privatised since 2000. In 646 cases (27 percent) the buyers failed to fulfil the contract terms, and contracts were annulled.

Privatisation attempts have been revived recently, although results so far were marginal. In June 2015, the government took steps to start the privatisation of the majority state-owned Telekom Srbija. In January, it adopted an action plan to resolve 188 companies through a bankruptcy procedure. In addition, about 200 enterprises were expected to be fully or partially privatised, either by equity or asset sales, or through strategic partnership.<sup>536</sup>

## Access to Information

The Commissioner for Information of Public Importance and Personal Data Protection reported that in 2015 citizens had difficulties accessing information about public spending.<sup>537</sup> The 2015 Progress Report noted that the law on access to information did not ensure adequate enforcement of the decisions of the Commissioner for Free Access to Information of Public Importance and Personal Data Protection.<sup>538</sup>

According to the Commissioner's Report, there was a practice of including confidentiality clauses in investment agreements and other business agreements, contrary to the law. Confidentiality was most commonly used as a basis for refusal of access to information. Confidentiality was used without previously testing the potential damage of allowing access. On a positive note, the number of complaints claiming denial of access to information on this ground had been significantly reduced to 25 percent in 2015.<sup>539</sup>

Some companies with the majority stake owned by the state have been refusing to apply the Law on Access to Information of Public Importance, in spite of a ruling by The Administrative Court that they are public bodies for the purpose of application of this Law.<sup>540</sup>

Transparency International noted that political parties controlled numerous state-owned companies, and transparency provisions meant to allow the citizens of Serbia access to more information about how government works and how political influence is exerted, were reportedly violated by 80 percent of state-owned companies.<sup>541</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *2015, The Commissioner for Information of Public Importance and Personal Data Protection:* The general public and the Commissioner were denied information on the basis of confidentiality when requesting the Ministry of Economy access to the contract between the state-owned Železara Smederevo, the HPK management from Belgrade and HPK engineering from Amsterdam.<sup>542</sup>
- *2015, The Commissioner for Information of Public Importance and Personal Data Protection:* The national telecommunications company Telekom Serbia filed numerous lawsuits (47 since 2010) against the Commissioner for Information of Public Importance and Personal Data Protection, in order to avoid or delay enforceable decisions by the Commissioner.<sup>543</sup>
- *December 2015, BBC:* Police in Serbia have arrested about 80 people, including a former minister, two former interior ministry's officials, several serving and former mayors, and a number of executives in state-owned firms. Charges for those arrested included abuse of office, money laundering and other financial crimes.<sup>544</sup>

- *November 2015, The Anti-Corruption Agency:* In a case concerning the Defence Minister, the Anti-Corruption Agency found that he had violated the regulations on conflict of interest when he was the mayor of Kruševac as he concluded contracts with companies owned or CO-owned by his wife and son.<sup>545</sup>
- *September 2015, Belgrade Centre for Human Rights:* The Anti-Corruption Agency also opened proceedings to establish whether the Belgrade Mayor had violated the regulations on conflict of interests after allegations surfaced that he was the director of two offshore companies headquartered in the Virgin Islands and whether his income statement was accurate in view of indications that he possessed real estate of significant value in Bulgaria.<sup>546</sup>
- *December 2014, Transparency Serbia:* A number of doctors and a head nurse at a hospital in Nis, Serbia's third largest city, were arrested for allegedly accepting bribes of up to €13,000 (approx. US\$14,400) and using their networks to secure healthcare jobs for relatives.<sup>547</sup>
- *December 2012, Euroaktiv:* The owner of Delta Holding and his son were arrested for alleged abuses in the privatisation of a road construction and maintenance company.<sup>548</sup> Along with eight other, they were suspected of appropriating property worth more than €25 million (US\$40 million) from 2005 to 2010 through the privatised company PZP Nis. The trial was still on-going as of April 2016.<sup>549</sup>

## Company Initiatives

*Private-sector programmes that aim to ensure respect for human rights or contribute to development*

## Stakeholder Recommendations

**Business Anti-Corruption Portal:** The Portal recommended that companies in Serbia:

- develop, implement and strengthen integrity systems and conduct extensive due diligence when planning to do or were already doing business in the country;
- use a specialised public procurement tool in order to mitigate the corruption risks associated with public procurement; and
- provide for ICSID arbitration in their contracts with the government.<sup>550</sup>

**The Serbian Chamber of Commerce:** The Code of Corporate Management recommends that Board of Directors/Supervisory Board in enterprises in which the state has its representative develop and implement an ethical code and a plan of integrity, and should conduct its functions in accordance with the ownership policy of the state, without political influence.<sup>551</sup>

# Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

## Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

## Signalling a Non-Corrupt Environment

*Does the company take a clear stand against corruption?*

- The company's CEO, director or president has declared that the company will not engage in corruption at any time or in any form.
- The company has a policy rejecting corruption and requiring all directors, managers and workers worldwide to behave ethically and in conformity with the law.
- The company anti-corruption policy includes how to handle requests for facilitation payments, giving and receiving gifts, engaging in sponsorships, giving political contributions, and how to conduct responsible lobbying.
- The company has defined benchmarks and indicators regarding its anti-corruption initiatives and reports these to the public (e.g. in its annual CSR report)

## Anti-Corruption Risk Assessment

*Does the company assess the risk of corruption when doing business?*

- The company evaluates the potential areas of corruption including factors such as type of transaction, countries of operation, industries, and customers or business partners involved.
- The company evaluates the risk of corruption when workers, agents, intermediaries or consultants deal with public officials (including workers of state owned companies).
- The company evaluates the risk of internal and external conflicts of interest in relation to business partners.
- The company has developed an action plan to address the risk of corruption, and has defined responsibilities for each task, as a minimum for high-risk areas.
- The company has identified internal functions with the highest risk of corruption within the company and seeks to address these weaknesses.

## Awareness Raising

*Does the company ensure that relevant workers are properly trained?*

- The company informs all workers about its anti-corruption commitment.
- The company provides regular anti-corruption training for all relevant workers within the organisation e.g. procurement and sales staff.

- Information on disciplinary procedures for violations of company anti-corruption policies is available to workers.
- The company actively seeks worker feedback and dialogue on its anti-corruption initiatives.
- The company has and promotes a function by which workers can safely report suspicion of corruption related cases (e.g. hotline or mailbox) and allocates resources to systematically address the issues that are identified.

## Anti-Corruption Procedures

*Do the company's internal procedures support its anti-corruption commitment?*

- The company has assigned different individuals or departments to be responsible for handling contracts, placing orders, receiving goods, processing invoices and making payments.
- The company mentions 'anti-corruption' and/or 'ethical behaviour' in its contracts with business partners.
- The company prohibits informal employment and any 'off the books' record-keeping
- The company performs internal audits and has checks in place in connection with all anti-corruption commitments.
- The company's procurement, financial and internal audit personnel have clear instructions to look for and to identify alarms, report them to management, and follow-up counter measures.
- The company requests external auditors to maintain a critical eye and follow all alarms and irregularities.
- Any alarm or irregularity reported by external auditors is systematically addressed by management.
- The company monitors compliance and continuously identifies strengths and weaknesses in the anti-corruption initiatives to remain effective and up-to-date in addressing changing risks.

## Agents and Other Associates

*Does the company's anti-corruption initiative cover agents, intermediaries and consultants?*

- The company conducts an inquiry and/or attentiveness (e.g. financial, legal, labour, tax, IT, environment, market/commercial) on all agents, intermediaries and consultants.
- All agreements with agents, intermediaries and consultants are fully documented in written, signed contracts.
- The selection and terms of reference of agents, intermediaries or consultants are approved at the senior management level or at a level above that of the management involved in the operations for which the intermediary is hired.
- Contracts with agents, intermediaries and consultants include a section on anti-corruption and that the contract-holder must comply with all applicable laws and regulations.
- Agents, intermediaries and consultants are provided with information on the company's anti-corruption commitment, anti-corruption policies, training material on anti-corrupt behaviour and information on disciplinary procedures for violations of company anti-corruption policies.
- The company ensures that payment to agents, intermediaries and consultants are in line with standard payments for other service providers of similar ranking.

- The company only makes payments by bank transfer or check – never in cash – in the country of the agent, intermediary and consultant and never to a third party without prior examination.

## Communicate

*Does the company communicate progress on the Global Compact principles with stakeholders?*

- The company identifies stakeholders who affect or can be affected by the company's activities, products and services e.g. a person, group, organisation, authority.
- The company communicates progress openly about how issues covered by the Global Compact principles are managed, including performance results as well as forward-looking information on strategy and management approach, challenges, and dilemmas.
- The company regularly engages in dialogue with stakeholders to keep up-to-date with stakeholder expectations.
- The company communicates openly about how issues covered by the Global Compact principles are managed including challenges, dilemmas, success and failures.
- The company's communication on progress and other performance reporting on issues covered by the Global Compact principles is publically available and communicated to external stakeholders e.g. via the company's and Global Compact website.

## Joint Actions

*Does the company take joint actions with others to engage in and promote anti-corruption initiatives?*

- The company shares experience, procedures and challenges of corruption with other organizations i.e. the local business community, sector initiatives, networks etc.
- The company has initiated or joined initiatives with other companies in the same sector for the purpose of promoting a fair business environment.
- The company stimulates multi-stakeholder dialogue on challenges of corruption.
- The company encourages the local business community and business partners to initiate cooperation to fight corruption.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- Transparency International Business Principles for Countering Bribery provide a checklist for companies to identify and reduce bribes and facilitation payments in their operations.
- The OECD Guidelines for Multinational Enterprises, applicable to enterprises in OECD Member States (and some others), require companies to respect human rights, including through due diligence. The OECD Guidelines constitute recommendations by OECD member states to multinational enterprises operating in or from adhering countries. The OECD Guidelines include competition, fiscal systems and anti-corruption.



# Engagement Opportunities

*Development initiatives by public and private actors that provide opportunities for companies to contribute to human development*

## Public Sector Initiatives

**Plan of Integrity:** The plan is a self-assessment tool that detects corruption risks in government authorities, authorities of the territorial autonomy, local governments, public services and public enterprises. As of January 2012, the Anti-Corruption Agency's web page contains all the information and materials necessary for the development of the plan.

**Documents on Procurement:** The Public Procurement Office published in 2015 the analyses 'Socially Responsible Public Procurement' and 'Guide for Local Governments to Include Aspects of Energy Efficiency Criteria in Public Procurement'.<sup>552</sup>

**Activities to improve Public Procurement:** The Serbian Chamber of Commerce, with support from the Swedish Government, carried out a number of activities aimed at achieving impact in public procurement, including: the promotion of 'value for money' best practices, the 'life-cycle costs' concept in public procurement and increasing efficiency and performance of local governments.<sup>553</sup> The Chamber is also a member of the Global Compact Serbia, and a signatory of the Anti-Corruption Declaration.<sup>554</sup>

# Security & Conflict

*Human rights impacts related to company interaction with public and private security providers and related to the impact of business on societal conflict.*

Operating Environment	
Failed States Index	92 (out of 187)
Legatum Prosperity Index: Safety & Security	64
Freedom House: Map of Freedom - Political Rights <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	2
Freedom House: Map of Freedom - Civil Liberties <i>(On a scale of 1 through 7, where 1 indicates the highest level of freedom)</i>	2
Relevant law	<ul style="list-style-type: none"> <li>• Law on Private Security</li> </ul>
Responsible agencies	<ul style="list-style-type: none"> <li>• Ministry of Interior</li> <li>• Ministry of Justice</li> <li>• Security-Information Agency (BIA)</li> <li>• Military Intelligence Services (VBA)</li> <li>• Inspector General of the Ministry of Defence</li> <li>• Parliamentary committee for oversight of the security forces</li> <li>• Ombudsperson</li> </ul>
Local NGOs	<ul style="list-style-type: none"> <li>• Belgrade Centre for Security Policy</li> <li>• CEAS</li> </ul>

## Country Context

*Human rights issues of relevance to businesses. The information in this section is gathered from publicly available sources and stakeholder consultations.*

### Public Security Forces

According to the 2015 Progress Report by the European Commission, the Parliamentary Committee for Oversight of the Security Forces continued to review the activities and reports of the Security Information Agency (BIA), the Military Intelligence Services (VBA) and the Inspector General of the Ministry of Defence on a regular basis.<sup>555</sup> The EC further noted the potential for abuse of interception of communications.<sup>556</sup>

According to the Belgrade Centre for Human Rights (BCHR), police officers generally used force cautiously and in line with principles set out by the European Court of Human Rights and the UN.<sup>557</sup>

The UN Committee against Torture reported in 2015 that Serbian penitentiaries were overcrowded, particularly the four biggest correctional institutions that housed approximately 60 percent of the entire prison population. In some cases conditions reportedly amounted to inhumane and degrading treatment.<sup>558</sup>

### Private Security Forces

The Law on Private Security,<sup>559</sup> adopted in December 2013, mandates that companies and individuals providing security services be vetted by the Ministry of Internal Affairs before being issued operating licences. However, this is not a requirement for the owners of private security companies.<sup>560</sup> Politika reported that licencing had to be conducted before beginning of 2017, but by February 2016 only 800 requests for licencing of security workers were submitted. One of the conditions for licencing of companies is having 10 licensed security workers. As Politika reported in 2016, security workers were underpaid and were required to bear the cost of licencing themselves.<sup>561</sup>

Security companies are registered with Serbia's Business Registers Agency.<sup>562</sup> The Prime Minister stated in 2013 that around 3,000 security companies were registered but it was not known how many were active. The Centre for Euro-Atlantic Studies (CEAS) reported that they had an estimated turnover of approximately 180 million euro (US\$250 million) in 2012.<sup>563</sup> The Prime Minister further noted that private security companies employed around 50,000 armed personnel, though other estimates put this figure as low as 30,000 or as high as 60,000.<sup>564</sup>

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *July 2013, Novi Magazin: A man was beaten to death by security guards at the night club Sound in Belgrade.*<sup>565</sup>
- *August 2012, Belgrade Centre for Human Rights: Workers of a mobile phone operator who had acted in accordance with the law and refused to act on the requests of public authorities for access to retained data without reference to the legal grounds were arrested by the police.*<sup>566</sup>

## Company Initiatives

*Private-sector programmes that aim to ensure respect for human rights or contribute to development*

### Company Due Diligence Initiatives

**Association for Private Security of the Serbian Chamber of Commerce:** In December 2010 the Association for Private Security of the Serbian Chamber of Commerce adopted a Code of Professional Ethics of Private Security.<sup>567</sup>

### Stakeholder Recommendations

**Minister of Labour, Employment, Veteran and Social Affairs (2016):** The Minister recommended that private security companies bear the cost of licencing their employees.<sup>568</sup>

## Human Rights Guidance for Businesses

*Actions and priorities suggested by local and international stakeholders as well as company initiatives to ensure company respect for human rights and contribute to human development in the local context*

### Due Diligence Library

*The following recommendations have been developed by The Danish Institute for Human Rights through research and engagement with companies*

*Does the company take steps to ensure that company security arrangements are in accordance with international principles for law enforcement and the use of force?*

- The company regularly conducts security risk assessments, and ensures that company security arrangements, including the deployment of private guards or public security personnel, are proportionate to the security risk.
- Company security risk assessments include the risk of human rights abuses by private and public security personnel.
- The company selects private security firms based on information about professional ability, level of staff training, quality of equipment, past involvement in human rights abuses, links with political factions or organisations and other relevant criteria.
- Contracts with private security firms include requirements related to international human rights standards for law enforcement and use of force; require the investigation and discipline of any unlawful or abusive conduct by security guards; and allow for termination of the contract in case of such conduct.
- There is a manual defining the duties of security personnel, and all security personnel receive training on rules of conduct based on international human rights standards for law enforcement and the use of force.
- Where public security personnel are assigned to company facilities, the company seeks to ensure transparency concerning its interactions with public security agencies, and the company

communicates to the relevant public security agencies its desire that security functions be conducted in accordance with international human rights standards for law enforcement and the use of force.

- The company has a procedure for recording security-related incidents, including a mechanism for handling complaints from staff or local communities related to the conduct of security personnel, and forwards credible allegations of human rights abuses to the relevant authorities.
- The company has a procedure for monitoring and evaluating its security arrangements, including the proportionality of the security arrangement; impact on local communities; impact on existing local tensions or conflicts; security incidents recorded; and credible allegations of human rights abuses by company security personnel. Representatives from the local community are consulted as part of the monitoring.

## Standards & Guidance

*NGO and institutional resources to enhance human rights due diligence efforts by businesses. These resources are drawn from the Business & Human Rights Resource Centre*

- International Alert, *Conflict Sensitive Business Practices: Guidance for Extractive Industries* (2005): International Alert is a peace-building NGO working with civilians and other affected stakeholders in conflict areas. This Guidance is intended for companies in the extractive industries sector, providing advice on conflict-sensitive business practices and the ways in which they can contribute to peace-building.
- International Alert and Fafo Institute, *Red Flags: Liability Risks for Companies Operating in High-Risk Zones* (2008): The Red Flags address illicit business activities under international and national law. The initiative's objective is to clearly define what types of activities, when committed or aided by businesses, represent breaches of international humanitarian law and international criminal law.
- International Commission of Jurists, *Report of the Expert Legal Panel on Corporate Complicity in International Crimes* (2008): This three volume report outlines the ICJ Expert Legal Panel's findings and recommendations with regard to corporate legal responsibility for complicity in international crimes, under both civil and criminal law.
- The Dodd-Frank Wall Street Reform and Consumer Protection Act (2010): Section 1502 of the Act requires public and private companies to disclose the use of any conflict minerals in their products. This promotes greater transparency and dissuades companies from engaging in trade that may support regional conflicts.
- International Committee of the Red Cross, *Business and International Humanitarian Law* (2006): The Guidance explains the obligations of businesses under international humanitarian law, including noting relevant distinctions between international human rights law and international humanitarian law.

# Access to Remedy

*Bodies to which victims of corporate human rights abuses can file grievances and seek redress.*

## Judicial Mechanisms

Serbia is a civil law state. The court network consists of three instance general jurisdiction courts: Basic, Higher and Appellate Courts. The specialised courts are Commercial Courts, the Commercial Appellate Court, Misdemeanour Courts, the Higher Misdemeanour Court and the Administrative Court. The Supreme Court of Cassation is the highest court in the state.<sup>569</sup> Organised crime, war crime and high technology crime proceedings are conducted before special departments of the Belgrade Higher Court.<sup>570</sup>

Judicial reform started in 2008, but has been widely criticised by Serbian NGOs and academics.<sup>571</sup> The National Judicial Reform Strategy focuses on key principles of independence, impartiality, the quality of justice, competence, accountability and efficiency. According to the 2015 EU Progress Report, judicial independence was not assured in practice, with scope for political interference in the recruitment and appointment of judges and prosecutors.<sup>572</sup>

As reported by the European Commission in 2015, the administration of justice was slow, with a significant backlog of cases.<sup>573</sup> The Belgrade Centre for Human Rights noted in 2015 that the number of incoming cases in Serbian courts stood at 13.8 per 100 inhabitants, slightly lower than the European average. With 39 judges per 10,000 inhabitants, Serbia had nearly double the judge-to-population ratio as the EU average.<sup>574</sup> Since 2016, provisions of the Act on the Protection of the Right to a Trial Within a Reasonable Time are in force. These provisions provide judicial protection of the right to a trial within a reasonable time for all parties to the proceedings, free of charge.<sup>575</sup>

According to the BCHR Annual Human Rights Report 2015, trials of all types typically lasted for years and many final judgements were unenforced. Judicial inefficiency and lack of independence have undermined people's trust in courts.<sup>576</sup> Most of the judgments the European Courts of Human Rights delivered against Serbia in 2015 regarded the non-enforcement of domestic court decisions and free enjoyment of possessions.<sup>577</sup> At the end of 2014, the majority of pending enforcement cases were public utility cases.<sup>578</sup>

The government adopted the Strategy on the Development of a Free Legal Aid System in the Republic of Serbia for the 2011–2013 Period but the law on free legal aid was yet to be adopted.

Anyone can file a constitutional appeal with the Constitutional Court of Serbia claiming a violation of constitutionally guaranteed human rights or those guaranteed by another international instrument binding on the Republic of Serbia provided they have exhausted all other legal remedies or such remedies do not exist.

In 2015, frequent violations of the presumption of innocence by the topmost state officials and by media were reported.<sup>579</sup>

## Discrimination

According to the Labour Law, the Act on the Prevention of Discrimination against Persons with Disabilities, the Antidiscrimination Act and the Gender Equality Act, victims of work-related discrimination may seek protection from civil courts. Cases of discrimination may be reviewed either by

the court of general jurisdiction over the territory in which the defendant resides or was headquartered or by the court within whose territorial jurisdiction the plaintiff resides or was headquartered which represents an exception to the rules of civil procedure and facilitates the victims' access to protection. A lawsuit may be filed by the injured party, the Commissioner for Equality or a human rights organisation.

## Trafficking

Human trafficking and forced labour cases are addressed by the Higher Court in the first instance and Appellate Courts thereafter.<sup>580</sup> The courts rendered several first-instance and final decisions in human trafficking cases in 2011 and 2012.<sup>581</sup> The U.S. Department of State noted concerns by domestic and international NGOs that judges demonstrated a lack of understanding of trafficking and subjected victims of trafficking to a 'second victimisation' during court proceedings.<sup>582</sup> According to the NGO Astra, which monitors such trials, victims were in some cases subjected to intimidation by their traffickers in court.<sup>583</sup> Although the courts may employ victim-sensitive approaches by allowing video testimony or prepared statements, these protection measures were rarely used in practice.<sup>584</sup>

In addition to that, the Ministry of Interior and the State Prosecutor's Office enforce laws against commercial sexual exploitation. Each police directorate has an Anti-trafficking Unit that may include cross-sectional teams of police, prosecutors, social workers and health workers. It was reported that some teams were not functional.<sup>585</sup> The state and border police had full-time anti-trafficking Units. The Service for Fighting Organised Crime also has an anti-trafficking department and works with regional police administrations to share information regarding instances of child trafficking.

The Ministry of Interior reported that authorities identified 12 child trafficking victims, 13 children used in the production of pornography and 48 children used in the production and trafficking of drugs.<sup>586</sup> In 2015, the government reported prosecuting 1 criminal case under Article 388 (trafficking in persons), compared to 45 in 2012. Available data on jurisprudence of first instance judgements for 2014 indicated a drop in the number of sentenced persons. The penal policy was reportedly mild, with an average prison sentence of approximately 2 to 5 years.<sup>587</sup>

In 2014, the Centre for Human Trafficking Victims' Protection assisted 19 child trafficking victims, but it was not able to open its emergency shelter, the Urgent Reception Centre, due to continued litigation over the shelter's physical location.<sup>588</sup> When fully operational, the Urgent Reception Centre will accommodate child trafficking victims on a temporary basis. However, it was not a specialized shelter for children. NGOs raised concerns that the Centre for Human Trafficking Victims' Protection lacked procedures to address the specific needs of child trafficking victims.<sup>589</sup> Astra added that Serbia did not have an appropriate shelter for child victims of human trafficking or special programmes for their recovery and reintegration tailored to their age.<sup>590</sup>

In a 2012 report, BCHR reported concerns by NGOs that authorities failed to recognise victims of trafficking, and that victims had been detained, jailed, penalised or prosecuted for unlawful acts committed as a result of their being trafficked.<sup>591</sup>

In February 2013, a court sentenced four trafficking offenders in an organised criminal group under Article 388 to terms of incarceration from 10 to 15 years and a fine to the equivalent of approximately US\$73,400, some of the most serious penalties imposed on trafficking offenders in Serbia to date. All but one of the 47 trafficking offenders convicted in 2012 were Serbian nationals.<sup>592</sup>

NGO ASTRA reported that victims of trafficking were not being compensated, and only one such final and enforced compensation was awarded in 2014.<sup>593</sup>

## Labour rights

Persons injured at work or suffering from an occupational disease can claim (pecuniary and non-pecuniary) damages in civil proceedings. This type of protection was declaratively afforded also to workers in the informal economy, who could turn to the labour inspectors in the event they suffer an injury at work and claim their labour-related, health, pension and disability insurance rights.<sup>594</sup>

The unreasonably long proceedings in Serbia, which could last up to ten years in case of labour disputes, has led to an increasing number of workers taking their case to the European Court of Human Rights.

According to a 2012 report by BCHR, when hearing a labour dispute or a case regarding a collective agreement, the court was under a special obligation to act quickly, but 42 labour disputes have been pending for more than 10 years, 36 of which were waiting before the Belgrade First Basic Court.<sup>595</sup>

According to a 2012 Confederation of the Autonomous Trade Unions of Serbia report, accumulated wages were not paid to workers in spite of local court decisions.<sup>596</sup>

## Environment

BCHR reported in 2012 that few cases related to environmental impacts proceeded to courts, and that a significant number of courts have never dealt with such cases.<sup>597</sup> The maximum sentence for the most extreme cases of environmental pollution is set at eight years' imprisonment, but as of October 2013 such a sentence had never been applied. The majority of criminal proceedings relate to forest theft, and in most cases the sentences were either probationary jail sentences or low fines.<sup>598</sup>

(Administrative-Based Mechanism) According to a 2008 BCHR report, the Inspectorate for Environmental Protection was of vital importance, as its inspections have led to investigations and prosecutions. The latest research on court filings was done in 2008 by BCHR, and no more recent data was available. The research concluded that criminal courts applied very mild punishments (in most cases offenders were sentenced to probation). Inspections brought more cases before the commercial and misdemeanour courts, and in practice achieved a higher level of deterrence for environment-related offenses.<sup>599</sup>

On the municipal level, court proceedings reportedly lacked experts to testify regarding pollutant levels and impacts. Cases have reportedly been thrown out for this reason.<sup>600</sup> Few studies regarding the health impacts of environmental damage have been performed.<sup>601</sup>

## Land and Property

According to BCHR, the most frequent violations of the right to property in Serbia arise from non-enforcement of court decisions awarding the claimants specific property rights.<sup>602</sup> The Basic, Higher and Appellate Courts resolve property rights disputes.

## Revenue Transparency and Management

In 2012, The State Audit Institution filed 154 requests for initiating misdemeanour proceedings, along with 23 charges for economic offenses and 9 criminal charges.<sup>603</sup> As of December 2013, it appeared that none of these cases had yet been brought to trial.

According to a 2012 Bertelsmann Foundation report, officials charged for corruption were often able to ward off corruption charges using political influence and legal and procedural loopholes.<sup>604</sup> According to the European Commission 2013 Progress Report, the number of cases received by the Republic Commission for the Protection of Rights in Public Procurement Procedures increased by 23 percent in 2012, and the number of cases solved increased by 31 percent.<sup>605</sup>



# Non-Judicial Mechanisms

## Mediation – based Mechanism

According to the Dispute Mediation Act,<sup>606</sup> mediation shall be conducted on a voluntary basis, and the mediators shall be neutral and under the obligation to respect the equality of the parties, ensure the exclusion of the public, maintain confidentiality and proceed with urgency.

The European Foundation for the Improvement of Living and Working Conditions reported in 2012 that in the private sector, mechanisms of conflict resolution were more often informal, and were more likely to include political intervention from the local and national government.<sup>607</sup>

## Arbitration-based Mechanism

The Law on Peaceful Settlement of Labour Disputes provides for compulsory arbitration in services of general interest, including electricity distribution, water supply, public radio and television, postal and telecommunication services, public utilities, basic food production, health and veterinary care, education and childcare and social protection. Arbiters and conciliators specialised according to labour law should settle the disputes rapidly (within the one-month statutory deadline) and free of charge.

Arbitration decisions in individual labour disputes are final and enforceable and the absence of the right to appeal is explained by the parties' voluntary engagement in alternative dispute resolution.

## Administrative-based Mechanisms

### The Commissioner for the Protection of Equality

In accordance with the Anti-Discrimination Act, discrimination claims can also be brought to the Commissioner for Protection of Equality (CPE).<sup>608</sup> The Commissioner for the Protection of Equality is tasked with receiving complaints by citizens who claim to have been victims of discriminatory conduct, unless the same matter is reviewed by a court or a final decision on the matter has already been rendered by a court. Between its establishment in May 2010 and the end of 2014, the CPE received over 3,000 complaints every year, mostly related to discrimination in access to employment (34 percent- 38 percent).<sup>609</sup>

### Labour Inspectorate

A worker is entitled to complain to the Labour Inspectorate about an alleged violation or denial of employment rights. The Inspectorate may then launch proceedings before the competent court or require the arbitration of the disputed issues with the employer.<sup>610</sup>

Employers and employees can submit a request to the Labour Inspectorate for occupational health and safety inspection.<sup>611</sup> The inspector can initiate misdemeanour proceedings against an employer or employee when they fail to apply required health and safety regulations. If found in violation, companies can be sanctioned with a fine from 800,000 to 1 million dinars (approx. US\$9,500 to approx. US\$12,000) and employees 10,000 to 20,000 dinars (approx. US\$120 to approx. US\$240).<sup>612</sup>

According to a 2012 European Foundation for the Improvement of Living and Working Conditions report, Labour Inspectorate offices were reportedly understaffed, and their rights to intervene on behalf of employees in practice are rather limited.<sup>613</sup>

## The Republican Agency for the Peaceful Settlement of Labour Disputes

Given that Serbia does not have Labour Courts, the Republican Agency for the Peaceful Settlement of Labour Disputes is the only institution, apart from the regular courts, dealing with labour disputes. The Agency handles both individual and collective cases. As reported by BCHR in 2015, the capacity of the Agency was weak.<sup>614</sup>

Between 2005 and 2012, a total of 12,316 motions for peaceful settlements were filed and 4,204 individual and 71 collective disputes were resolved. According to the Agency, during 2011 there was a sudden decrease of individual disputes concerning payment of minimum wages, and an increase of cases concerning termination of employment, discrimination and harassment.<sup>615</sup> In July 2015 the government recommended to the public sector to resolve collective and individual disputes before the Agency.<sup>616</sup>

## The Protector of Citizens

The Protector of Citizens of the Republic of Serbia<sup>617</sup> is an independent and autonomous public authority mandated to protect citizens' rights, to control the legality and regularity of the work of government and to promote human and minority freedoms. The Protector of Citizens has a network of on-call legal practitioners covering 15 municipalities in Serbia who can assist citizens unable to draft their complaints.<sup>618</sup>

By November 2013 the Protector of Citizens had received an increasing number of labour rights complaints from citizens, including informal labour, rights to social benefits, harassment, discrimination and a slow response from the Labour Inspectorate. Inspections are only carried out as a result of complaints, and the agency's response time was reportedly slow.<sup>619</sup> In 2015, the Protector received 6,231 complaints (nearly 30 percent more than in 2014). The capacity of the expert team of the Protector of Citizens was not increased and it was insufficient for processing that number of complaints.<sup>620</sup>

## The Free Access to Information of Public Importance and Personal Data Protection Commissioner

The Free Access to Information of Public Importance and Personal Data Protection Commissioner monitors the respect of obligations by the public authorities regulated by Law on free Access to Information of Public Importance and reports to the public and National Assembly. The Commissioner also oversees compliance with the Personal Data Protection Act, and personal data processing and reviews complaints regarding violations of the right to personal data protection.

In 2015, the Commissioner handled a total of 11,880 cases (9,012 cases in the field of freedom of information and 2,868 cases in the field of personal data protection), 4.3 percent more than in 2014.<sup>621</sup> In 2015, the number of complaints related to violations of freedom of information about public spending including public procurement and privatisations amounted to almost 34 percent of the total number of complaints. Number of complaints regarding access to information about environment has also increased in 2015.<sup>622</sup>

## Consumer Disputes

The Rule Book on Solution of Consumer Disputes<sup>623</sup> regulates conditions and terms of non-judicial procedure before an independent body, and should be a quicker, more efficient and more economical legal remedy for consumers and buyers.<sup>624</sup>

# International Mechanisms

## UN Human Rights Council

The Human Rights Council has set Special Procedures that are independent human rights experts with mandate to report on human rights from a thematic or country-specific perspective. They can act upon information received on alleged violations of human rights and send communications to States and non-State actors asking for clarification and action.<sup>625</sup> Among the mandated Special Procedures is the Working Group on the issue of human rights and transnational corporations and other business enterprises.<sup>626</sup>

## Independent Inspection Panel - The World Bank

The World Bank has set up an independent Inspection Panel that has the mandate to receive complaints from communities who believe they have been or are likely to be affected by a World Bank-financed project.<sup>627</sup>

A case was presented in 2015 in relation to the Floods Emergency Recovery project.<sup>628</sup>

## Project Complaint Mechanism - The European Bank for Reconstruction and Development

The Bank's accountability mechanism is called the Project Complaint Mechanism, which assesses and reviews complaints about Bank-financed projects. It provides individual(s) and local groups that may be directly or adversely affected by an EBRD project, as well as civil society organisations, a means of raising complaints or grievances with the Bank, independently from banking operations.<sup>629</sup>

As of 2015, two complaints were under review: the first one related to the EPS Power II Serbia project, and the second one in relation to the EPS Emergency Power Sector Reconstruction Loan, and EPS Kolubara Environmental Improvement project.<sup>630</sup>

## Compliance Advisor Ombudsman – International Finance Corporation

Adverse impacts related to projects financed by the IFC or Multilateral Investment Guarantee Agency of the World Bank can be mediated and/or investigated by the Compliance Advisor Ombudsman (CAO). CAO's mission is to address complaints by people affected by IFC/MIGA projects, and to enhance the social and environmental accountability of both institutions. The CAO has indeed both a dispute resolution function and an investigatory one.<sup>631</sup>

## NCP of the OECD Guidelines for Multinational Enterprises

Although Serbia is not an OECD member and currently has no OECD National Contact Point (NCP), complaints about breaches of the OECD Guidelines for Multinational Enterprises by companies registered in OECD countries can be filed to the NCP of that country. The NCP mediates among parties to find a conciliatory solution to the dispute.<sup>632</sup> Should mediation fail, the NCP can make an assessment of the alleged violations in its final statement.<sup>633</sup>

The Guidelines are recommendations addressed by governments to multinational enterprises and they provide voluntary principles and standards for responsible business conduct. The Guidelines include chapters on the following topics: Human Rights (Chapter IV); Employment and Industrial Relations

(Chapter V); Environment (Chapter VI); Combating bribery, bribe solicitation and extortion (Chapter VII); Consumers Interests (Chapter VIII); Science and Technology (Chapter IX); Competition (Chapter X); and Taxation (Chapter XI).<sup>634</sup>

## European Court of Human Rights

The European Court of Human Rights (ECHR and ECtHR) was established in 1959. The Court has 47 judges, one from each Member State. The object of the Court is to ensure observance of the European Convention on Human Rights (ECHR) by members of the Council of Europe. The Court examines applications from both individual citizens and states alleging human rights violations. In recent years, the Court has passed more than 1,000 judgments annually.<sup>635</sup>

A large number of applications were filed with the European Court of Human Rights in regard to the non-payment of wages.

## International Labour Organization

Trade unions and employers' organisations can submit complaints to the International Labour Organization's Committee on Freedom of Association.<sup>636</sup> As of 2016, all cases presented to the Committee were closed.<sup>637</sup>

# Sector Profiles

## Industry-specific human rights risks

### Agriculture

Operating Environment	
Sector contribution to GDP (%)	9.7
Sector contribution to employment (%)	21
Major products	Maize, whole, sunflower, sugar beet, soya bean, potato, apple, plums, grapes, pork, beef, poultry and dairy.
Relevant laws	<ul style="list-style-type: none"><li>• Law on Agriculture and Rural Development</li><li>• Law on Subsidies in Agriculture and Rural Development</li><li>• Law on Incentives in Agriculture and Rural Development</li></ul>

### Sector Profile

Agriculture is one of the most important economic activities in Serbia. The total area of agricultural land was 5 million hectares, about 80 percent of which was arable. Agricultural exports continued to expand, and contributed about 24 percent to Serbian exports. Approximately 55 percent of the population lived in rural areas, one-third of whom rely wholly or partly on agriculture for their livelihood.<sup>638</sup>

Agricultural production was predominantly based on privately-owned farms, and farm structure was dominated by small, private households. Private farms cultivated approximately 89 percent of agricultural land, or 80 percent of arable land.

Poor, small family farms included several categories: ageing farms; farms owned by people who were once employed outside of agriculture or have been long-term unemployed; and people 'returning' from urban areas—mostly older or retired. For small rural farms, agricultural land itself was the basis of their security, but equipment, facilities and mechanization were very modest, out-dated and rarely used for gaining additional income.<sup>639</sup>

The Programme for Rural Development defines as one of its most important priorities the protection of the geographical indication of agricultural and food products in order to define and develop the identity of Serbia's products and to create added value in order to enable family farms to achieve better prices for their products, better market placement, and higher levels of buyers' trust and branding of their products.<sup>640</sup>

Serbia is among the countries with a significant number of Protected Geographical Indication (PGI) products. However, for many of these PGI products there were no adequately authorized producers (authorized for the production and marketing of PGI products).<sup>641</sup>

## Areas for Attention

### Corruption

The Report on State and Cooperative Land in the Procedure of Privatisation, published in 2012 by the Anti-Corruption Council, noted that ‘many agricultural companies were privatised without the question of their ownership over agricultural land being previously resolved,’ allowing elites to obtain the use of agricultural land at low prices.<sup>642</sup> In 2013, local media reported a number of cases of corruption among land administration officials related to valuing property at above-market rates.

### Employment Status

According to 2011 and 2012 Belgrade Centre for Human Rights reports, 33.8 percent of activity in the agriculture sector was informal.<sup>643</sup>

### Forced Labour

According to a 2012 report by the Belgrade Centre for Human Rights, cases of forced labour were rare.<sup>644</sup> The U.S. Department of State’s 2011 Trafficking in Persons Report noted however that forced labour taking place in Serbia was primarily including in the agriculture sector.<sup>645</sup>

### Pollution

The Bertelsmann Foundation reported in 2012 that environmental challenges in Serbia included land degradation due to intensive agriculture and overuse of pesticides and fertilisers.<sup>646</sup> A 2008 the Swedish International Development and Cooperation Agency and Göteborg University report noted that agricultural run-off was a major cause of water pollution in Serbia.<sup>647</sup>

### Worst Forms of Child Labour

Comprehensive data was lacking, but according to the 2005 UNICEF survey, up to 6 percent of children in rural areas were working, significantly more than in urban areas. The U.S. Department of Labour noted that children’s work in agriculture may involve the use of dangerous machinery and tools, carrying heavy loads or the use of pesticides.<sup>648</sup> The Human Rights Panel Majdanpek, an NGO based in eastern Serbia, reported in 2013 that during the season, children employed in agriculture did not attend school.<sup>649</sup>

### Women

In 2013, 20 percent of employed women worked in agriculture.<sup>650</sup> Women were particularly disadvantaged in rural areas, where the majority of the population was engaged in agriculture. According to the 2015 National Gender Equality Strategy, less than 20 percent of women had property rights over land or production equipment.

## Cases

*Reports of business-related human rights issues from NGOs, multilateral institutions and the media.*

- *November 2012, U.S. Department of State:* Nine people, including the former Minister of agriculture, were arrested on charges of corruption and suspected of fraud through the issuance of state loans and the bankruptcy of a state-controlled bank, Agrobanka. Allegedly, Agrobanka granted loans without proper collateral or guaranties to politically connected enterprises. As loans were never repaid, the bank suffered losses that amounted to US\$369 million.<sup>651</sup>

# Construction

## Employment Status

According to a 2012 BCHR report, 42.9 percent of activity in the construction sector was informal, the highest of any sector surveyed.<sup>652</sup>

## Forced Labour

According to a 2012 report by the Belgrade Centre for Human Rights, cases of forced labour were rare.<sup>653</sup> The U.S. Department of State's 2011 Trafficking in Persons Report noted however that forced labour taking place in Serbia was primarily including in the construction sector.<sup>654</sup>

## Occupational Health & Safety

More than 50 percent of lethal accidents occurred in the construction industry.<sup>655</sup> As reported by the Occupational Safety and Health Directorate, consulted in August 2013, construction sector injuries were usually related to non-adherence to basic safety measures and instructions, improper construction of scaffolds, not using safety belts when performing work at high altitudes, lack of training and a lack of periodic health exams.<sup>656</sup>

People working on building sites were reportedly often working illegally, and were therefore more vulnerable to abuses.<sup>657</sup>



# Region Profiles

*Areas where human rights conditions or impacts differ markedly in nature or scale from the national profile.*

## Rural Areas

In 2014, some 45 percent of people lived in rural areas.<sup>658</sup> Poverty in Serbia was mostly a rural phenomenon, and it was expected that the trend of poverty growth in the rural areas will increase in upcoming years.<sup>659</sup>

## Education

School is free of charge. According to UNICEF, children in rural areas reportedly had to walk up to 10km to school, despite the ministries' and local municipalities' obligation to provide them with transportation. They were at higher risk of not completing school.<sup>660</sup>

## Persons with Disabilities

Serbia's Commissioner for the Protection of Equality has noted that persons with disabilities were among the groups facing the most severe discrimination. She emphasised that access to public buildings for persons with disabilities needed to be further improved, especially in rural areas and that public buildings in most cases have no adequate access.<sup>661</sup>

## Women

The Commissioner for the Protection of Equality's data indicated that women in rural areas faced workplace discrimination.<sup>662</sup> According to the 2015 National Gender Equality Strategy women make the majority of unemployed and informally employed rural population (43.4 percent compared to 5.5 percent in urban setting). In rural areas, there was a significantly lower number of women than men covered with retirement and health insurance, 12 percent had no health insurance and 60 percent had no retirement insurance. In the most difficult position were women who were assisting members of agricultural family holdings who had no retirement insurance in 93 percent of cases and were therefore at a greater risk of poverty.<sup>663</sup>

## Worst Forms of Child Labour

According to The U.S. Department of State's 2012 Trafficking in Persons Report, children in Serbia were engaged in the worst forms of child labour.<sup>664</sup> The most vulnerable children included those from impoverished rural communities.<sup>665</sup>

Comprehensive data was lacking, but according to the 2005 UNICEF survey, up to 6 percent of children in rural areas were working, significantly more than in urban areas. The U.S. Department of Labour report noted that children's work in agriculture may involve the use of dangerous machinery and tools, carrying of heavy loads and the use of pesticides that could be harmful.<sup>666</sup> Human Rights Panel Majdanpek, an NGO based in eastern Serbia, reported in 2013 that during the season, children employed in agriculture did not attend school.<sup>667</sup>

According to the European Commission, labour inspectors lacked necessary equipment, such as computers and vehicles, to facilitate proper coverage in rural areas.<sup>668</sup>

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## Laws and Policies

- The Constitution
- Anti-Discrimination Act
- Act on the Protection of Rights and Freedoms of National Minorities
- Act on the Prevention of Harassment at Work
- Act on the Basis of the Education System
- Act on Churches and Religious Communities
- Act on Professional Rehabilitation and Employment of Persons with Disabilities
- Act on Voluntary Pension Funds and Pension Plans
- Criminal Code
- Environmental Protection Act
- Environmental Impact Assessment Act
- Gender Equality Act
- Health Protection Act
- Health Insurance Act
- Integrated Pollution Prevention and Control Act
- Labour Law
- Law On Prevention of Discrimination Against Persons with Disabilities
- Law on Youth
- Law on Preschool Education
- Law on Fundamentals of Education System
- Law on Churches and Religious Communities
- Law on Sports
- Law on property restitution and compensation
- Law on Employment of Foreigners
- Peaceful Settlement of Labour Disputes Act
- Pension and Disability Insurance Act
- Property law
- Public property law
- Property tax law

- Pension and Disability Insurance Act
- Social Protection Act
- Strategic Environmental Impact Assessment Act
- Anti-Discrimination Strategy 2013–2018
- Action Plan for the Implementation of the Anti-Discrimination Strategy
- Education Development Strategy 2012-2020
- Industry Development Strategy and Policy of the Republic of Serbia 2011-2020
- National Anti-Corruption Strategy 2013- 2018
- National Economic Reform Programme 2015-2017
- National Employment Strategy 2011–2020
- National Programme for Reduction of Grey Economy 2015.
- National Security Strategy 2009
- National Strategy for Gender Equality 2016–2020 and the Action Plan 2016-2018
- Occupational Safety and Health Strategy 2013–2017 and The Action Plan
- Strategy for Social Inclusion of Roma 2016-2025
- Strategy Supporting Development of Small and Medium Enterprises, Entrepreneurship and Competition 2015-2020
- European Commission’s Indicative Strategy Paper for Serbia 2014-2020
- European Bank for Reconstruction and Development Strategy for Serbia 2014
- International Labour Organization’s Serbia Decent Work Country Programme 2013-2017
- UN Country Partnership Strategy 2011-2015
- World Bank Country Partnership Framework for Serbia 2016-2020

## National Institutions

- Government of Republic of Serbia
- Agency for Environmental protection
- Anti-corruption Agency
- Belgrade Chamber of Commerce
- Department for Environmental Protection
- Department of Planning and Management in the Environment
- Inspection department for environmental protection
- Inspector General of the Ministry of Defence
- Labour Inspectorate within the Ministry of Labour, Employment, Veteran and Social Affairs
- Institute of Occupational Health within Ministry of Health
- Ministry of Finance
- Ministry of Justice
- Ministry of Construction transportation and Infrastructure
- Ministry of Agriculture and Environmental protection
- Ministry of Interior
- Military Intelligence Services (VBA)
- Serbian Association of Employers'
- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- Association of Independent Trade Unions Serbia
- Occupational Safety and Health Directorate within the Ministry of Labour, Employment, Veteran and Social Affairs
- Parliamentary committee for oversight of the security forces
- Republic Agency for Peaceful Settlement of Labour Disputes
- Social Inclusion and Poverty Reduction Unit
- Serbian Chamber of Commerce
- Security-Information Agency (BIA)

## National Human Rights

- Ombudsperson
- Commissioner for Equality

<h2>Institution</h2>	<ul style="list-style-type: none"> <li>• Commissioner for Information of Public Importance and Personal Data Protection</li> <li>• Commissariat for Refugees and Migration of the Republic of Serbia</li> </ul>
<h2>Local Organisations</h2>	<ul style="list-style-type: none"> <li>• Association of Students with Disabilities</li> <li>• Autonomous Women's Centre (AŽC)</li> <li>• Astra</li> <li>• Atina</li> <li>• Association of Independent Trade Unions Serbia</li> <li>• BIRODI</li> <li>• Belgrade Centre for Security Policy</li> <li>• Belgrade Centre for Human Rights</li> <li>• Bibia</li> <li>• Centre for Children Rights</li> <li>• Confederation of Autonomous Trade Unions of Serbia (CATUS)</li> <li>• Centre for Society Orientation (COD)</li> <li>• Centre for Queer Studies</li> <li>• Centre for Democracy Foundation</li> <li>• Citizen Association 'Serbia on the Move'</li> <li>• Confederation of Autonomous Trade Unions of Serbia</li> <li>• Center for Civil-Military Relations</li> <li>• CEAS</li> <li>• European Policy Centre</li> <li>• Ecological Centre Habitat</li> <li>• Gay-Straight Alliance</li> <li>• Group 484</li> <li>• Gayten</li> <li>• IDEAS</li> <li>• Labris</li> <li>• Liga Roma</li> <li>• Minority Rights Centre</li> <li>• NALED</li> <li>• National organisation of persons with disabilities</li> </ul>

	<ul style="list-style-type: none"> <li>• Open parliament</li> <li>• Praxis</li> <li>• Serbian Association of Employers'</li> <li>• Stop-Mobbing</li> <li>• SeCons</li> <li>• Transparency Serbia</li> <li>• Q-Club</li> <li>• YUCOM</li> </ul>
<h2>International Organisations</h2>	<ul style="list-style-type: none"> <li>• Council of Europe</li> <li>• Delegation of the European Union to the Republic of Serbia</li> <li>• EBRD</li> <li>• Eurostat</li> <li>• European Foundation for the Improvement of Living and Working Conditions</li> <li>• European Environment Agency</li> <li>• Freedom House</li> <li>• ILO</li> <li>• Solidar</li> <li>• Social and Economic Council</li> <li>• SIDA</li> <li>• UNDAF</li> <li>• USAID</li> <li>• United Nations Human Rights Council,</li> <li>• World Bank</li> <li>•</li> </ul>
<h2>International Sources</h2>	<ul style="list-style-type: none"> <li>• Business Anti-Corruption Portal</li> <li>• European Roma Rights Centre</li> <li>• European Foundation for the Improvement of Living and Working Conditions</li> <li>• Food and Agriculture Organization of United nations</li> <li>• Institute of Economic Sciences</li> </ul>

	<ul style="list-style-type: none"> <li>• UNHCR</li> <li>• US Department of State</li> <li>• US Department of Labour</li> <li>• World Economic Forum</li> <li>•</li> </ul>
Media Reports	<ul style="list-style-type: none"> <li>• Blic</li> <li>• B92</li> <li>• Portal Euractiv</li> <li>• Eurofound</li> <li>• VREME</li> <li>• Danas</li> <li>• Vecernje Novosti</li> <li>• RTS</li> <li>• NIN</li> <li>• BETA</li> </ul>
Companies	<ul style="list-style-type: none"> <li>• Telenor</li> <li>• Delta Holding</li> <li>• Erste Bank</li> <li>• <i>Societe General Serbia</i></li> <li>• <i>Ernst &amp; Young</i></li> <li>• <i>Komercijalna Banka</i></li> <li>• <i>Vip Mobile</i></li> <li>• <i>Titan cementara Kosjerić</i></li> <li>• <i>NIS Naftagas</i></li> <li>• Actavis</li> <li>• Avon</li> <li>• Intesa Bank</li> <li>• Coca Cola</li> <li>• Carlsberg</li> <li>• IBM</li> </ul>



# Endnotes

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<sup>130</sup> J. Zulević, Research of Problems Transsexuals Face in the Fields of Education, Labour and Employment, Health Care and State Administration, p. 27 and S. Pavlović, Analysis of the Legal Status of Transgender and Transsexual Persons in the Republic of Serbia, pp. 65, 68 in S. Gajin (ed), Model Law on the Recognition of the Legal Effects of Sex Changes and Determination of Transsexualism, published by CUPS, 2012, 2013, (in Serbian): <http://cups.rs/wp-content/uploads/2010/03/Model-zakona-o-priznavanju-pravnih-posledica-promene-pola-i-utvr%C4%91ivanje-transeksualizma.pdf>

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<sup>132</sup>Article 20

<sup>133</sup>Official Gazete, No. 24/2005, 61/2005, 54/2009, 32/2013 and 75/2014.

<sup>134</sup>Discrimination of women is also prohibited in the Law on the Prohibition of Discrimination and the Law on Labor. Article 20 of the Law on the Prohibition of Discrimination prohibits discrimination based on sex or sex-change. It also prohibits gender-based violence, exploitation, expression of hatred, demeaning treatment, blackmailing and harassment, as is sponsoring, defending and supporting of acts, and acting based on prejudice, customs or other patterns of social behaviour based on the idea of inferiority or superiority of the sexes, namely on stereotype of the traditional role of the sexes. The Labour Law prohibits that persons seeking employment, or those already employed, be put in less favourable position based on gender.



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<sup>135</sup>Euractiv, Srbija 50. u svet u porodnoj ravnopravnosti, 24 October, 2012:

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<sup>136</sup>World Economic Forum, The Global Gender Gap Report 2015, available at:

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<sup>137</sup>Portal Euractiv.rs, Žene u Srbijiteže do poslaibolje plate nego u EU, 2 February 2016, available in

Serbian: <http://www.euractiv.rs/ljudska-prava/9630-ene-u-srbiji-tee-do-posla-i-bolje-plate-nego-u-eu>.

<sup>138</sup>Commissioner for Equality, Annual Report 2015, p. 77, available in Serbian at:

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<sup>139</sup>BCHR received written comments from the office of the Commissioner for Protection of Equality on 8 October 2013

<sup>140</sup>The National Strategy for Gender Equality in the 2016–2020 Period with the Action Plan for the 2016–2018 Period, p. 16.

<sup>141</sup>Official Gazette, 104/09

<sup>142</sup>Article 12 and 13

<sup>143</sup>During the consultations conducted in 2016 with numerous representatives of busnises both state and privately owned, NGOs, international organizations and state bodies.

<sup>144</sup>The National Strategy for Gender Equality in the 2016–2020 Period with the Action Plan for the 2016–2018 Period, p. 16.

<sup>145</sup>Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016, p. :

<sup>146</sup>Institute of Economic Sciences, New Challenges in Changing Labour Markets, 2012:

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<sup>148</sup>ViktimiloškodruštvoSrbije, Diskriminacijaženanatržišturada u Srbiji, 2012, p. 94-105, available in Serbian at: <http://www.vds.org.rs/File/Diskriminacija%20zena%202012.pdf>

<sup>149</sup>*Danas Daily*, “Neravnopravnostopstaje”, 14-15 May 2016, p. 6.

<sup>150</sup>Position of women Serbia 2014, Survey results:

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<sup>151</sup>Position of women Serbia 2014, Survey results:

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<sup>152</sup>Belgrade Centre for Human Rights, Human Rights in Serbia 2015, 2016, p. :

<sup>153</sup>Art. 94 of theLabourLaw

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- <sup>155</sup>Commissioner for Equality, Annual Report 2015, p.78-85, available in Serbian at: <http://ravnopravnost.gov.rs/rs/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%D0%B8/%D0%B8%D0%B7%D0%B2%D0%B5%D1%88%D1%82%D0%B0%D1%98%D0%B8>.
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- <sup>157</sup>Protector of Citizens, Annual 2015 Report, p. 94, available in Serbian at: <http://www.zastitnik.rs/attachments/Godisnji%20izvestaj%20Zastitnika%20gradjana%20za%202015.pdf>
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- <sup>160</sup>The National Strategy for Gender Equality in the 2016–2020 Period with the Action Plan for the 2016-2018 Period, p. 18.
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<sup>189</sup>Brief of the Annual Report of the Commissioner for Equality 2014, p. 83, available in Serbian at: <http://www.ravnopravnost.gov.rs/sr/izve%C5%A1taji/izve%C5%A1taji>.

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<sup>192</sup>Brief of the Annual Report of the Commissioner for Equality 2014, p. 55, available in Serbian at: <http://www.ravnopravnost.gov.rs/sr/izve%C5%A1taji/izve%C5%A1taji>.

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