



Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters
(Aarhus Convention)

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Ref: ACSR/C/2023/20 (Serbia)
(Please use this reference in your reply)

3 April 2024

Excellency,

I have the honour to address you in my capacity as UN Special Rapporteur on environmental defenders under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

As you may be aware, article 3 (8) of the Aarhus Convention requires that “Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement.” Serbia has been a Party to the Aarhus Convention since 2009.¹

At its seventh session (Geneva, 18–21 October 2021), the Meeting of the Parties to the Aarhus Convention adopted decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention.² Decision VII/9 establishes the rapid response mechanism in the form of an independent Special Rapporteur on environmental defenders under the authority of the Meeting of the Parties. At its third extraordinary session (Geneva, 23–24 June 2022), I was elected, by consensus, by the Meeting of the Parties as the Convention’s Special Rapporteur on environmental defenders.

In accordance with the mandate in decision VII/9, I write to bring to your attention information I have received concerning the alleged persecution, penalization or harassment of Mr. Nikola Krstic, in connection with the exercise of his rights under the Aarhus Convention.

Mr. Krstic is an environmental activist and the director of the non-governmental organization (NGO) “Pokret Tvrdjava”, based in Smederevo, Serbia. Mr. Krstic’s work and that of his NGO focuses on monitoring water, air and soil pollution in Smederevo emanating from the steel factory owned and operated since 2016 by HBIS Serbia, the Serbian subsidiary of Chinese company HeSteel Group (HBIS), located about 5 kilometres from Smederevo. His activities include requests for access to environmental information regarding the pollution, campaigning for the Serbian authorities to take action to protect the local community from the pollution, and the filing of complaints as a result of the environmental harm and insufficient access to information regarding the pollution. In 2023, Mr. Krstic was awarded the International Visitor Leadership Program (IVLP) Impact Award by the United States Department

¹ See: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13&chapter=27&clang=en.

² Available at: https://unece.org/sites/default/files/2022-01/Aarhus_MoP7_Decision_on_RRM_E.pdf.

of State and the Meridian International Centre for individuals recognized as fighters for their communities and their rights.³

Based on the information received, Mr. Krstic is an environmental defender within the meaning of the ninth preambular paragraph of decision VII/9.⁴

According to the information received, since 2018 Mr. Krstic has been subject to repeat threats to his safety and life and to the livelihood of him and his family members, and has been subject to a disproportionate court fine, as a result of his activism to protect his community from the harm caused by the pollution emanating from the near-by steel factory operated by HBIS Serbia. Such acts of harassment and intimidation include, but are not limited to:

Verbal and physical threats

1. In the course of 2018, Mr. Krstic received numerous threats from Mr. Miki Janjic, a local business owner, with alleged ties to the steel factory, including threatening that Mr. Krstic's brother would lose his employment if Mr. Krstic and Pokret Tvrdjava continued their activism. Shortly after the threat was made, Mr. Krstic's brother was let go by his employer.
2. On 15 February 2019, Mr. Krstic received a warning from an acquaintance not to return home that evening as the acquaintance had learnt that there was a plan to physically attack Mr. Krstic at his home that night in connection with Pokret Tvrdjava's efforts to mobilize the community to seek access to environmental information that the community had been denied. Mr. Krstic did not file a report to the police station because he did not believe the police would investigate the matter in an independent, fair and open manner.
3. On 1 December 2021, an anonymous account sent a death threat to the official Twitter account of Mr. Krstic's NGO, saying "you want blood, you want war ... you will have it" (translated from Serbian original) together with two images of masked individuals wearing military clothing and showing their guns to the camera. Mr. Krstic filed a complaint with the police following the threat. While the police identified the person who made the threat against him on Twitter, Mr. Krstic has not been informed that the police took any measures against that person for making the threat.
4. On 10 December 2022, Mr. Krstic, together with two other environmental activists, went to the area near the HBIS steel factory to film and document the air and dust pollution caused by the factory's deposit of slag. While they were filming the pollution, two vehicles followed them and then blocked the road so they could not pass. Two men then emerged from their vehicles and challenged Mr. Krstic and his companions as to why they had stopped in the area and what they were filming. When Mr. Krstic and his companions explained, one of the men remarked that they were from "that one" (that is, the NGO Pokret Tvrdjava) and that they should have called the factory first. When Mr. Krstic and his companions tried to remove themselves from the situation and drive away from the men, the men threw rocks at their car.
5. On 10 May 2023, a letter to Pokret Tvrdjava from the [Belgrade Centre for Security Policy](#), an organization that works on human rights and security issues, was delivered, already opened. Mr. Krstic did not report this to the police as he did not trust that the police would investigate the matter in an independent manner. He believes that the

³ See: <http://pokrettvrdjava.rs/koordinator-tvrdave-dobitnik-medunarodnog-priznanja/>; see more generally on the IVLP Impact Awards, <https://www.meridian.org/project/u-s-department-of-state-ivlp-impact-awards/>.

⁴ Available at: https://unece.org/sites/default/files/2022-01/Aarhus_MoP7_Decision_on_RRM_E.pdf.

opening of Pokret Tvrdjava's mail was intended as an intimidation tactic to show that the State was monitoring and surveilling the NGO's activities.

6. On 27 July 2023, an environmental inspector from the Ministry of Environment, Mr. Goran Zbiljic, entered the NGO office and threatened Mr. Krstic ("If you ever mention my name, you will be sorry"). Mr. Zbiljic also threatened that he would send inspectors to Pokret Tvrdjava to "destroy" the NGO. According to the information received, the incident was prompted by an interview given by Mr. Krstic earlier in the month to Serbia's TV station N1, during which Mr. Krstic had addressed an explosion at the steel plant in March 2023 and had mentioned that, in the past twelve months, the Ministry of Environment had conducted 17 inspections at the steel plant and had identified 14 violations relating to the protection of air quality.⁵
7. On 10 October 2023, Mr. Krstic found a sticker with the number "451" written on it stuck on the door of Pokret Tvrdjava's office. According to the informed received, the label/number is connected with fascist organizations active in Serbia that have previously been engaged in physical attacks on migrants. Mr. Krstic believes that the sticker was posted on Pokret Tvrdjava's door as a warning to him and his NGO not to engage in further environmental activism.

Disproportionate court fine for organizing peaceful environmental protest

8. On 4 December 2021, Mr. Krstic organized a peaceful protest in the form of a roadblock in relation to the high levels of pollution in Smederevo and recent legislative amendments that were seen as favoring foreign direct investors. Mr. Krstic, as the organizer of the protests, was charged with a failure to comply with the laws on public gatherings in relation to the protests.
9. In May 2023, the first instance court in Smederevo decided to drop the charges against Mr. Krstic. However, the Smederevo police subsequently filed an appeal to the Court of Appeal in Belgrade, which then sent the case back to the first instance court.
10. On 3 June 2023, the first instance court then reversed its first decision and ordered Mr. Krstic to pay a fine of RSD 100,000 (approximately EUR 1,000). As noted in the court's decision, Mr. Krstic's monthly salary is RSD 50,000 (approximately EUR 500). Mr. Krstic was not provided with an opportunity to respond or submit any further evidence in response to the submissions by the police before the first instance court rendered its second judgment.

Without prejudging the accuracy of the above allegations, I express my deep concern about the above sequence of events that appear to show a pattern of harassment and intimidation against Mr. Krstic that is directly linked to the exercise of his rights under the Aarhus Convention and his efforts to ensure an environment adequate to health and well-being for him and his community.

In this regard, it is important that I draw to your attention that the Aarhus Convention Compliance Committee has made clear that article 3 (8) of the Convention "also covers penalization, persecution or harassment by private natural or legal persons that the Party concerned did not take the necessary measures to prevent."⁶ In other words, Serbia is under a legal obligation to prevent the

⁵ See: <https://n1.info.rs/vesti/cutnja-o-eksploziji-u-zelezari-mestani-traze-informacije-za-fabriku-sve-u-redu/>.

⁶ See the Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 70, available at: <https://unece.org/fileadmin/DAM/env/pp/compliance/CC-58/ece.mp.pp.c.1.2017.19.e.pdf>.

penalization, persecution or harassment of environmental defenders not just by public authorities, but also by private natural or legal persons.⁷

Mr. Krstic has been subject to recurring threats and acts of harassment since 2018 as a result of his advocacy in relation to the pollution caused by HBIS' steel plant in Smederevo. Such harassment imposes a heavy burden on Mr. Krstic and directly impedes his ability to exercise his rights under the Aarhus Convention and other fundamental rights.

In addition, in relation to the fines incurred by Mr. Krstic for organizing a peaceful protest, while it is within a State's prerogative to impose sanctions for a failure to comply with its legal framework regulating public assemblies, any such sanction must be proportionate. Given Mr. Krstic's monthly income and in light of the public interest pursued by Mr. Krstic's environmental activism, it appears that the fine imposed on Mr. Krstic may have fallen short of the necessary proportionality assessment. Moreover, if proven to be true, I am concerned about the allegation that Mr. Krstic was not provided with an opportunity to respond to the police's appeal before the first instance court reversed its earlier decision and imposed the fine on Mr. Krstic.

As it is my responsibility, under the mandate entrusted to me by the Meeting of the Parties to the Aarhus Convention, to seek to clarify all complaints brought to my attention, I would be grateful for your response to the following matters:

1. Please provide any information and/or comments you may have on the allegations set out in the present letter.
2. Please provide information on the steps taken, if any, by the Smederevo police following the December 2021 death threat against Mr. Krstic as reported to police.
3. Please provide information about local or national protection mechanisms available to environmental defenders in Serbia that face persecution, penalization or harassment or threats thereof as a result of their exercise of their rights.
4. Please provide information on the legal frameworks in place to ensure accountability for harassment and other forms of intimidation by State officials against environmental defenders, such as the verbal threats to Mr. Krstic made by the environmental inspector in July 2023.
5. Please provide information as to the actions taken, if any, as a result of the present letter.

I would appreciate receiving your response within 60 days, that is by **2 June 2024**. After this date, the present letter and the response received from your Excellency's Government may be made public on the Aarhus Convention's website.⁸ They will also subsequently be reported upon in my report to the eighth session of the Meeting of the Parties in 2025.

While awaiting your response, I urge that all necessary interim measures be undertaken to halt the alleged penalization, persecution, and harassment of Mr. Krstic and to prevent their reoccurrence. In this regard, your Excellency's Government should take great care, when looking into the allegations in the present letter, that nothing is done that could put Mr. Krstic at risk of further penalization, persecution, and harassment.

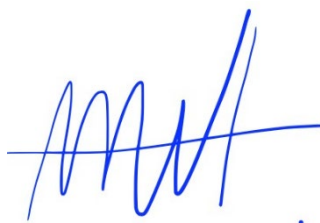
⁷ See also decision VII/9, annex, para. 1.

⁸ Available at: <https://unece.org/environmental-policy/public-participation/correspondence-regarding-complaints-special-rapporteur>.

In the event that your investigations support or suggest the allegations to be correct, I urge you to ensure the prompt cessation of the alleged penalization, persecution, and harassment of Mr. Krstic and to ensure the accountability of any person(s) responsible therefor.

In this context, I would like to remind you of the right of everyone, individually or in association with others, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. In Resolution 24/24 of 9 October 2013 and other resolutions,⁹ the United Nations Human Rights Council has urged States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Human Rights Council has also called on States to ensure accountability for reprisals by providing access to remedies for victims and preventing any recurrence. It has also called on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.¹⁰ I also remind you that the United Nations has established a dedicated office to address reprisals and other forms of intimidation against those cooperating with the United Nations.¹¹

Please accept, Excellency, the assurances of my highest consideration.



Michel Forst

UN Special Rapporteur on environmental defenders under the Aarhus Convention

To: His Excellency, Mr. Ivica Dačić, Minister of Foreign Affairs, Republic of Serbia
Cc: Ms. Tina Janjatovic, national focal point for the Aarhus Convention, Ministry of Agriculture and Environmental Protection, Republic of Serbia

⁹ Human Rights Council Resolutions 12/2, 24/24, 36/21, and 42/28.

¹⁰ Ibid.

¹¹ Available at: <https://www.ohchr.org/en/reprisals>.