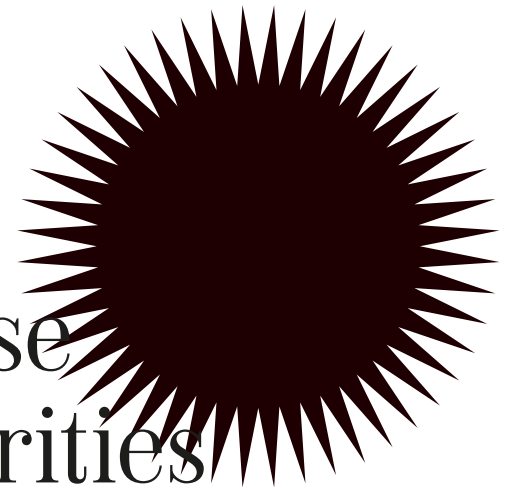


An Analysis of the Media Discourse and Practice of the Judicial Authorities of the Republic of Serbia Relating to **the Phenomenon of Violent Extremism and Foreign Fighters on the Battlefield in the Republic of Ukraine** for the Period from June 2023 to February 2024



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INTRODUCTION

On the two-year anniversary of Russia's aggression against Ukraine, which was also marked with the March of Solidarity in Belgrade,¹ the question of the responsibility of the Serbian citizens participating in the armed conflict in Ukraine remains barely touched upon. When we say "barely touched upon", we primarily think of the fact that the response of the competent authorities is still inadequate. Thus, we cannot be certain about the actual number of Serbian citizens who decided or plan to participate in the armed conflict. According to some estimates, at the end of 2023, there were 500 Serbian fighters², which cannot be considered negligible and which, without any doubt, transfers the responsibility to the authorities to put an end to this phenomenon.

However, the response of the Serbian judicial and security authorities remains unchanged, while the information about the legal proceedings against the organizers is confined to media reports. The verdicts given to Serbian citizens who returned from the battlefield in Ukraine still refer to the period from 2014 to 2016. There are no data for the period beginning with Russia's aggression in February 2022 except those related to Dragan Berić³ against whom the Basic

1 | Jazeera, *U Beogradu održan Marš solidarnosti s Ukrajinom*, 24 February 2024, accessible at: <https://bit.ly/30VV4M6>.

2 | Al Jazeera, *Radio Srbin ide uruske vojnike*, 26 August 2023, accessible at: <https://bit.ly/48uJYm>.

3 | Blic, *Ratni profiter iz Putinaca "Žicka» Samozvani snajperista i Ruski plaćenik poziva građane na front u Ukrajinu, donacije traži u kriptovaluti*, 9 February 2023, accessible at: <https://bit.ly/4bREDdy>

Public Prosecutor's Office in Ruma initiated preliminary criminal proceedings.⁴ There are no other data that could prove a proactive approach by the competent authorities to the persecution and punishment of foreign fighters (on foreign battlefields).

What deserves attention for the period covered by this report is the persecution of Russian anti-war activists who publicly criticize Vladimir Putin's regime, Russia's aggression against Ukraine and other social and political issues and events in the Russian Federation. Their persecution consists in the abuse of the provisions of the Law on Foreigners.⁵ Namely, under the pretext that they pose a national security threat, they are denied entry to the Republic of Serbia, their temporary residence permits are revoked or they receive repatriation decisions. The mentioned negative security assessments are made by the Security Intelligence Agency which was, until recently, headed by Aleksandar Vulin, who was also recently awarded the Order of Friendship by President Vladimir Putin,⁶

The report in front of you aims to give a brief media-based overview of the practice of the competent judicial authorities when it comes to the expulsion or attempted expulsion of Russian anti-war

4 | Ibid.

5 | *Sl. glasnik RS*, No. 24/2018, 31/2019 i 62/2023, dostupno na: <https://bit.ly/2SUJIee>

6 | Radio Free Europe, *Putin odlikovao Vulina Ordenom prijateljstva*, 30 January 2024, accessible at: [January/3uNW02V](https://www.rfepl.net/January/3uNW02V)

activists and, in general, the media narrative relating to the fighting of Serbian citizens in Ukraine on the Russian side.

THE CRIMINAL PROSECUTION OF FOREIGN FIGHTERS IN UKRAINE

The Criminal Code of the Republic of Serbia⁷ prescribes two criminal offences that incriminate the participation of Serbian citizens in war or armed conflict in a foreign country (Article 386a of the Criminal Code) as well as organizing participation in war or armed conflict in a foreign country (Article 386b of the Criminal Code).

3 | PARTICIPATION IN WAR OR ARMED CONFLICT IN A FOREIGN COUNTRY – ARTICLE 386A OF THE CRIMINAL CODE

(1) The Serbian citizen who participates in war or armed conflict in a foreign country, as a member of the military or paramilitary forces parties to the conflict, and is not a citizen of the foreign country, nor a member of the official mission of an international organization of which Serbia is a member shall be punished by imprisonment of six months to five years.

7 Sl. glasnik RS, No. 85/2005, 88/2005 – corr., 107/2005 – corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019, accessible at: <https://bit.ly/2DMH7Lm>.

(2) If the offence specified in paragraph 1 of this Article has been committed within a group, the perpetrator shall be punished by imprisonment of one to eight years.

The act of commission is participation in war or armed conflict (internal or international) in a foreign country, while the way in which a person participates is not important.⁸ It is only important that one is part of military or paramilitary forces, while one's motives to join them are not important.⁹ The intent is a subjective characteristic.

The perpetrator can only be a Serbian citizen who is not a citizen of a foreign country, or a member of the foreign mission of an international organization of which Serbia is a member. This criminal offence is punished by imprisonment of one to five years.

The qualified form implies that a criminal offence was committed within a group, which means that at least three persons joined together for the purpose of continuously or temporarily committing this criminal offence. Such a criminal offence is punished by imprisonment of one to eight years.

8 Ibid., p. 1173.

9 Ibid.

ORGANIZING PARTICIPATION IN WAR OR ARMED CONFLICT IN A FOREIGN COUNTRY – ARTICLE 386B OF THE CRIMINAL CODE

(1) *Whoever with an intent to commit the criminal offence referred to in Article 386b of this Code in the territory of Serbia recruits or encourages another person to commit the offence, organizes a group or trains another person or a group for the commission of the offence, equips or puts at the disposal the equipment for the commission of the offence or gives or collects funds for the commission of the offence, shall be punished by imprisonment of two to ten years.*

(2) *For the offence specified in paragraph 1 of this Article the perpetrator shall be punished by the penalty prescribed for that offence even if the persons who organize are not citizens of Serbia.*

The act of commission is carried out with the intent to commit the criminal offence, including participation in war or armed conflict in a foreign country as specified in Article 386a such as:

- recruitment;
- encouraging; organizing a group;
- training another person or group;
- equipping or putting the relevant equipment at the disposal;
- giving or collecting funds.

All these actions fall into the category of encouraging and assisting in the commission of a criminal offence specified in Article 386a of the Criminal Code of the Republic of Serbia.¹⁰

The subjective characteristics are the intent and special intention aimed at committing the criminal offence specified in Article 386a of the Criminal Code,¹¹ while the constitutive characteristic is also the place of commission, that is. the territory of the Republic of Serbia (RS). This criminal offence is punished by imprisonment of two to ten years. The involvement of persons who are not Serbian citizens is also punishable.

PRACTICE OF THE COMPETENT JUDICIAL AUTHORITIES IN THE PREVENTION OF EXTREMISM

During the period from 2014 to 2022, a total of 32 verdicts was passed establishing the criminal responsibility of Serbian citizens who participated in the war in Ukraine on the Russian side. The agreement regarding the admission of guilt by 32 foreign fighters in Ukraine was confirmed in each of them. Of the 32 verdicts eight of them referred to Article 386a, paragraph 2 with respect to paragraph 1, while 24 verdicts refer to Article 386a, paragraph 1. During the period after the incrimination of participation in war or armed conflict in a foreign country, there were no recorded cases of the

¹⁰ Ibid., p. 1174.

¹¹ Ibid.

criminal prosecution of the persons suspected of organizing participation in war or armed conflict in a foreign country specified in Article 386b of the Criminal Code. These data themselves testify that the approach to this issue was not preventive, but exclusively restrictive and that it referred to individuals and not to the system of organized participation, which undoubtedly exists.¹²

The verdicts passed by the Higher Court in Belgrade clearly show that the penal policy is very lenient. Namely, a suspended sentence was pronounced in 29 out of 32 cases. In addition, two persons were sentenced to six months in prison, which they served in the convicts' living premises. The only one-year prison sentence was pronounced in September 2022 to a Serbian citizen who was in the Hussar Regiment in 2015. However, in January 2023, Radio Free Europe reported that the Appellate Court in Belgrade changed his one-year prison sentence to a suspended sentence.¹³ The author of this report does not know whether any Serbian citizen was convicted for any of the mentioned criminal offences until February 2024.

When it is about the ongoing judicial proceedings, the media reports point out that most cases are in the pre-investigation stage and that the relevant data are not publicly available. What is certain is that the Basic Public Prosecutor's Office in Ruma initiated the

¹² See, for example, Dejan Berić's statement, YouTube, *Српски добровољци на полигону*, 11 December 2022, accessible at: <https://bit.ly/4aig5IW>

¹³ Radio Free Europe, *Dobrovoljcu iz Srbije ukinuta kazna zatvora zbog ratovanja u Ukrajini i izrečena uslovna*, 27 January 2023, accessible at: <https://bit.ly/49Q8u4f>

preliminary criminal proceedings against Dejan Berić after he publicly called Serbian citizens to contact him via his YouTube channel in order to organize their participation in the war in Ukraine.¹⁴

On his official YouTube channel one could watch how this foreign fighter receives payments in cryptocurrencies. According to Radio Free Europe, nearly eight thousand euros passed through the "crypto-wallets" connected with Berić during seven months (the second half of 2022). The post contains several crypto wallet addresses to which payments can be made in various digital currencies: Bitcoin (BTC), Ethereum (ETH), Litecoin (LTC) and the less known currencies such as Monero (XMR) and Decred (DCR).¹⁵

Although Serbian officials occasionally issue positive statements about Serbia's commitment to preventing foreign fighters from going to foreign battlefields, in the European Commission's 2023 report on Serbia's progress in the EU integration process it is stated the following:

"Additional efforts are needed to investigate and prosecute recruitment networks of foreign fighters, particularly in the context of Russia's war of aggression in Ukraine. Authorities should improve capacity to address terrorist and extremist content online, increasing efforts to refer terrorist content to internet companies and

¹⁴ YouTube, *Dejann Bericc*, accessible at: <https://bit.ly/3Tapyw5>

¹⁵ Radio Free Europe, *Tragom kripto novčanika Dejana Berića, srpskog borca u Ukrajini*, 8 February 2023, accessible at: <https://bit.ly/3US1MXa>

enhancing efforts to empower civil society to develop effective counternarratives online”.¹⁶

These findings of the European Commission also point out that Serbia did not invest enough efforts to counter violent extremism in accordance with the recommendations of the UN General Assembly. In its Plan of Action to Prevent Violent Extremism there are several narratives which are, for the purpose of this report, presented in parallel with the narratives in Serbia.¹⁷

- **Syndrome of Collective Suffering and Victimhood** – Serbia as a NATO victim, Russia, which is historically disempowered, because Ukraine is its integral part that was stolen by communists, suffering of the Orthodox people instigated by the West, the EU and NATO, and other strong emotional messages that are easily abused by the drivers of violent extremism – Vladimir Putin’s interview with Carlson Tucker¹⁸ was especially analyzed in the populist Serbian narrative.
- **The substitution of theses and abuse of beliefs, political ideologies and ethnic and cultural differences** – the exploitation of Orthodox religious beliefs, setting the criteria for “measuring”

¹⁶ European Commission, *Serbia: Progress Report 2023*, pr. 63, accessible at: <https://bit.ly/3TbJv5M>

¹⁷ UNGA, *Plan of Action to Prevent Violent Extremism*, 24 December 2015, A/70/674, accessible at: , in further text: Action Plan.

¹⁸ See more on: YouTube, *Goran Petronijevic analizira intervju Putina i Karlsona i poredi dve situacije sa Krimom i Kosovom!*, TV Happy Morning Show, 12 February 2024, accessible at: <https://bit.ly/42Um6ch>

patriotism, justification of aggression as Russophilia, that is, love for Russian tradition and culture and so on.

- **Leadership and social networks** – which depict the actions of the leaders of political and other extremist organizations who spread their influence through media and social networks.

Probably the latest information that is worth mentioning is the news about the discontent of Serbian fighters on the battlefield in Ukraine. In the video clip that lasts several minutes, Serbian citizens explain their problems with the Russian armed forces and directly ask Vladimir Putin to improve their status.¹⁹ The public support to them was also given by Dejan Berić.²⁰ According to some reports, his house was set on fire.²¹

RUSSIAN ANTI-WAR ACTIVIST AND AN UNACCEPTABLE SECURITY RISK

The persecution of Russian anti-war activists, who have a temporary residence permit or permanent residence permit in the Republic of Serbia, continued in the reporting period. It was reflected in the abuse of the provisions of the Law on Foreigners which regulate the

¹⁹ N1, *Muke dobrovoljaca iz Srbije koji ratuju u Ukrajini: Svedoče o torturi, najveći problem – saborci Rusi*, 10 January 2024 accessible at: <https://bit.ly/3vjdqji>

²⁰ Blic, *“CIGANI, ZAŠTO STE DOŠLI OVDE?” Srpski plaćenik koji ratuje u Ukrajini se žalio: “Rusi nas tretiraju kao stoku, vojna policija je SMRSKALA NEKOLIKO GLAVA”* (VIDEO), 9. January 2024, accessible at: <https://bit.ly/3IIQwFa>.

²¹ Blic, (VIDEO) *ZAPALJENA KUĆA SRPSKOG PLAĆENIKA Nedavno je kritikovao ruske komandante, dom u Rusiji mu je IZGOREO DO TEMELJA: “Pretnje su stalno stizale”*, 24 February 2021, accessible at: <https://bit.ly/3wZkJgt>.

treatment of foreigners who pose an “unacceptable security risk” specified in Article 9. Thus, during the previous year, Peter Nikitin, a Russian lawyer and anti-war activist, was denied entry to the country, while an extension of the temporary residence permit was denied to Vladimir Volokhonsky, Yevgeny Irzhansky and his wife, as well as Elena Kuposova and her family and they were demanded to leave the Republic of Serbia.²²

It is also interesting to note that such a practice began to be applied to many other categories of foreign citizens such as actors²³ and pop stars from the neighbouring countries.²⁴ Bearing in mind the profiles of the persons to whom the aforementioned measures apply it is clear that the “unacceptable security risk” label is nothing else but the punishment for their political views, primarily for their criticism of Vladimir Putin’s government and aggression against Ukraine. For this reason, many of these persons had to leave Serbia, while some remained and appealed against such a decision.

22 Radio Free Europe, “Slobodna Evropa, ‘Svaki dan sam u strahu’: Ruski antiratni aktivisti pod pretnjom proterivanja iz Srbije”, 5 February 2024, accessible at: <https://bit.ly/4a1LGie>

23 Danas, Feđa Štukan za Danas: “Pokušaću da uđem u Srbiju posle 12. juna”, 2 February 2024, accessible at: <https://bit.ly/3IM4cPE>

24 Danas, Pevačici Selmi Bajrami zabranjen ulazak u Srbiju, Vulin rekao da je to njegova odluka, 22 January 2024, accessible at: <https://bit.ly/3vklIiq>

What is especially controversial about these decisions is that the entire negative security assessment made by the Security Intelligence Agency (BIA) is marked as secret. Thus, the persons having been negatively assessed do not have the opportunity to find out even a part of the reason for that. Therefore, they cannot efficiently contest the decisions on denying them entry to the country or the expulsion from it in the appellate or administrative court procedure. However, probably due to a public outcry, Elena Kuposova no longer poses a security risk and the order for her expulsion has been revoked.²⁵ One of the reasons for a change in the attitude concerning security assessment is that Vulin is no longer the head of the BIA.²⁶ Vulin himself emphasized that in many of these cases, he himself advocated for certain persons to receive a negative security assessment.²⁷

25 NIN, “Mogla bih da poletim od sreće”: Ruskinja Elena Kuposova za NIN posle odluke da ne bude proterana iz Srbije, 8 March 2024, accessible at: <https://bit.ly/3vn3u8v>

26 NIN, Proterivanja Rusa iz Srbije po nalogu Moskve: Kako je Vulin od BIA napravio trbuhozborca Kremlja, 6 March 2024, accessible at: <https://bit.ly/4cq08ke>

27 Danas, “To se vas ne tiče, to BIA odlučuje”: Zašto su za vreme Vulinovog mandata proterivani politički nepodobni Rusi, 2 February 2024, accessible at: <https://bit.ly/3TI1zHk>.

RECOMENDATIONS

- The competent judicial authorities should open an official investigation in order to expose the network of persons who organize, finance and recruit Serbian citizens for going first to the Russian Federation and then to the battlefield in Ukraine. Such persons should be tried and punished with criminal sanctions that should be proportional to the seriousness of their offence.
- The Ministry of Internal Affairs, namely the Border Police Directorate and all organizational units dealing with the status of foreigners in the Republic of Serbia, as well as the Security Intelligence Agency should stop abusing the security assessment concept against individuals who exercise their

right to the freedom of expression, assembly and association and are therefore declared an “unacceptable security risk”. Thereafter, they are denied entry to the Republic of Serbia or the extension of their temporary residence permit, after which they receive the repatriation decision that can result in their forced repatriation to the Russian Federation where they will be exposed to political and other persecution.

- The highest political officials in the Republic of Serbia should send a clear message by which they will condemn and discourage the recruitment of Serbian citizens for foreign battlefields.

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