

## HOW A CORRUPT HEALTH SYSTEM VIOLATES HUMAN RIGHTS

### THE ISSUE OF THE TRANS<sup>1</sup> COMMUNITY IN SERBIA

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EPA-EFE/ANTONIO B—AT, Sanjin Strukić, Vanja Gagović – First Balkan Trans Inter March in Zagreb

### Introduction

According to its constitution, Serbia is a representative democracy. This is, however, not something that the Serbia's youth generally agrees with. Eight out of ten 15 to 30 year olds are convinced that they are not represented in the parliament (79 percent) and that they do not have a representative in the government (80 percent).<sup>2</sup> Furthermore, as many as six out of ten of them think that they have no influence on political processes and decision making (58 percent). This extends to young people in Serbia feeling that they do not have a say in the EU accession process. Throughout the Western Balkans the situation is similar. The sheer absence of democratic representation or influence over political processes combined with a sense of corruption, poverty, social injustice and unemployment, are the main anxieties of youth in Serbia and the Western Balkans, driving them to leave their respective countries.<sup>3</sup> This combination threatens to further weaken civil engagement and its impact on political processes. This is why it is crucial to break this cycle and show through several concrete examples that expectations and hopes of youth are discussed and taken into account.

<sup>1</sup> Trans is a politically correct umbrella term that covers both transgender and transsexual people and will be used throughout this paper.

<sup>2</sup> KOMS, "Alternativni izveštaj o položaju i potrebama mladih u Srbiji – 2018. godina", 2018, pages 33-39. <http://koms.rs/wp-content/uploads/2018/08/Alternativni-izves%CC%8Ctaj-o-polo%C5%BEaju-i-potrebama-mladih-2018..pdf>

<sup>3</sup> Friedrich Ebert Stiftung, "Youth study Southeast Europe 2018/2019", 2019, page 39. <http://library.fes.de/pdf-files/id-moe/15274-20190408.pdf>

This paper will bring light on one issue that is currently supported by civil society in Serbia. This issue is related to a group of younger people who face discrimination and are victims of corruption by the highest institutions. It is about the Serbian trans community and the process of transitioning, the adjustment of a person's sex – as assigned at birth – to their gender identity – a person's internal identity and sense of gender.

This paper argues for this issue to be acknowledged and more strongly supported by EU institutions and its member states because, if there is successful reform on government policy, it could be used as an example where youth had a say, where EU accession process was about protecting and taking into account everyone's interests and it would be something done for a minority group that otherwise in today's Serbia would not be heard or addressed.

### **A long journey to living in the right body**

According to the European Commission's report on Serbia, published in May 2019, trans persons "are particularly vulnerable to violence, abuse and discrimination. Intersex persons remain invisible both socially and legally."<sup>4</sup> One of those persons is Minja, a 26-years old trans woman.<sup>5</sup> She was born in 1993 in a small town two hours from Belgrade and was assigned male sex at birth. Due to the invisibility of the trans community and the lack of information, she lived in confusion for a better part of her life. Minja began with her transition after finishing high school when she sought help from her general practitioner.

The next step for her were therapy talks. The psychiatrists had to diagnose her with gender dysphoria.<sup>6</sup> Gender dysphoria, a condition of mental and sexual health, as officially stated by the World Health Organization in May 2019, is still considered a mental illness by the Ministry of Health in Serbia.<sup>7</sup> There are only three psychiatrists licensed for working with the trans community in Serbia and all three centered in Belgrade. In fact, every doctor and institution linked to the transitioning process is centered in Belgrade, making the process more difficult for people living outside the capital. Minja is one of them and she had to spend four hours traveling every time she had a session. According to her, this step in the process can last from one to three years since there is one session held every two months or more. These sessions consist mostly of cognitive and IQ tests and, according to Minja, they included "little helpful therapy talks." The psychiatrists often addressed her, but other patients as well, with the wrong pronouns, which did more damage than help.<sup>8</sup>

When the psychiatrist was convinced that Minja had gender dysphoria, the next step for her was hormonal therapy. This step, lasting for a minimum of one year, is then followed by gender reassignment surgery. The surgery requires mandatory removal of reproductive organs (sterilization). This is justified by the fact that, if left inside the body, these organs can develop cancer, which has never actually been scientifically proven. In developed countries, such as in the EU or the USA, this procedure has been banned for some time. The Swedish government,

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<sup>4</sup> European commission, Serbia 2019 report, Brussels, 2019, page 28. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-serbia-report.pdf>

<sup>5</sup> Interview with a trans woman taken on June 18, 2019, Location: Pride Info Center, Belgrade, Audio recording in possession of the author, Full name and identity of the interviewed known to the author

<sup>6</sup> It is the condition where a person's sex, attributed to them at birth, does not match their gender identity. Gender dysphoria can be present from a very early age. The child may feel discomfort, experience mental health issues such as depression, anxiety and suicidal thoughts, which can increase in puberty when the body starts developing secondary sex characteristics.

<sup>7</sup> <https://www.psychologytoday.com/intl/conditions/gender-dysphoria>

<sup>8</sup> The interviewed possesses the document signed by the psychiatrist where she is referred to using wrong pronouns

for an example, proposed a bill in 2018 that would grant compensation to trans people who were forced to undergo sterilization<sup>9</sup>.

Minja has recently successfully finished with the hormonal therapy and is waiting for the final step – gender reassignment surgery – like dozens of other persons that every year in Serbia go through this surgery. Since 2011, the State has covered 65 percent of the cost of the surgery. With costs of around 3,000 euros Minja is expected to contribute with over 1,000 euros. Since Minja, as a big number of other trans people, isn't in a stable financial position, for the time being she cannot afford her surgery.

### **Doctors: trans patients' heavy trauma, but the only hope**

The team of doctors responsible for the trans community in Serbia – one psychologist, three psychiatrists, an endocrinologist and a few surgeons are considered among the best teams in the world. They often travel and are members of numerous boards and guests at various panel discussions.<sup>10</sup> They are praised by the international community for their work. Their patients, interviewed for the purpose of this paper, however, tell a different story.

Officially there are three endocrinologists licensed to work with the trans community in Serbia. The endocrinologists are a crucial part of the process of transition because they are the ones responsible for the hormonal changes of their patients, which are followed by physical changes. The three persons interviewed for this paper, Minja, Saša and Vanja, are all patients of one of the three doctors who works in the Clinical Center of Serbia in Belgrade, but also works at a private clinic.<sup>11</sup> If one decides to make an appointment with her at the Clinical Center, which is free and covered by state insurance, they usually have to wait for two months or more, which can be agonizing for a person wanting to begin with or end their transition.

Vanja, a trans man who lived and studied in Romania during his period of transition, wanted to make an appointment at the Serbian endocrinologist's office and claims that he was granted an appointment after two and a half months from calling the Clinical center of Serbia.<sup>12</sup> After he went to the appointment, he was told the doctor was sick and that he could return one week later. After he returned, the doctor denied his visit and wanted to make an appointment after another two and a half months.

Saša, another trans man from Belgrade who is in his early twenties, claims that the endocrinologist, during one appointment, locked him inside her room, took out a professional camera and insisted that he takes his clothes off.<sup>13</sup> Saša, confused and scared of being further mistreated by the doctor, complied to her requests and allowed her to take his naked photos. He is a part of Belgrade's trans group of support and says that numerous trans men in that group share the exact same experience as he does.

When it comes to surgery, both men share an experience of what they describe as "mistreatment and inhumane acts." Before Vanja had his surgeries, he was asked what type of mastectomy he wanted and he clearly said that he wanted the procedure with two incisions, which has a higher success rate. He signed the agreement, had the lines for the incisions

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<sup>9</sup> <https://www.reuters.com/article/us-sweden-transgender-sterilisation-idUSKBN16Y1XA>

<sup>10</sup> <http://programme.exordo.com/epath2017/>

<sup>11</sup> <http://www.polimedic.org/polimedic-medicinske-usluge/endokrinologija>

<sup>12</sup> Interview with a trans man taken on August 24, 2019, Location: Pride Info Center, Belgrade, Audio recording in possession of the author, Full name and identity of the interviewed known to the author

<sup>13</sup> Interview with a trans man taken on August 24, 2019, Location: Pride Info Center, Belgrade, Audio recording in possession of the author, Full name and identity of the interviewed known to the author

drawn on him but, when he woke up, he realized that a completely different surgery had been performed, without his consent. Later, when he realized that he had tissue left in one of his breasts and went to the surgeon to have it checked, the surgeon made him take his clothes off in front of a group of students and said that he didn't see anything wrong.

Before scheduling his surgery, Saša was told that he had to undergo colposcopy - an invasive examination of the cervix, vulva and vagina. Although he told the doctors that he had never had vaginal penetration before, and that his hymen would get penetrated, he was still forced to do so in order to get the approval for the surgery. After the examination was finished, the doctor asked him why he wasn't smiling.

### **Progress – or a step backward?**

Until January 2019 – when changes to the Law on birth registry were made – there was no legal basis for the issues regarding the trans community.<sup>14</sup> Before this, people could get their sex marker changed in their personal documents after finishing the whole process of transition – including mandatory sterilization. With this change, the sex marker can be changed after getting a psychiatric diagnosis and undergoing hormonal therapy for at least a year and getting a signature from both the endocrinologist and psychiatrist. Considering that, according to the persons interviewed for this paper, it takes a long time to make and synchronize appointments with the two licensed doctors, this process can last for months. Also, taking into consideration that around a dozen people go through surgery each year, most of the young trans community in Serbia lives out of sync with their own documents. This leads to discrimination when applying for a job, visiting the bank or the post office, the doctor.

Many trans women who cannot find a job decide to pursue sex work – which is illegal in Serbia. Considering the amount of money needed for hormones and the surgery itself, it is, unfortunately, one of the only ways a trans woman in a lower financial position can earn for living. If arrested, with unchanged documents, they are put in male prisons where they experience discrimination, violence and rape<sup>15</sup>.

### **A simple solution for the trans community – ignored**

In 2014, a group of lawyers and doctors drafted a legal document covering every single issue regarding the trans community in Serbia. It is known as the model of the Law on Gender identity and would address most of the concerns raised by those who are at the moment going through or have recently went through the process in Serbia.<sup>16</sup>

Foremost, this draft law would create a legal obligation for the state to provide transgender people with effective access to required support, in and out of Belgrade, including psychological, endocrinological and surgical expertise in the field of transgender health care.

The draft law envisages that the state takes adequate measures to ensure that the cost of the transition process is covered by health insurance, is legal, objective and proportionate. The model also recommends improving the most important spheres of quality of life of trans persons, such as the necessity of adopting legal measures on a crime committed by hatred,

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<sup>14</sup> European commission, Serbia 2019 report, Brussels, 2019, page 28. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-serbia-report.pdf>

<sup>15</sup> Mršević Z, "Transrodno lice pravde", 2017, page 22, <http://www.zoricamrsevic.in.rs/knjige/Transrodno-lice-pravde.pdf>

<sup>16</sup> Gayten-LGBT, model of the Law on Gender identity, <https://www.transserbia.org/images/2015/dokumenti/Model%20zakona%20o%20rodnom%20identitetu%20s%20brazloenjem.pdf>

as well as enabling the specific protection of trans persons in relation to transphobic crimes and incidents. It also includes the development of rapid and transparent procedures related to changing the names and genders of trans persons (birth registers, ID cards, travel documents, diplomas etc.) as well as abolishing sterilization and other compulsory medical procedures as legal preconditions for recognizing gender identity in the law.

Furthermore it abolishes any restrictions on the rights of transgender persons to remain in their already existing marital communities after changing their documents, as well as preparing and implementing policies that prevent discrimination and exclusion of transgender workers from the labor market. It provides updates for educational and health systems, including consulting with trans persons in the design and implementation of policies and legislations related to them.

The draft law foresees organizing educational programs, trainings and awareness raising campaigns about the existence of discrimination and violation of human rights on the basis of gender identity. It also envisages providing trainings for health care workers, including psychologists, psychiatrists and general practitioners, as well as developing research that would collect and analyze data on the state of human rights of trans persons, including discrimination and intolerance regarding the protection of the right to privacy.

The adoption of the draft law on Gender Identity is not just something demanded by members of the trans community or civil sector in Serbia, it is also an obligation that arise from the Law on Prohibition of discrimination, which in Article 13, states that discrimination based on gender identity is considered a serious form of discrimination. Serbia is also a party to various international documents and standards that should be respected. Serbia, a country on the path to membership in the European Union should incorporate EU legislation and standards, which contain basic principles of equality and non-discrimination, and contribute to the development of the EU as a non-discriminatory environment, which also includes the category of transgender persons.

For years this draft law was available to the public with regular updates made by experts, and it is strongly advocated by members of the trans community and their allies. So far, however, it has been ignored and not taken into consideration by government, parliament or a ruling political party. Until March 2019 when the president of opposition party, Liberal Democratic Party, Čedomir Jovanović, rumored to be cooperating with the ruling coalition, handed over the drafts of both the Law on Gender identity, as well as the Law on Same-sex unions, to the national assembly.<sup>17</sup> Since then these laws have had the status of ‘Laws in procedure’.

Many people, both from the trans community and legal teams that worked on creating the laws are cautious about Jovanović’s gesture. Jovanović did not contact or consult them before the drafts were handed over and he handed over older version of the laws. Taking into account his alleged cooperation with the ruling party, some observers believe that this was a coordinated maneuver.

In favor of this assumption speaks the fact that the Office for gender equality in Serbia has issued a task for the NGOs working on the law to estimate the complete costs and normative interventions of the implementation of the Law on Gender identity by publishing the Social Inclusion and Poverty Reduction Unit<sup>18</sup>, which aims to enhance the social inclusion process in

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<sup>17</sup> [http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi\\_zakona/2019/371-19.pdf](http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2019/371-19.pdf)

<sup>18</sup> Government of the Republic of Serbia, Social Inclusion and Poverty Reduction Unit, 2009, <http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/08/WEB-SIPRU-Brosura-english.pdf>



the Republic of Serbia, in the period 2009 – 2021.<sup>19</sup> This represents a dash of hope for the legal team and the trans community in Serbia.<sup>20</sup>

### **What needs to be done?**

The youth in Serbia does not feel like they have a voice in the parliament or the government. The trans community even less so, and they feel that the issues they face in everyday life are invisible, both to Serbia and to the EU. At the moment, however, there seems to be a window of opportunity for those interested in changing this. It should be used.

Civil society pushing for improvements should be supported by EU institutions and its member states in an attempt to pressure government to ensure that the already existing laws, such as the Law on Prohibition of discrimination or the Law on Birth registers, are implemented properly and that the laws currently in procedure – Law on Same-sex unions and Law on Gender identity be adopted and implemented as soon as possible. This would ensure legal basis for changing the everyday life of trans community in Serbia. It could also be an example for other Western Balkan states to follow.

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<sup>19</sup> <http://socijalnoukljucivanje.gov.rs/en/about-us-2/about-us/>

<sup>20</sup> Interview with lawyer Dr Jelena Simić, taken on June 26, 2019, Location: Union University, Belgrade, Audio recording in possession of the author