

PREUGOVOR ALARM

REPORT ON THE PROGRESS OF SERBIA IN CHAPTERS 23 AND 24



Belgrade, September 2019



This project is funded
by the European Union

PREUGOVOR ALARM

REPORT ON THE PROGRESS OF SERBIA IN CHAPTERS 23 AND 24

Editor:
Sanja Đurković

Belgrade, September 2019

PREUGOVOR ALARM: REPORT ON PROGRESS OF SERBIA IN CHAPTERS 23 AND 24
September 2019

Publisher

Belgrade Centre for Security Policy
Đure Jakšića 6/5, Belgrade
www.bezbednost.org

Editor

Sanja Đurković

Authors

Branko Čečen, Katarina Đokić, Saša Đorđević, Gordana Grujičić, Marija Ignjatijević,
Tanja Ignjatović, Milan Igrutinović, Jasmina Krunić, Vanja Macanović, Zlatko Minić,
Nemanja Nenadić, Jelena Pejić, Predrag Petrović, Isidora Stakić, Sonja Stojanović Gajić

Proofreading

Alisa Radić

Design and layout

Marko Zakovski

Print

Unagraf

Copies: 100 pcs

ISBN 978-86-6237-190-4

CIP – Каталогизacija у публикацији -
Народна библиотека Србије, Београд

341.217.02(4-672EU:497.11)
340.137(4-672EU:497.11)
341.231.14(497.11)

PREUGOVOR Alarm : report of the Progress of Serbia in Chapters 23 and 24 / [authors Branko Čečen ... [et al.]];
editor Sanja Đurković. - Beograd : Belgrade Centre for Security Policy, 2019 (Beograd : Unagraf). - 86 str.; 30 cm

Tiraž 100. - Napomene i bibliografske reference uz tekst.

ISBN 978-86-6237-190-4

1. Čečen, Branko, 1968- [аутор]

а) Европска унија -- Придруживање -- Србија б) Право -- Хармонизација -- Европска унија -- Србија
в) Људска права -- Међународна заштита -- Србија

COBISS.SR-ID 280392972



The Action is supported by the European Union through the program "Civil Society Facility" under the Instrument for Pre-Accession Assistance (IPA). The contents of the Report are the sole responsibility of the publisher and views expressed in this document are not necessarily those of the European Union.

About prEUgovor

Coalition prEUgovor (Eng. *prEUgovor*) is the first coalition of civil society organisations formed in order to monitor the implementation of policies relating to the accession negotiations between Serbia and the EU, with an emphasis on Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security) of the acquis. prEUgovor comprises seven civil society organisations with expertise in the thematic areas covered by Chapters 23 and 24. The coalition was formed in 2013 with the mission of proposing measures to foster improvement in the fields relevant for the negotiation process. In doing so, the coalition aims to use the EU integration process to help accomplish substantial progress in the further democratisation of the Serbian society.

www.prEUgovor.org
www.facebook.com/prEUgovor
www.twitter.com/prEUgovor

The member organisations of prEUgovor are:

Anti-trafficking Action (ASTRA)
www.astra.rs

Autonomous Women's Centre (AWC)
www.womenngo.org.rs

Belgrade Centre for Security Policy (BCSP)
www.bezbednost.org

Centre for Applied European Studies (Sr. CPES)
www.cpes.org.rs

Centre for Investigative Journalism (Sr. CINS)
www.cins.org.rs

Group 484
www.grupa484.org.rs

Transparency Serbia (TS)
www.transparentnost.org.rs

On prEUgovor Alarm Report

The *prEUgovor Alarm Report on the Progress of Serbia in Chapters 23 and 24* is a regular, semi-annual shadow report jointly produced and published by the seven civil society organisations comprising the prEUgovor coalition. The Alarm reports have been the corner-stone of prEUgovor monitoring efforts ever since its inception, focusing on tracking the progress and performance of the Serbian Government on delivering rule of law related reforms. The prEUgovor Alarm reports focus primarily on the selected policy areas from the Political Criteria, Chapter 23 (Judiciary and Fundamental Rights) and Chapter 24 (Justice, Liberty, Security) of the accession process of the Republic of Serbia to the European Union.

Alarm Reports monitor the extent to which the responsible authorities fulfil their obligations envisaged by the Action Plans for Chapters 23 and 24, as well as other complementary initiatives relevant for the rule of law (e.g. reporting to the UN and Council of Europe on specific conventions). In Alarms, prEUgovor members assess the extent of fulfilment of relevant recommendations, activities, and adherence to the timeframe, provide qualitative analysis of the legislative and policy initiatives and assess to what extent these provisions are aligned with the EU regulatory framework. The Alarm Reports neither cover all policy areas from the Political Criteria and Chapters 23 and 24 nor intend to serve as a comprehensive assessment of the Government's reform agenda. The Alarm Reports rather focus on key policies from the above mentioned areas, those that correspond to the field of expertise of each member organisation and in which they possess relevant knowledge and experience. Moreover, the Alarm Reports tend to focus on the most salient policy issues at any given time, which is why their content and length may vary based on the reform priorities.

When writing Alarm Reports, prEUgovor coalition relies exclusively on publically available data relevant to the ongoing reform processes. This includes relevant legislation, bylaws, strategic documents, analyses and reports produced by state authorities and international organisations, media reports, official statements, etc. In addition, prEUgovor relies on findings of other civil society organisations, investigative journalists, testimonies and interviews of relevant stakeholders. Finally, prEUgovor members draw a significant amount of data from their everyday work and research they conduct, which is incorporated into the Alarm Reports and serves the purpose of enriching the findings and informing the debate. Each Alarm Report is drafted by several authors from each of the seven prEUgovor member organisations in a collaborative effort and best practices are put in place regarding quality control, fact-checking, revising and editing the findings. However, if there are errors and omissions to be found, these are not due to the malintent of the authors but rather due to challenges in undertaking the work of this scope.

TABLE OF CONTENTS

Executive Summary	9
Key Messages	10
1. POLITICAL CRITERIA	14
1.1. Democracy – Earlier and Upcoming Elections.....	14
1.1.1. Involvement of Government Officials in Local Election Campaigns	14
1.1.2. Election Conditions, “Negotiations” and ODIHR Recommendations.....	14
1.1.3. Requests of the Opposition	16
1.1.4. Dialogue on Electoral Conditions	17
1.1.5. Investigation of Previous Wrongdoings and Campaign Finance Control	17
1.1.6. Other Campaigns with Unregulated Financing	18
1.1.7. Hidden Political Campaigns.....	18
1.2. The Parliament: Improvements with Limited to No Effects.....	20
1.2.1. Relations with the Independent Oversight Bodies	21
1.2.2. Legislative Work.....	22
1.3. Democratic and Civilian Control over the Security Sector.....	24
1.3.1. New National Security and Defence Strategies.....	24
1.3.2. Parliamentary Oversight over the Security Sector.....	25
1.3.3. Real Danger of Politicisation of the Communal Militia	30
1.3.4. Shrinking Civic Space	32
1.4. Regional Issues and Good Neighbourly Relations	35
1.4.1. Belgrade-Pristina Relations	35
1.4.2. War Heritage: Limited Progress in Border and Missing Persons Issues	37
1.4.3. Salient Topics in Bilateral Relations.....	38
1.5. Anti-Discrimination Policy and Gender Equality.....	39
1.5.1. Social protection: Inconsistencies and Inadequate Solutions	41
2. CHAPTER 23 – JUDICIARY AND FUNDAMENTAL RIGHTS	44
2.1. Judiciary	44
2.1.1. Professionalism/Competence/Efficiency.....	45
2.1.2. War Crimes	46
2.2. Fight against Corruption	47
2.2.1. Absence of Strategic Frameworks, Lack of Political Will and Effective Monitoring.....	47
2.2.2. Legislative Framework and the Work of Institutions	47
2.2.3. Governmental Priorities and Their Implementation	50
2.2.4. Other Unfulfilled Action Plans’ Measures.....	50
2.2.5. Fight against Corruption in the Police.....	53
2.3. Fundamental Rights	56
2.3.1. Access to Information of Public Importance	56
2.3.2. Personal Data Protection	58
2.3.3. Violence against Women.....	59
2.3.4. Rights of the Child	62
2.3.5. Strengthening the Protective Procedural Measures	65

3. CHAPTER 24 – JUSTICE, FREEDOM AND SECURITY	69
3.1. Police Reform	69
3.2. Migration and Asylum	70
3.3. Violence in Sport	73
3.4. Fight against Organised Crime	75
3.4.1. Suppressing and Combating Trafficking in Human Beings	77
3.4.2. Fighting Cybercrime	82
3.5. Fight against Terrorism	83
3.5.1. Right-Wing Extremism.....	84
3.6. Judicial Cooperation in Civil, Commercial and Criminal Matters	85

List of Investigative Stories

Story 1 - A Secret Computer System of Influencing Private Media Users Opinion	19
Story 2 - TV Pink Flew Drones Over Opposition Meeting Without a Licence.....	31
Story 3 - Regulatory Authority for Electronic Media of Serbia Ignored Its Own Expert Service To Protect Pro-Government Media In Electoral Campaign	34
Story 4 - The State of Serbia Showers Pro-Government Media With Public Funds Often Against Regulations	49

List of Tables and Graphs

Graph 1 - Number of pressed criminal charges by the Sector for Internal Control since 2005	54
Table 1 - Results of the Women against Violence Network 2015-2018.....	62
Table 2 - Victims protected by the prolonged emergency protection measures in the period September 2018 – August 2019	64
Table 3 - Asylum statistics	71
Table 4 - Overview of institutions reacting to information forwarded by ASTRA's Victim Support Unit.....	80

List of Abbreviations

ACA	Anti-Corruption Agency
AOF	Serbian Export Credit and Insurance Agency
AP	Action Plan
BIA	Security-Intelligence Agency of Serbia
BiH	Bosnia and Herzegovina
BIRN	Balkan Investigative Reporting Network
CEDAW	UN Committee on the Elimination of Discrimination against Women
CoE	Council of Europe
Commissioner	Commissioner for Information of Public Importance and Personal Data Protection
CPC	Criminal Procedure Code
CRTA	Center for Research, Transparency and Accountability (civil society organization)
CSO	civil society organization
DIAC	Defence and Internal Affairs Committee of the National Assembly
EASO	European Asylum Support Office
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECtHR	European Court of Human Rights
FoI	Freedom of Information
GDPR	General Data Protection Regulation of the European Union
GONGO	Government-Organized Non-Governmental Organization
GRECO	Council of Europe's Group of States against Corruption
GRETA	Council of Europe's Group of Experts on Action against Trafficking in Human Beings
IPA	EU Instrument for Pre-accession Assistance
LED	EU Directive on personal data protection in Law Enforcement
MoI	Ministry of Interior
Moj	Ministry of Justice
MoD	Ministry of Defence
MP	Member of Parliament
NCEU	National Convention on the European Union
NGO	non-governmental organization
NSS	National Security Strategy
NUNS	Independent Journalists' Association of Serbia
ODIHR	OSCE Office for Democratic Institutions and Human Rights
ODKB	Collective Security Treaty Organisation

OSCE	Organisation for Security and Cooperation in Europe
REM	Regulatory Authority of Electronic Media
RTS	Public Broadcasting Service of Serbia
RTV	Public Broadcasting Service of Vojvodina
SEECF	South-East European Cooperation Process
SIGMA	EU and OECD initiative Support for Improvement in Governance and Management
SMATSA	Serbia and Montenegro Air Traffic Services
SOP	Standard Operating Procedures for the Treatment of Trafficking in Human Beings
SNS	Serbian Progressive Party
SSCC	Security Services Control Committee of the National Assembly
UNCAC	United Nations Convention against Corruption
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
UTS	Association of Public Prosecutors and Deputy Public Prosecutors of Serbia

Executive summary

This report contains the prEUgovor coalition's assessment of the political criteria for the EU accession process and the fulfilment of criteria for selected policy areas from Chapters 23 and 24 for the period April 2019 – September 2019. Key findings indicate that the tendency of deterioration continues in most fields.

The Government continues to consider only formal criteria, while in substance its primal concern is that the opposition does not boycott the elections, as that would send a bad message about the state of democracy in the country. Accordingly, the functioning of institutions, the Rule of Law, and the building of social consensus are not priorities that affect the Government's understanding of European integration.

The government is struggling not only to deliver what it had promised; formal commitments, benchmarks, as well as the adoption and extension of specific strategies and action plans are also inadequate and insufficient. The fight against corruption is characterised by the absence of a strategic framework and lack of political will and effective monitoring. Regulatory bodies responsible for control remain inactive and are not provided with sufficient support. Implementation of the law is a growing problem in all fields.

The election process is also highly controversial. The ruling party continues to misuse state resources and offices for its propaganda and electoral needs, which involves various forms of pressure on public sector employees, including, for example, the obligation to attend the ruling party's political rallies. Regulatory Body for Electronic Media, Anti-Corruption Agency and other control and regulatory bodies are not performing their functions; as a result, after unsuccessful negotiations most of the real political opposition announced a boycott of the next parliamentary elections.

The number of laws passed under urgent procedure has been reduced, but the majorisation of the opposition continues, while key positions in agencies and independent regulatory bodies still remain to be filled. The ruling party MPs and the government-controlled media (in other words, the majority of the national media) continue to call the opposition, the non-governmental sector and some university professors traitors, thus marking them as legitimate targets of attack. Instead of opening a dialogue with them, government officials started promoting their own GONGOs (Government-Organised Non-Governmental Organisations) and their "opposition" political parties. Even judges who dare to openly criticise draft laws are in jeopardy of being dragged through the mud and discredited.

The adoption of constitutional amendments concerning the judiciary is once again delayed. The amendments that were proposed by the Ministry of Justice do not introduce an adequate minimum standard of judicial independence.

Developments in the security sector's regulative area are disturbing. The new laws reduce the transparency of governance in this sector, and increase the discretionary powers of politicians with regard to procurement and employment. Control mechanisms of the sector's public procurements and corruption are diminishing, while the number of large procurements is increasing, as well as the number of large contracts concluded outside of the established procedure. The new Law on Communal Militia is also alarming. It significantly expands the powers of this formation and gives local mayors greater discretionary powers over it, leaving much room for potential abuse.

Relations with neighbours have been relatively stable, but without major improvements in resolving outstanding issues. Relations with Croatia and BiH remain unchanged and are therefore generally poor. Relations with Montenegro have worsened due to problems with the new law that regulates the status of Serbian Orthodox Church temples in that country. Negotiations with

Kosovo continue to be frozen, and Pristina's taxes on goods from Serbia and BiH remain in place. Positive results were observed with regard to strengthening regional multilateral economic cooperation. The so-called internal dialogue on Kosovo is no longer talked about, and nothing has emerged from it so far.

A number of laws, bills, action plans and strategies related to gender equality, children and the status of women have not been adopted; on the other hand, the solutions that are being announced can potentially prove to be highly problematic for the position of these vulnerable groups. The Law on Gender Equality has been taken off the agenda, and a new version of the Code Civile proposes the idea of commercial surrogate motherhood, which is a bioethically very controversial issue and could be understood as legalised sale of babies.

Key Messages

1. prEUgovor calls the European Parliament, the new European Commission and EU Member States **to advance the EU enlargement policy** and provide support for more intensive engagement with all aspirant countries. We support the opening of negotiations with North Macedonia and Albania as soon as possible and the development of assessments for the current state of play on Chapters 23 and 24 for all the Western Balkan countries. We call for the European Commission to publish comparative benchmarking reports on the Rule of Law for all aspirant countries as an incentive for reforms and learning among the countries in the region, as was the case with the visa liberalisation process. prEUgovor calls for the selection of a new Commissioner in charge of enlargement portfolio who would credibly support the strengthening of the Rule of Law and democracy in the accession countries, and who would act with the support of EU institutions and Member States in a more decisive hands-on manner to ensure that the countries concerned remain on the reform track. prEUgovor calls the Government of Serbia to appoint new Chief Negotiator with relevant expertise in EU affairs and experience in public administration.
2. prEUgovor calls the EU to improve its toolbox of engagement with the Western Balkans so as to address the elements of state capture in the entire region of the Western Balkans that had been identified in the Enlargement Strategy for 2018. For this purpose, **prEUgovor calls the EU to more effectively monitor the Rule of Law reforms in the countries undergoing accession by commissioning an independent analysis of the mechanisms that endanger democracy and lead to the capturing of public institutions for political purposes.**¹ The added value of such an additional monitoring tool is that it could address issues of state capture in a more comprehensive way, overcoming the segmented chapter-by-chapter analysis present in the regular reports of the European Commission and highlighting links between different segments of governance e.g. control of media, judiciary and fight against organised crime. It could also address in-depth key issues that are not covered by the *acquis*, such as intelligence reforms, elections or political control over state-owned companies. The findings and recommendations of the analysis should be made public so that both the citizens of the Western Balkan countries and international partners can become acquainted with the mechanisms of state capture. The process of collecting and discussing evidence for such a report should be used to launch a national dialogue on priority reforms between the government and the society in each of the Western Balkan countries in order to address the identified problems. The European Commission and EU Member States should back such assessments with their authority, by ensuring that further progress in each of the assessed states will be measured against the recommendations contained in special reports on the Rule of Law. The EU should use this new

¹ A good example of such an independent report, which was commissioned by European Commission in 2015 and 2017 for the case of North Macedonia, is analysed by prEUgovor in Pejić, J. and Stojanović Gajić, S. (2018) Why do we need the Priebe Report as well? How to reverse the trend of state capture in the Western Balkans. Belgrade: prEUgovor. Available at: <http://preugovor.org/Policy-Papers/1482/Why-Do-We-Need-the-Priebe-Report-As-Well.shtml>

reporting tool proactively throughout the region to contribute to a more comprehensive, clear and public understanding of the burning problems faced by democratic institutions and the Rule of Law in the Western Balkan countries, and as effective pressure to resolve them before they explode into a full blown crisis or close the circle of state capture.

3. The Government of the Republic of Serbia continued the process of revision of two top-level strategic documents – the action plans for Chapter 23 (*Judiciary and Fundamental Rights*) and Chapter 24 (*Justice, Freedom, Security*) – with the aim to align deadlines, adjust planned activities to meet the interim benchmarks, and present a roadmap of reforms for the period ending with the year 2021, when Serbia should be ready for closing accession talks. Within this process, the Ministry of Justice (MoJ) and the Ministry of Interior (Mol) organised consultations with civil society; MoJ did this through an open call to all interested stakeholders and the Mol through the relevant Working Group of the National Convention on EU. While many technical recommendations submitted by the civil society have been adopted, the **key implementation challenges of the Rule of Law reforms that have been identified during the first four years of the APs implementation have not been tackled**. In the last publicly available drafts of the revised action plans – much like four years ago – the purpose of activities is not sufficiently precise (e.g. what should be achieved by changing the law and conducting trainings). The emphasis is still on the adoption rather than the implementation of policies and improving the status of groups of citizens that are particularly affected by certain reforms (e.g. women and other vulnerable groups). Most of the current performance indicators are not precise (for example, “improved law enforcement” without determining measurable parameters), leaving room for manipulation in the interpretation of whether Serbia has indeed fulfilled the standards required for joining the EU. Even in policies where there have been significant results, such as access to freedom of information, the Government is aiming to reach only the ‘initial track record’. = The revised AP reports in an unrealistically positive tone concerning the achievements from the initial period, especially in areas such as fight against corruption, organised crime and war crimes. Some issues essential for improving the Rule of Law that are not covered by the APs are also missing, such as the interim benchmark on the operational independence of police investigations and further fight against impunity for war crimes. Last but not least, the early warning mechanism in case of delays and other problems related to the implementation of the action plans is not functioning in practice, as there are no consequences for responsible authorities if they fail to implement planned activities. Because of these weaknesses, prEUgovor is worried that revised action plans would be implemented only formally, without any serious progress in the area of the Rule of Law. **Coalition prEUgovor calls for conducting and publishing an evaluation of outcomes of the implementation during the first four years of the Action Plans**, which would then serve as basis for the continuation of discussions on revision. In that sense, the issue of lack of **implementation of the activities envisaged in the APs for Chapters 23 and 24 should remain on the agenda of all the Government’s sittings until the problems are resolved**.
4. prEUgovor welcomes the involvement of the European Parliament in the **mediation of dialogue on electoral conditions in Serbia and asks for EP’s support for a full and credible implementation of the recommendations of ODIHR and Serbian CSOs on improving the legal framework and the practice of conducting elections and electoral campaigns** so as to secure fair political competition. As an outcome of the informal dialogue on electoral conditions organised by the Open Society Foundation Serbia and the Faculty of Political Science during the summer of 2019, the Head of the Government of Serbia’s Taskforce for Cooperation with ODIHR, minister Stefanović, announced a set of measures which would address the ODIHR’s recommendations. While the Government’s proposal includes some improvements in the area of transparency of Republic Electoral Committee’s work and training of electoral authorities, the proposed changes regarding the financing of election campaigns, prevention of abuse of public office and media coverage are insufficient to improve the integrity of the electoral process. The trend of abuse of public offices and state resources by the representatives of the executive during election campaigns has continued during the local elections in Medvedja, without any reaction from the relevant state institutions (the Public Prosecutor’s Office, the Anti-Corruption Agency and the Regulatory Authority of Electronic Media) due to breach of law, either in this case or in regards to the irregularities identified by the Serbian civil society

during extraordinary municipal elections that took place in 2018. Therefore, prEUgovor calls the Government of Serbia and EU to ask for ODIHR reviews of all the legislative changes regarding the electoral process and the evaluation of the set of measures proposed by the Government's Taskforce against previous ODIHR recommendations.

5. The possibilities for a **dialogue in the media and key political institutions such as the Parliament remain limited**. The abuse of parliamentary procedure has stopped after the opposition parties started to boycott the Parliament by, but the quality of debate did not improve and the work of the Parliament remains captured by the ruling party. The practice of grouping unrelated yet significant items on the agenda of a single session (e.g. changes to the Criminal Code, adoption of the Law on Prevention of Corruption as well as elections of judges) was maintained, limiting the time and quality of debate on legislative proposals. Legislative amendments and other proposals of the few remaining opposition MPs are either not discussed at all (proposals of new laws, establishing inquiry committees, etc.) or are rejected if the Government does not share the views on the topic. The ruling majority kept using televised plenary sessions to attack the opposition, civil society and media, missing the opportunities for substantial discussions on most relevant events and national policies. The oversight agenda is also set by the Government, not by the Parliament. The relevant committees rely predominantly on consideration of regular reports that Government institutions are obliged to submit in set terms (annually, semi-annually or quarterly). Much of the scrutiny of Government performance by committees and in plenary is actually formal and not substantial, as evident from the session on examination of reports submitted by independent oversight institutions. The right to free expression and information, as well as media freedoms, was attacked through institutional pressures on the media, abuse of public resources for financing desired media content, demeaning treatment of journalists by public officials, and reduced provision of information requested under FoAI legislation. The members of prEUgovor are concerned that if the capture of institutional spaces for dialogue continues, it might lead to attempts to resolve disputes in the society by other means. Therefore, it is of key significance to **ensure conditions for fair and meaningful discussion of public issues in the Parliament and the media. The EU should monitor parliamentary work more closely**, with the emphasis on: a) quality of debates in the Parliament and attempts to create a societal consensus on key social challenges; b) focus on credibility and functionality of parliamentary legislative and oversight work by analysing its impact regarding: 1) improvement of transparency of work of the executive and 2) the systems in place that guarantee legality, efficiency and effectiveness of governance.
6. **External oversight of the executive continues to be hampered by the weakening of independent oversight institutions**. The work of independent state institutions is undermined by the absence of appointments to key posts (four Deputy Ombudspersons) and boards of these institutions (the Anti-Corruption Agency - ACA, Regulatory Authority of Electronic Media - REM). The track record of ACA deteriorated since the appointment of new leadership that is close to the ruling party, as evident in more lenient procedures initiated by ACA against politicians suspected of breaching anti-corruption laws. Likewise, the number of complaints submitted by citizens to the Ombudsman has decreased, as well as the frequency of the Ombudsman's public engagement in politically sensitive cases. The Parliament considered recommendations from the annual reports submitted by the independent oversight institutions, but the poor quality of parliamentary debate and adoption of weak conclusions suggest that there will not be an effective follow-up on the recommendations of independent oversight bodies. The new Commissioner for Information of Public Importance and Personal Data Protection was appointed at the end of July 2019, seven months after the term of office of the former Commissioner expired in December 2018.

7. Attacks by representatives of the Government, the Parliament and pro-Government media on individual citizens, civil society, media outlets and unions that highlight problems in local and national governance continued during the reporting period. Some of the significant cases include: the attacks of ruling party MPs in the Parliament on civil society; independent journalists who use freedom of access to information to scrutinise the work of security institutions; disciplinary procedure initiated against a member of the Association of Public Prosecutors of Serbia (UTS) based on allegations made by pro-government tabloid; troll attacks on investigative journalism organisation *Južne Vesti* after the publishing of an article on trolling organised by ruling party, etc. The silencing of critical voices was supported by the creation of a parallel civil society, the so-called Government operated non-governmental organisations (GONGOs), which have been established and funded with the aim of providing support where such support was missing (e.g. in the debate on the Constitution). **The Government should do everything in their power to bring to justice both perpetrators and those who ordered vicious attacks on the critical voices of the society. Government institutions should publicly condemn smear campaigns that take place in tabloid and social media, as well as those targeting representatives of the civil society, media and opposition.**

1. POLITICAL CRITERIA

1.1. Democracy – Earlier and Upcoming Elections

1.1.1. Involvement of Government Officials in Local Election Campaigns

The Government continued with the practice of abusing public resources for the purpose of political campaigns. In this period, elections were held only in the municipality of Medvedja, on 8 September 2019. Out of a total of 108 activities of the Serbian Government recorded between 22 July (when the elections were called) and 8 September, there were altogether 28 events that took place in Serbian cities and municipalities outside of Belgrade. Bearing in mind the overall number of such municipalities (144), random distribution of government visits would be 0.19 per each municipality. However, there were as much as three such visits of Government ministers to Medvedja only, which is frequency of visits that is almost 16 times greater than what would constitute a normal distribution of events. None of these events had to occur in the pre-electoral period, was and the presence of ministers was not necessary.

The Minister of Sports chose Medvedja in order to visit a sports hall “that needs reparation of roof and parquet”, meet with young football players and pay a visit to one village school. During the visit, “children were given sports uniforms and equipment” without any identification of the donor.² During the same period, Minister of Labour and Social Policy visited a family with ten children, took pictures and donated two lap tops. In his words, “The Ministry will support Medvedja to develop ‘social cards’ and foster entrepreneurship”.³ Finally, the Minister of State Administration spoke with the Medvedja municipal leadership about “improving the services of the municipality and about projects for a better life of the citizens.”⁴ The Minister used this opportunity to mention that in previous period Medvedja received RSD 1.4 million to purchase computers, and directly used the opportunity to call for „support for the implementation of Government policies on local elections”.

1.1.2. Election Conditions, “Negotiations” and ODIHR Recommendations

In early September 2019, the Government of Serbia established a Task Force (working group) for cooperation with the OSCE/ODIHR in the context of upcoming parliamentary elections and previous recommendations provided by international observers (2016 and 2017).⁵ **The mandate of the Task Force, led by Deputy Prime Minister Stefanović, is not fully known.** There are many possible dilemmas in that regard, having in mind that some of the crucial stakeholders are not part of the executive branch and that the Government of Serbia is significantly limited by law when it comes to addressing issues that fall under the scope of powers of the Parliament, the Electoral Committee, the Anti-Corruption Agency or the Regulatory Authority of Electronic Media. The Government is allowed to tackle all relevant issues only through legislative initiatives.

To date, representatives of the ruling party announced their willingness to make some rather limited changes to the Law on Financing of Political Activities⁶. Currently, there is a plan to define more precisely the notion of “public resources” that may or may not be used for political

2 <https://www.srbija.gov.rs/vest/406938/poboljsanje-uslova-za-razvoj-sporta-u-medvedji.php>

3 <https://www.srbija.gov.rs/vest/405615/djordjevic-posetio-porodicu-sa-desetoro-dece-u-medvedji.php>

4 <https://www.srbija.gov.rs/vest/403539/pomoc-medvedji-za-modernizaciju-rada-opstinske-uprave.php>

5 <http://preugovor.org/Policy-Papers/1399/Presidential-Elections-Law-Enforcement-and.shtml>

6 Based on the unpublished working document produced by the ruling coalition parties, which author was allowed to see.

campaigns. Similarly, the plan is to also introduce sanctions for the abuse of public resources into the Law on Public Enterprises. **Since the abuse of public resources for political campaign purposes is already prohibited, it is doubtful whether any of these changes would represent a tangible improvement of the legal framework.** The announced changes related to the duty of the Anti-Corruption Agency to quickly investigate abuse of public office for campaign purposes could prove to be more useful. This Law should also elaborate the duties of the Agency concerning control of campaign financing in general (i.e. not just the abuse of public resources). On the other hand, there is no willingness yet to improve the provisions of the law governing the distribution of budget funds to campaign participants, although the current system fosters inequality, to increase the transparency of campaign funding or to rectify many other problems that have been identified in several strategic documents and expert reviews since 2013.

No substantial changes to the legal framework are envisaged in the Law on Anti-corruption Agency/Law on Prevention of Corruption, regardless of the fact that they are much needed in order to limit “public officials’ campaigning”. The first governmental “conclusion”, issued as part of the “electoral package” on 23 September 2019,⁷ only provided information to various public officials and civil servants about their already existing duty to abstain from abuse of public resources during the campaign, to clearly identify the capacity in which they speak, and the like. There might be some benefit from that announcement in the practice, but media coverage, including some clearly wrong interpretations, shows that **the main goal was to create an impression of willingness to resolve the problem**, rather than to actually do it. On the other hand, there is clearly no intention to limit in any way the frequency of Government representatives’ and other officials’ promotional activities in their official capacity during the electoral campaign period. In particular, the governmental “conclusion” could not in any way affect the campaigning of public officials not under the Government’s oversight and control (e.g. President of the Republic, local government officials).

Several issues were tackled in the second round of Governmental conclusions on 26 September 2019,⁸ including the accuracy of the voters’ registers and their oversight, trainings of civil servants working on the voters’ registers, recommendations to the Electoral Committee to ensure public access to data on the voting results at the polling stations, organisation of trainings of electoral administration and regulation of election observation.

However, it is still unknown what the plans of the Serbian Government and other relevant institutions are when it comes to addressing the rest of ODIHR recommendations.⁹ **It is certainly obvious that the appointment of the Government Task Force came rather late, and also that it is part of the effort of the government and the ruling party to improve their democratic image after the EC report criticism** and the boycott of elections that was announced by the major opposition parties. The announcement of a dialogue on electoral conditions between the government and opposition, with EU Parliament representatives as mediators, could be useful to push for the needed reforms. Since in its reports EC relied largely on ODIHR opinions, the most proper format for such a discussion would be the one where Serbia would present its achievements in connection with each of ODIHR 2016 and 2017 recommendations. Similarly, it would be valuable to hear the ODIHR expert opinion about the quality of any intended changes of legislation. This would make things clearer, even prior to announcing the elections, as to the extent to which the overall situation has actually improved.

7 <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/naslovna/10747-problem-funkcionerskih-kampanja-nije-resen>

8 <https://www.srbija.gov.rs/vest/414144/usvojeni-zakljucci-za-dodatno-unapredjenje-izbornog-procesa.php>

9 <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/10730-sta-ce-pratiti-radna-grupa-vlade-a-sta-bi-trebalo-da-radi>

In the past few years, the Government took some action regarding the voters' registers that improved the situation in practice. Some issues that are relevant for the elections have been tackled in the draft Media Strategy developed in late 2018.¹⁰ However, the document prepared by an unknown group after the public debate excluded key activities related to the oversight of Regulatory Authority of Electronic Media,¹¹ proven to be one of the weakest links in the implementation of electoral rules. On the other hand, **there were no activities, either legislative or factual, that aimed to improve the situation in the areas of campaign financing and distinguishing between public office and political campaign.** Moreover, in May 2019 the Government proposed and the Parliament adopted, in the new Law on Prevention of Corruption, a provision governing political activities of public officials that is exactly the same as the one contained in the current Law on Anti-Corruption Agency.¹²

1.1.3. Requests of the Opposition

In June 2019, the opposition parties gathered around the Alliance for Serbia presented the recommendations provided by the expert team of the "1 out of 5 million" protest,¹³ as well as their own requests, i.e. conditions that would have to be met in order for the opposition to participate in the upcoming national, Vojvodina province, and local elections in most of the cities. Ruling party representatives did not agree to consider those requests, commenting on them in various ways including a call to discuss all the issues in the Parliament and other state institutions, claiming that key requests of opposition were unlawful, accusing former ruling parties of hypocrisy because of the fact that most of current rules were formulated prior to 2012, stating that opposition does not know what it wants, or stating in an ironic manner that "all requests will be accepted". The key requests of this coalition, based on 42 recommendations are: a) abstinence of the President of the Republic from any electoral campaign activity; b) dismissal of current members of the Council of the Regulatory Authority of Electronic Media and appointment of new ones based on a political consensus, and 3) dismissal of the management of the public broadcasting services of Serbia (RTS) and Vojvodina (RTV).

Indeed, some of the requests are quite disputable. For example, it is clear that the President of the Republic should not abuse his public office to promote the interests of his party. On the other hand, the current Constitution does not prohibit him from taking part in the campaign of his own political party. REM Council members can indeed be dismissed by the Parliament, but based on a proposal submitted by 20 MPs, based on the opinion of the REM Council itself, and using a parliamentary procedure whose details are not regulated.¹⁴ Dismissal and appointment of RTS and RTV management is not something that ruling party politicians could legally commit to, since the body competent for the issue is the Managerial Board of RTS, which is appointed by the REM and not by the Parliament.¹⁵

10 <https://www.srbija.gov.rs/specijal/362240>

11 <https://insajder.net/sr/sajt/tema/14627/>

12 <http://www.transparentnost.org.rs/index.php/en/ts-and-media/press-issues/10550-law-on-preventing-corruption-does-not-resolve-important-issues>

13 <https://savez-za-srbiju.rs/predstavljene-preporuke-strucnog-tima-ispred-ucesnika-protesta-1-od-5-miliona-slobodni-mediji-i-izbori-su-preduslov-demokratije/#.XX9qIWkzZPY>

14 It is interesting to note that 22 opposition MPs proposed the dismissal of REM Council members back in 2017 and obtained an (negative) opinion of the Council. However, following such an opinion, the Parliament did not consider the proposal. The proposal was probably not fully in line with the law, having in mind that the request for dismissal concerned all the members, not each of them individually. There were no other official proposals for dismissal in 2019, probably because of the boycott of the parliamentary activities.

15 http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/TS_osvrt_na_pojedine_preporuke_strucne_grupe_1_od_5_miliona_i_SZS.pdf

1.1.4. Dialogue on Electoral Conditions

In the absence of direct negotiations between the political parties, many of them accepted the invitation of the Faculty of Political Science and the Foundation for Open Society to take part in the dialogue on elections that started in July 2019 (it seems however that some parliamentary parties were not invited at all, including Serbian Radical Party and *Dosta je bilo*). The dialogue was facilitated by three NGOs – CESID, CRTA¹⁶ and Transparency Serbia,¹⁷ which provided their analyses of various election-related problems as well as recommendations on how to resolve them by way of legislative and other measures. The list of issues includes election campaign financing, the role of media, electoral administration, and protection of voters' rights.

There were some controversies about the dialogue, caused by the "Chatham House" rules and the unclear mandate of dialogue participants to reach a mutual agreement concerning the steps to be taken once the dialogue was finished. **Most opposition parties abandoned the dialogue in early September because their requests, defined as a minimum, were not accepted by the ruling parties.** On the other hand, ruling party representatives orally supported some of the CSO recommendations. Some of the intended measures of the governmental Task Force are actually connected to the proposals submitted by CSO. There was no elaboration about the reasons for not accepting the rest of the activities that were proposed.

1.1.5. Investigation of Previous Wrongdoings and Campaign Finance Control

Public authorities did not properly address criminal charges that were filed in February 2018 by NGO CRTA against persons who have misused vehicles and other resources of public institutions during the local election in Lučani.¹⁸ According to the representatives of the above NGO, only one out of 13 criminal charges has been resolved (by conclusion that there was no liability). There is no information about any Public Prosecutor's Office action concerning irregularities from previous elections.

During this period, the **Anti-Corruption Agency did not publish reports** on the control of political parties' and other political subjects' annual financial statements for the years 2017 and 2018. However, in August 2019 they published a report on the control of financing of the electoral campaign held in Belgrade 15 months earlier,¹⁹ and a report on the election campaigns organised in 10 municipalities in 2018²⁰. These reports do not clearly identify all cases of potential violation of the law. This is partly due to the fact that there is no legally prescribed list of issues that ACA should cover through monitoring.

There is no information available on the eventual internal discussion and the decision of the Agency's Board on the potential conflict of interest of its Director with regard to control of campaign and party funding. Namely, the Board appointed as **Director a person who has multiple ties with the SNS ruling party** (he was a representative in a local electoral commission, candidate for councillor, donor) and who was actually a member of the party on the very day he was appointed.

16 <https://cрта.rs/wp-content/uploads/2019/03/CRTA-2020-PREPORUKE-web.pdf>

17 <http://www.transparentnost.org.rs/index.php/sr/inicijative-i-analize-ts>

18 <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/10478-krivicne-prijave-zbog-zloupotrebe-javnih-resursa-u-kampanji>

19 <http://www.acas.rs/wp-content/uploads/2019/08/BGD-izvestaj-kampanja-2018-FINAL.pdf>

20 <http://www.acas.rs/wp-content/uploads/2019/09/Izvestaj-lokalne-kampanje-jun-2018-izmenjen-.odt>

1.1.6. Other Campaigns with Unregulated Financing

Although it is clear that changes to the Constitution will be made in the area of judiciary (planned for 2019, but currently postponed), they will require a national referendum to confirm the proposal made by two thirds of the parliamentary majority. However, Serbia does not have any legislative provisions that regulate the **financing of a referendum campaign** which could serve to prevent the abuse of public resources aimed at supporting one of the possible referendum answers.

The issue may be tackled through the current Ministry of State Administration's work on the Law on Referendum and Peoples' Initiatives. The introduction of such a regulation becomes even more important when one is reminded of the experiences from the referendum campaign of 2006, when parties were illegally financed from the budget and were running their campaigns without an obligation to report the costs, while the Government – using public resources – ran its own propaganda in favour of the positive answer.

As explained in previous ALARM reports, campaign financing and abuse of public resources continues to be an issue in the case of **elections in sub-municipal boroughs and national minority councils**.

1.1.7. Hidden Political Campaigns

State institutions in charge of potential violation of the rules relating to political promotion, in particular the Regulatory Authority of Electronic Media (REM) and the Anti-Corruption Agency (ACA), remain silent about the hidden campaign run by the country's President in the first half of 2019. Furthermore, ACA even gave a carte blanche for such campaign, releasing it from any potential violation of the Law on Anti-Corruption Agency.

In this period, President of Serbia Aleksandar Vučić continued his "Future of Serbia" campaign.²¹ Having in mind that the campaign has no other web-page than President's Instagram profile, it is not clear what activities are part of the campaign and which are not. Namely, aside from promotional rallies, the campaign's Instagram profile also contains information about President Vučić's meetings with foreign officials, interviews given to various media, meetings with women's volleyball teams and other unrelated activities. **The plan of the campaign or its goals, legal grounds and budget were never published as a comprehensive document that could be assessed.**

According to President Vučić's statements, he intended to visit all 29 districts of Serbia (i.e. including those in Kosovo and Metohija) and about 100 cities and municipalities to "present results to the citizens, elaborate further plans and hear their objections." Between March and September 2019, he visited and organized mass rallies in following districts: Srem – 8 March 2019;²² Podunavlje – 9 March 2019;²³ Bor – 16 March 2019;²⁴ Mid-Banat – 30 March 2019;²⁵ Braničevo (Požarevac) – 6 April 2019;²⁶ South Bačka, Novi Sad – 11 April 2019;²⁷ Belgrade – 19 April 2019²⁸; Timok (Zaječar) – 15 June 2019;²⁹ West Bačka – 29 June 2019³⁰.

21 https://www.instagram.com/buducnostsrbiav/?utm_source=ig_embed

22 <https://bit.ly/2n93UfB>

23 <https://bit.ly/2oEQwAd>

24 <https://bit.ly/2nYbo50>

25 <https://bit.ly/2mZFLbu>

26 <https://radiopozarevac.rs/vucic-odrzo-miting-u-pozarevcu-o-okviru-kampanje-buducnost-srbije/>

27 <https://bit.ly/2nYcb5Y>

28 <https://www.blic.rs/vesti/politika/sns-miting-u-beogradu-2019-uzivo-vucic/whrc2q5>

29 <https://bit.ly/31zKEHG>

30 <https://bit.ly/2nYOTxa>

The key event during this period, aside from the mass rally in Belgrade, was the opening of the part of the highway named “Miloš the Great” on 18 August 2019.³¹

There are clear indications that the **campaign substantially favours the ruling Serbian Progressive Party (SNS)**. Namely, as stated above, within the campaign Vučić intended to speak to the people about “what has been done since 2012, when SNS came to power”,³² and that is what he mostly did.

The content of the campaign speeches shows that the main purpose of this activity was to either foster the upcoming elections or oppose the anti-government protests known as “One of Five Million”,³³ which were organised in Belgrade and dozens of other cities and municipalities since 30 November 2018. These protests significantly lost their strength after the 12 April 2019 central meeting in Belgrade; coincidentally, the frequency of Presidents’ mass rallies decreased thereafter.

The “Future of Serbia” campaign events involved organised transport and attendance of supporters during **the rallies, including people working in public sector institutions** and companies that received state aid.³⁴ It remained unclear to what extent SNS was directly involved in the organisation of events, e.g. through the financing of transport. The Agency never requested financial reports of such sort (although it is entitled to ask for in-year reports about specific issues of party financing). When asked directly, the Prime Minister and Vice-President of SNS did not provide any information on the amount and sources of financing of this campaign.

Story 1 - A Secret Computer System of Influencing Private Media Users Opinion

Serbian Progressive Party activists have until recently been able to leave thousands of pluses and minuses regarding the comments posted on the *Kurir* daily and *Espresso* websites through the *VotR2* app, thus influencing the readers of these popular private media. The app contains information from the two websites’ code, as shown by research conducted by the Centre for Investigative Journalism of Serbia (CINS).³⁵

Judging by the analysed code, after they have downloaded and launched the app on their phones, the users receive a code which they need to verify through a programme on their computer. The app then continues to operate without further orders from the user, i.e. “in the background” of the phone, where it performs the work it was designed for.

Voting is done automatically every six seconds, with up to five votes per comment, after which the app moves on to the next comment. Votes are awarded according to a list of comments, with specific instructions as to whether a positive or a negative vote should be given.

With the help of several experts, CINS analysed the code and found data on an IP address, the unique number used by computers to communicate with each other on the Internet. Verification of the IP address ownership showed that its owner was the *Serbian Progressive Party*. The party registered this IP address in March 2016 at the address of the party headquarters.

According to experts, for the app to access the *Kurir* and *Espresso* websites in this way, the medium itself allowed access to the Serbian Progressive Party, or someone hacked their mobile apps. The third option is insufficient protection. The *Progressive Party* did not answer CINS’ questions.

Kurir.rs boasted that close to 2.8 million readers visited the website in the course of August 2018, whereas research conducted by the *Balkan Investigative Reporting Network (BIRN)* showed that these two media had attracted 7.5% of the total audience in Serbia in 2018.

31 <https://bit.ly/2o0pwe1>, <http://rs.n1info.com/Biznis/a508670/Otvoren-autoput-Milos-Veliki.html>

32 <https://www.srbijadanas.com/vesti/info/kampanja-buducnost-srbije-pocinje-sutra-vucic-krece-u-obilazak-100-opstina-najavljujuci-nove-2019-02-06>, <https://www.blic.rs/vesti/politika/vucic-spotom-najavio-pocetak-kampanje-buducnost-srbije/r99ngt6>

33 <http://rs.n1info.com/tag40040/protest-jedan-od-pet-miliona/1>

34 <http://rs.n1info.com/Vesti/a459787/Vuciceva-kampanja-Buducnost-Srbije-Koliko-kosta-i-kako-se-finansira.html>

35 <https://www.cins.rs/en/serbian-progressive-party-bots-had-access-to-kurir-and-espresso-websites/>

RECOMMENDATIONS:

- EU Parliament and ODIHR should support the improvement of electoral conditions in Serbia by focusing the upcoming dialogue on things to be done to address all problems previously identified by ODIHR Missions, and by providing expert opinion on draft legislative amendments in advance;
- The Government's Task Force for cooperation with OSCE should incorporate representatives of all relevant institutions and oversee the process of amending the election-legislation, which should start immediately in order to be finalised by the end of 2019. It includes necessary improvements, particularly to:
 - » The Law on Financing of Political Activities (beyond current plans of the task force);
 - » The rules for public officials campaigning, in the Law on ACA/Prevention of Corruption;
 - » Rules related to the media oversight;
 - » Rules on political and public sector advertising;
 - » Rules related to the reporting on and investigation of criminal offences related to the elections and campaign financing.
- The Board of the Anti-Corruption Agency (ACA) should decide on the conflict of interest of the Director of ACA whenever the financing of the Serbian Progressive Party - SNS (his former party) is subjected to control;
- The Regulatory Authority for Electronic Media (REM), ACA and the Public Prosecutor's Office should publish all information on conducted oversight and measures that have been implemented in connection with the alleged violations of campaign and campaign financing rules; they should also encourage citizens to report such wrongdoings in the upcoming electoral campaign;
- The President and Government of Serbia should provide information about the purpose and sources of funding of the ongoing "Future of Serbia" campaign, while ACA should collect key information about the financing of the ongoing pro- and anti-government rallies, as political parties are not the official organisers of events and the costs are not likely to be reported.

1.2. The Parliament: Improvements with Limited to No Effects

In 2019, the Serbian Parliament discontinued some of the non-democratic practices following the boycott of several opposition parties and criticism contained in the EC annual report; however, certain bad practices persisted.

In that context, laws are no longer enacted under "urgent procedure" and the parliamentary majority stopped submitting senseless amendments in order to steal debate time and discuss reports of independent bodies after several years of ignoring them. On the other hand, just to provide one example, the debate about the new Law on Prevention of Corruption was organised jointly with that on the amendments to the Criminal Code, several other laws related to the changes to the Criminal Code, and decisions on the election of new judges and court presidents!³⁶

36 http://www.parlament.gov.rs//Пета_седница_Првог_редовног.36428.43.html

The evidence of insufficient changes to the Parliament's approach is even more obvious when it comes to the relationship between the executive and legislative branches of power. Still, legislative amendments and other proposals of opposition MPs are rejected whenever they are not supported by the Government itself (amendments) or not discussed at all (proposals of new laws, establishing inquiry committees, etc). This is not true only for proposals of the part of the opposition that is boycotting the work of the Parliament, but also for proposals of the remaining MPs.

Finally, the sudden decision of the majority to discuss the reports of independent bodies largely fit the form, without affecting the substance.

1.2.1. Relations with the Independent Oversight Bodies

In plenary, the Parliament adopted the annual reports of the Ombudsperson,³⁷ the Anti-corruption Agency,³⁸ the State Audit Institution,³⁹ the Fiscal Council,⁴⁰ the Commission for the Protection of Competition⁴¹ and the Commissioner for Information of Public Importance and Data protection.⁴² Adoption of conclusions based on the reports of the Commission for Protection of Rights in Public Procurement Procedures⁴³ is still pending.

A good example of an "empty shell" conclusion might be the one based on the Anti-corruption Agency report for 2018, which was also the final year of implementation of the National Anti-Corruption Strategy. The Parliament "accepted" ACA's report, but did not formulate any recommendation, request or commitment for the resolution of serious problems referred to in the report (including the failure of responsible Government bodies to implement the most part of the strategic document). Parliamentary conclusions on the Commissioner's report were much better. However, the content of the report shows significant deterioration in comparison with the previous one (adopted in 2014). For example, the Parliament recommended that the Government act in accordance with its legal duties, but failed to request immediate action in the situation where the Government was clearly identified as a major obstacle for the implementation of the law.

Election of the new Commissioner for Information of Public Importance and Personal Data Protection

The Parliament elected the new Commissioner for Information of Public Importance and Personal Data Protection at the end of July 2019, seven months after the term of office of the former Commissioner expired in December 2018. The procedure was carried out quickly, after the Parliament first ignored the civil society's repeated appeals to fill this important position with a qualified candidate and in a transparent manner.⁴⁴ In mid-June, parliamentary groups were asked to propose their candidates for this position within one week. Not only was this deadline short, but according to the criteria the candidate could not be employed in another state institution. This condition was withdrawn after the civil society reacted,⁴⁵ because it excluded all public servants, including the employees of the Office of the Commissioner.

The Committee for Culture and Information interviewed three candidates during a public meeting held on 1 July. Still, although transparent, the process was inadequate because candidates were not given sufficient time to present their expertise and visions of the future work of the institution, nor were they asked to do so. This excluded the possibility to select the best candidate based on his/her qualifications and professional experience. The plenum approved the Committee's choice of Milan Marinović, president of the Misdemeanour Court in Belgrade at the time. Ruling party MPs explained that they did not want to elect a candidate from the Commissioner's office because they disapproved of the former Commissioner's work.

37 http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2019/RS34-19.pdf

38 http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2019/RS35-19.pdf

39 http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2019/RS%2022-19.pdf

40 http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2019/RS%2023-19.pdf

41 http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2019/RS%2024-19.pdf

42 http://www.parlament.rs/upload/archive/files/cir/pdf/ostala_akta/2019/RS33-19.pdf

43 http://www.parlament.rs/upload/archive/files/cir/pdf/akta_procedura/2019/1402-19.pdf

44 <http://www.bezbednost.org/Saopstenja/6986/Srbija-tri-meseca-bez-Poverenika-za-informacije.shtml>

45 <http://www.bezbednost.org/Saopstenja/7026/Skupstina-da-povuce-sporni-uslov-za-izbor-novog.shtml>

1.2.2. Legislative Work

As regards legislative work, the Parliament did adopt the Law on Prevention of Corruption in May 2019, but failed to improve the legal framework. More on this Law in section 2.2.2.

The quality of this draft was even worse than that of the previous ones; it excluded persons who perform functions in companies established by public enterprises and in un-privatised companies from the definition of public officials, without any explanation for such action. According to Anti-Corruption Strategy plans, Law on the Anti-Corruption Agency should have been significantly improved back in 2014, and according to the obligations from the negotiating Chapter 23 - in 2016. However, not even the draft law that was submitted into parliamentary procedure after three that were published previously, manages to resolve all problems identified in practice.

Although this draft has been subjected to public debates in 2016, 2018 and 2019, the **Ministry of Justice**, contrary to the obligation referred to in Article 41 of the Government Rules of Procedure, **has not published a public debate report which would provide an explanation as to why the received recommendations were unacceptable**, i.e. why the proposed solutions are better than those that were suggested by the participants of public debates.

The explanation that this act allegedly had to be adopted under urgent procedure (in order to fulfil the GRECO recommendations) is not valid. Namely, this obligation expired on 31 December 2016; the new additional deadline is 31 December 2019, while the beginning of full implementation of the law is envisaged for September 2020!

The Law on Health Care, adopted as one of the acts that in April 2019 zipped through the “fast lane” of the national Parliament without an adequate debate, brings rules on conflict of interest, of which some are useful and some are highly problematic. The public debate on this law was indeed organised, but at the end of 2016 and in early 2017 and concerning a draft that did not contain any of the problematic provisions. It is also noticeable that some of the changes made to this article may have been inspired by the recommendations of the Anti-Corruption Agency of December 2017, but these have been formulated thoughtlessly.

The Law prohibits healthcare workers and associates, members of public health care institutions and members of their immediate families from seeking or receiving money, gifts, services or any other benefits. They are not allowed to seek these benefits for themselves, for members of their immediate families, or for natural or legal persons that are justifiably considered to be interconnected. Gifts may not be sought or received if they “can affect the impartiality or professional performance of duties”, and if they “can be considered an award connected with performance of duties and performance of healthcare activity”. In the final provision of the Article **the legislator tried to regulate the receipt of “gifts of gratitude”, which are “less valuable”**. The individual value of such gifts must not exceed 5% of the average monthly net salary in the Republic. The “total value” is limited to an average salary; however, the provision does not stipulate the period to which it relates, and that part of the norm is therefore useless.

Lawmakers also voted that such a gift “shall not be considered corruption, conflict of interest, or private interest, in accordance with the law.” This norm is contrary to the provisions of the Criminal Code. Namely, regardless of how unlikely it might be in practice, it is not possible to eliminate in advance the possibility that someone would act in a biased manner and provide a patient with a service that s/he does not merit, or give him/her priority concerning the following intervention because of a gift that is small in value. The Law on Health Care cannot regulate what does and what does not constitute receiving and giving a bribe, and this represents an additional reason why this insufficiently thought-out norm ought to be re-examined. Even though this issue attracted enormous media interest, there have been no announcements stating that anything will be changed.

Amendments to the **Law on Enforcement and Security** were announced by the Ministry of Justice as important for fighting corruption. In this regard, the explanatory note indicates rules on conflict of interest when purchasing real estate in an auction. The provision which ensures electronic competition process during such auctions, thus limiting opportunities for rigging, collusion and threatening, is quite significant.

Law on Trade prescribed the details of the duties of inspectors when performing inspection oversight, providing greater transparency and reducing possibilities for arbitrary interpretations.

Changes to the **Criminal Code** and the set of related laws did not influence the fight against corruption. Instead, one personal tragedy was abused for political promotion. In May 2019, following president Vučić's announcements, the Parliament discussed changes aimed at introducing a life-time prison term, inspired by the initiative of a father whose teenage daughter was raped and killed several years ago. Although it is commendable that the Ministry of Justice decided to consider the petition, which was signed by a large number of citizens, and to formulate changes to the Criminal Code, this fact does not represent a valid legal reason, or justification, for not organising a public debate on the proposal of the norm. **A debate was never organised** despite the fact that there was more than enough time to do so. Namely, the petition of the Tijana Jurić Foundation was submitted 18 months before the parliamentary debate. In addition to the formal reasons, in this case there were also some strong substantive reasons for conducting a public debate, in particular because of the possible violation of international conventions.⁴⁶ Instead of a public debate held by experts, the emotions of citizens got heated up, pro-Government MPs widely used the adoption of this Law for their own promotion, and anyone who had concerns regarding the proposed provisions became instantly labeled by the public as supporter of child-killers.

ALARM: Leges speciales are disturbing the legal system

In June 2019, the Parliament adopted another "lex specialis", this time involving the "Morava corridor" project. This caused damage to the unity of the legal system, and especially to the public procurement system in Serbia. This Law regulates matters that are already governed by the existing laws of the Republic of Serbia on expropriation, public procurement, public-private partnership, planning, taxes and customs, but does it a special way, for one project only. *The criteria and methods of procurement were regulated by a Governmental Decree one month later. The Decree set discriminatory criteria for the selection of private partners;* in particular, the evaluation of their experience in road building in South East Europe carries no less than 70% of the available points.

The only possible advantage of this Law is that the conclusion of intergovernmental agreements with contractors determined in advance violates the legal system even more. We remind that the loans for the construction of the railway Novi Sad–Kelebija and the Preljina–Požega highway were approved using this method one month ago: contracts, worth USD 1,686,000,000, were also simultaneously awarded to Chinese companies. As regards the "Morava corridor", with the estimated value of EUR 800 million, the Government has already signed "memoranda on cooperation during the project construction" with companies "Bechtel" and "Enka", from USA i.e. Turkey. They, however, do not carry a legal obligation to award the contract to these companies. As expected, the above consortium was the only one that submitted a bid.

Another lex specialis was adopted by the Parliament to resolve the problem of real estate loans indexed in Swiss Francs.⁴⁷ The law is in direct contravention to the provisions of the Law on State administration and GRECO recommendations. Negotiations conducted by the Ministry of Finance with associations of beneficiaries of these loans and banks cannot be considered a valid substitute for a public debate, since the law affected the interests of all citizens by allocating approximately EUR 100 million from the budget.⁴⁸ Although some of the associations of concerned citizens were satisfied, and some were not, it seems that the main beneficiaries were the commercial banks.⁴⁹

46 <http://www.transparentnost.org.rs/index.php/en/ts-and-media/press-issues/10569-why-is-the-public-debate-on-changes-to-the-criminal-code-necessary>

47 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2019/1496-19.pdf

48 http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/letter_to_mps.pdf

49 <https://www.slobodnaevropa.org/a/29886646.html>

RECOMMENDATIONS:

- The Parliament majority should consider all proposals of the opposition parties, organise public debates (hearings) on the most controversial issues related to the legislation and implementation of laws, and priority should be given to issues that are relevant for elections;
- The Parliament should reformulate its conclusions on the basis of independent institutions' reports and set clear tasks and deadlines for the Government;
- The Parliament should elect all pending officials of independent institutions, or ask authorised bodies to nominate them (Deputy Commissioners, four Deputy Ombudspersons, one member of Anti-Corruption Agency Council, three members of Regulatory Authority for Electronic Media Council, etc);
- The Parliament should immediately take measures to fulfil GRECO's recommendations.

1.3. Democratic and Civilian Control over the Security Sector

1.3.1. New National Security and Defence Strategies

The proposed new National Security Strategy and Defence Strategy introduce military neutrality and total defence policy, maintain cooperation with the EU as well as with NATO within Partnership for Peace, introduce security cooperation with Russia-led Collective Security Treaty Organisation, and support the concentration of power of President over security governance.

The Government adopted proposals of National Security Strategy (NSS)⁵⁰ and Defence Strategy⁵¹ in August 2019, more than a year after the end of inadequate public consultations on drafts of these two top national security documents. Since the end of public consultations in May 2018, the Government ignored both the inquiries by Belgrade Centre for Security Policy under the Law on Free Access to Information of Public Importance and the request for a meeting submitted by civil society organisations gathered in the National Convention for the European Union to provide feedback to the comments made by civil society to draft Strategies. Even though expert community had many critical remarks on the drafts,⁵² only few were taken into consideration. **This is evidence of the lack of a meaningful debate on top strategic documents defining security and foreign policy orientation of Serbia.** The new Strategies are expected to be adopted in fall parliamentary sessions, replacing the existing strategies that have been in force since 2009.

Keeping Kosovo as the dominant security threat and the plan to continue blocking its membership in international organisations cast a shadow on the durability of the Strategy in light of the possible signing of a Comprehensive Agreement on Normalisation between Belgrade and Pristina. The new published proposals introduce the preservation of the Republic of Srpska as an entity within Bosnia and Herzegovina, as the priority of the Serbian defence policy which was not part of earlier drafts.⁵³ **The list of threats and challenges remains state-centred and neglects threats to governance such as widely spread corruption.** Due to pressure from civil society, environmental problems were recognised in the revised proposal of NSS and the idea of introducing nuclear power was dropped. Not enough attention is given to cyber security issues, while it is of concern that corruption was eliminated as a threat, without valid justification and in disregard of dysfunctional anti-corruption mechanisms⁵⁴ and public perceptions.⁵⁵

50 http://www.parlament.gov.rs/upload/archive/files/lat/pdf/akta_procedura/2019/2206-19%20-%20Lat..pdf

51 http://www.parlament.gov.rs/upload/archive/files/lat/pdf/akta_procedura/2019/2207-19%20-%20Lat..pdf

52 <http://eukonvent.org/eng/comments-on-draft-national-security-and-defense-strategies-national-convention-on-the-eu/>

53 <http://www.bezbednost.org/All-publications/7094/Military-neutral-Europe-Serbia-between-the.shtml>

54 <https://www.coe.int/en/web/greco/-/serbia-has-not-implemented-any-of-the-recommendations-on-preventing-corruption-among-parliamentarians-judges-and-prosecutors-says-council-of-europe-mo>

55 <http://bezbednost.org/Sve-publikacije/6461/Stavovi-gradjana-o-bezbednosti-Srbije-i-dijalogu.shtml>, <https://pointpulse.net/activities/citizens-of-serbia-trust-the-police-but-they-think-it-is-corrupt/>

On the positive side, **membership in the EU was explicitly defined as one of the top national interests.** The Strategies are generally in line with the Common Foreign and Security Policy of the EU and its Global Strategy of 2016. However, this harmonisation with the EU has not been done consistently and evenly for all the covered policy areas.⁵⁶ The Partnership for Peace is seen as an optimal framework for Serbia's relations with NATO, while the further widening and deepening of cooperation with the Russia-led Collective Security Treaty Organisation (ODKB) is put forth as a new cooperative instrument. Both draft Strategies confirm military neutrality of Serbia as the main security option, and use it as justification for the introduction of policy of "total defence". This new policy implies greater investment in the defence capacities and opens the question of re-introduction of compulsory military service without public debate and defence-related obligations of civilian authorities, businesses and other sectors. Even though the Strategies are not yet adopted, the concept of total defence has been gradually implemented in practice by introducing defence into school curricula as well as obligatory military training for men older than 30 years who have not served in the military. This raises concerns about a potential re-militarisation of the society.

ALARM: National Security Strategy introduces more competencies for President in relation to security governance than the Constitution prescribes

The trend of concentration of power and weakening of checks and balances is evident in the draft NSS; it announced a strengthened role of the President of the Republic, who is now in charge of directing the entire security system instead of the Government⁵⁷. This is a clear reflection of the current distribution of political power between the President and the Government, regardless of constitutional provisions that placed the Government in charge of managing public policies, including security policy, while the President is to act as the commander of Armed Forces.

1.3.2. Parliamentary Oversight over the Security Sector

The Parliament Continues to Simulate Oversight over the Security Sector

The trend of simulating parliamentary control over the security sector⁵⁸ has continued throughout 2019. There was no substantial debate on current security topics either in plenary or in relevant committees' sessions, nor was there any oversight of budgetary and other sensitive areas of security sector's functioning.

The legislative and oversight functions of the Parliament have been misused by narrow governing groups to legally change the rules of the game so as to reduce checks and balances and create impunity for their networks. The evidence for this claim is provided through the analysis of performance of the Serbian Parliament regarding their legislative, budgetary and oversight functions concerning the security sector.

Capture of the legislative function of parliaments is analysed through two dimensions: a) the quality of the legislative process, and b) the signs of state capture, related to the substance of security legislation⁵⁹. **The legislative process is under the control of the executive**, as evident through analysis of agenda-setting of plenary sessions, which have been mostly responding to agendas set by governments and the use of urgent procedures. The consultation process with interested stakeholders outside and within parliaments is significantly hampered by the extensive use of urgent procedures. For example, since 2015, the Serbian Government submitted budget

56 For example, there is no mention of the European security order or the concept of resilience; unlike conflicts in North Africa and the Middle East, there is no mention of the conflict in Ukraine (p. 4); support and acceptance of European values and foreign policy goals in general is expressed, but only some were explicitly mentioned (p. 27-28); unlike counter-terrorism, the EU strategic framework and standards were not referred to regarding migration, energy and cyber security (p. 19-20).

57 <http://www.bezbednost.org/BCSP-News/6774/The-New-National-Security-Strategy-Strengthens.shtml>

58 Djurković, Sanja (ed.), prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24, April 2019, p. 17. Available at: <http://preugovor.org/Alarm-Reports/1528/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

59 Two dimensions are adapted from: Kažoka, Iveta (2017), Monitoring State Capture in Parliament – A Handbook, (Riga: Providus and Transparency International Latvia), pp. 20-25.

proposals later than envisaged by the law on four occasions, not leaving time for discussion. Until the boycott of the Parliament by opposition MPs, the quality of debate was limited by deployment of the strategy of last-minute changes to the agenda and grouping of unrelated items on the same agenda⁶⁰, thus limiting the time and quality of debate of legislative proposals.

Since the beginning of the boycott, the ruling majority has used plenary sessions to attack the opposition, civil society and the media, missing the opportunities for a substantial discussion of most relevant security events and security policies (see more in the section entitled “Shrinking Civic Space”). The ruling majority and the few remaining opposition MPs missed the opportunity to pose questions to Government representatives, as no meaningful questions were posed to the Minister of the Interior.⁶¹

The parliamentary work of specialised committees related to the governance of the security sector – the Defence and Internal Affairs Committee (DIAC) and the Security Services Control Committee (SSCC) – is **captured by the ruling elites**. It is not unusual for the Serbian Parliament to receive legislative proposals a day or two before a session during which they are to be discussed. The majority of bills are adopted without a proper analysis of budgetary and other implications of enacted legislation.

ALARM: No Time for Proper Discussion in Committees

The meeting of DIAC in spring of 2018 dedicated to the discussion of six core draft laws governing the defence system, two international agreements, and the Annual Plan of the Serbian Armed Forces’ Participation in Multinational Operations, lasted only 26 minutes.⁶² Similarly, Draft Amendments and Supplements to the Law on Security Information Agency were discussed and adopted at a meeting that lasted less than 10 minutes, without the acceptance of any submitted amendments (of which there were 40 in total).⁶³ This trend has continued in the last six months; meetings of the Committee on Defence and Internal Affairs lasted around seven minutes each, focusing on the adoption of draft laws or international agreements. The minutes from the meetings are full of phrases such as “no discussion” and “unanimously adopted” regarding the votes in the committee on draft legislation and international agreements, which is indicative of an absence of substantial discussion. DIAC has failed to discuss the controversial proposal of the Law on Communal Police, which significantly increases policing competencies of the municipal authority in charge of performing non-security tasks.

Legislative Capture of the Security Sector

The signs of state capture related to the substance of the legislation are found in a number of recently adopted or amended legislation. In terms of its legislative function, the Serbian Parliament was used on purpose to change the rules so as:

- **To decrease transparency** of security governance. For example, amendments to the Law on Defence (Article 102) and the Law on the Security Intelligence Service (BIA) (Article 20v) from 2018, granting prior secrecy to a number of broadly defined categories of defence- and security-related data, is particularly concerning. This could lead to the classification of all data related to MoD activities and decisions, which would dramatically reduce the transparency of this institution and the possibility of democratic oversight of the Armed Forces in practice. For this reason, the Commissioner for Freedom of Information of Public Importance and Private Data

60 For example, the Law on Budget 2018 was to be discussed together with sixty-one other acts. On top of that, 550 amendments were submitted concerning the two laws that preceded the Budget Law, and the time envisaged for the discussion was therefore spent on these. The amendments were submitted by the ruling coalition MPs and served mostly to praise the Government, “encouraging its great efforts” and “the continuity of its policies”. All the amendments were later withdrawn, which clearly indicates that their intention was never to improve the Government’s proposal.

61 http://www.parlament.gov.rs/Parliamentary_Questions_in_July.37104.537.html

62 Tomić, Nikola (ed.), prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24, September 2018, p. 20. Available at: <http://preugovor.org/Alarm-Reports/1460/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

63 Ibid. More examples are also available in prEUgovor Alarm reports from 2017, available at: <http://preugovor.org/Publications/1131/Alarm-Reports.shtml>

Protection requested in 2018 the constitutional review of the laws on defence and BIA before the Constitutional Court.⁶⁴ He criticised the Serbian Government's attempt to a priori classify certain types of documents within the security sector as confidential, instead of assessing on a case-by-case basis whether their content actually required confidentiality.

- **To increase discretionary powers of decision-making for political officials regarding the management of professional human resources** so as to condition security sector employees not to investigate, suppress or prosecute wrongdoings of politicians who misuse public office for private and party gains. For instance, last amendments of 2018 awarded the Minister of Interior⁶⁵ and the Director of BIA⁶⁶ with discretionary powers to select new employees without competitive procedure.
- **To increase discretionary powers for public officials' decision-making regarding allocation of public funds** in a manner allowing for partiality and absence of public explanation. See more in the section on public procurement of security and defence items.
- **To increase discretionary powers for politicians to manage operational units.** For example, the adopted changes to the Law on Serbian Armed Forces (Article 53) expand the competences of the military police in dealing with civilians, thus blurring the division of labour and the lines of accountability between regular and military police. In addition, they also extend the powers of the Minister of Defence to appoint military police personnel to serve as security detail for individuals outside of the Ministry of Defence (MoD) and the Serbian Armed Forces. It remains unclear why the military police would carry out the work of civilian security institutions and what would be the scope of the Minister's competencies in this regard. This is perceived as an outcome of the incident that took place during the Belgrade Pride Parade in 2014, when Gendarmerie officers, who were securing the event, clashed with two military police officers and brothers of the then PM and Mayor of Belgrade.⁶⁷
- **To illegitimately distort the business environment, making it favourable to political party donors or other party affiliated special interests.** This could be the consequence of the latest amendments, which allow the MoD to request from business companies and other legal entities to submit information "of importance for the defence."⁶⁸ Serbian legislation on confidentiality lacks definition of „information of importance for the defence“, so if understood in the broadest sense, this problematic provision gives the MoD power to collect information and data that could include business secrets or personal data without a clear necessity and control mechanisms in place.
- **To compromise the neutrality and curtail the capacity of internal control mechanisms in security institutions and external oversight institutions** (judiciary, independent oversight and anti-corruption bodies) by reforming the appointment procedures of public officials, or by reducing the financing of these institutions. For example, the much needed independence of the Sector for Internal Control and the autonomy of the prosecutors remain unaddressed by the amended Law on Police of 2018.⁶⁹

64 <https://www.poverenik.rs/sr-yu/saopstenja/2881-повереник-поднео-предлоге-за-оцену-уставности-закона-о-одбрани-и-закона-о-биа.html>

65 <http://www.bezbednost.org/All-publications/6716/Improving-the-Police-Amendment-Bill.shtml>

66 <http://www.bezbednost.org/All-publications/6715/Comments-on-the-Draft-Amendments-and-Supplements.shtml>

67 Tomić, Nikola (ed.), prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24, September 2018, p. 17. Available at: <http://preugovor.org/Alarm-Reports/1460/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

68 <http://www.bezbednost.org/All-publications/6714/Comments-on-the-Draft-Law-on-Amendments-and.shtml>

69 <http://www.preugovor.org/Institutional-Barometers/1481/Institutional-Barometer.shtml>

Lack of Credible Oversight of the Security Sector

As for the role of budgetary oversight, **scrutiny of the spending of security budget funds and public procurement is almost non-existent in Serbia**. The Parliament did not examine the expenditures of the Ministry of Defence, despite the reports of irregularities by the military union⁷⁰ and information from the MoD's annual expenditure report for 2018 that the Ministry had spent approximately EUR 127 million more than it was allowed by the Budget Law for 2018 without a decision of the Government to re-allocate funds to this Ministry⁷¹. The committees never engage in mid-year expenditure reviews, therefore not contributing to the transparency of budget spending or striking out expenditures before they incur. During the reporting period DIAC also failed to consider the donation of military equipment from Russia⁷² which was stopped by the Romanian authorities on the Danube River. Russia and Serbia denied this claim.

The **oversight agenda is set by the Government**, not by the Parliament. Relevant committees rely predominantly on the examination of regular reports that security institutions are obliged to submit in set terms (annually, semi-annually or quarterly). Much of the scrutiny of reports submitted by security institutions is **formal and not substantial**. The trend of discussing a number of reports during a single committee meeting was continued, not allowing for in-depth focus on specific issues. For instance, in the course of a two-hour DIAC meeting held in October 2018, committee members discussed three quarterly reports on the work of Mol and three Mol reports on the security situation in Serbia.⁷³

No progress has been made in increasing the Parliament's capacity to follow up on conclusions and recommendations adopted in oversight hearings. **Transparency** of the functioning of the security sector **was not increased** through parliamentary oversight, as the committees publish only general conclusions from the meetings, without details and publication of all evidence that was considered and is not confidential. For example, all the meetings of the Security Services Control Committee (SSCC) devoted to the discussion and adoption of quarterly reports on the work of security services were closed for public. The public has remained deprived of relevant information from these reports, as the SSCC's official statements contain only vague assessments such as "all planned activities were implemented" or "security services operate in accordance with the law and within their respective competences and tasks".⁷⁴

Besides limited analysis of regular reports, relevant committees have not been effective in **responsive scrutiny of major incidents and crises**. Reactive oversight means taking action to investigate problems highlighted in the reports produced by other state authorities, by media outlets, in complaints or during debates in the Parliament. The relevant committees did not consider the reports produced by independent oversight bodies, and they do not use their insights into the functioning of security institutions when formulating parliamentary proposals. For example, recommendations of the Serbian Ombudsman's Office⁷⁵ on illegal data collection by the Military Intelligence Agency on political parties' activities have never been followed up by the Parliament. The absence of reactive oversight is especially damaging when the Parliament does not provide **political accountability for major incidents** that shake public trust in security institutions. Parliamentary inquiries should examine and address systemic causes so that such incidents can be prevented in the future.

70 The Military Union announced that members of the Serbian Armed Forces had received their December salaries from an account belonging to the Centre for Foster Care of Children and Youth, suggesting that funds may not have been re-allocated to the MoD in a legal way. See: Vojni sindikat Srbije (3 January 2019), Da li je Ministarstvo odbrane bankrotiralo?, Danas online, accessed on 18 February 2019, available at: <https://www.danas.rs/dijalog/licni-stavovi/da-li-je-ministarstvo-odbrane-bankrotiralo>

71 Djurković, Sanja (ed.), prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24, April 2019, p. 17. Available at: <http://preugovor.org/Alarm-Reports/1528/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

72 <https://www.slobodnaevropa.org/a/rusija-vojna-posiljka-srbija/30081195.html>

73 <https://bit.ly/2mlt0Yb>

74 <https://bit.ly/2mZREhD>

75 <https://www.ombudsman.rs/index.php/2011-12-25-10-17-15/2011-12-26-10-05-05/4319-jjhhj>

The authority to conduct oversight enables parliamentary committees also to practice **proactive oversight** or scrutiny of areas where there is a high-risk of misuse of security institutions, to ensure that business processes that provide for legality and efficiency of their work are actually in place. Moreover, the committees do not proactively scrutinise specific areas of security governance for which there are no regular reports produced by the Government. **The most common overlooked oversight areas are: corruption risks in the security sector (transparency, management of financial, material and human resources, procurement) and key areas for control of legality of work of security institutions** such as the use of special investigative means (e.g. surveillance) and use of coercive measures.

The work of committees has been used as a PR venue for ruling executives. For example, the SSCC has taken upon itself to award the Minister of Defence with a plaque for his contribution to strengthening the capacities of the security sector.⁷⁶ The committee has similarly awarded high ranking police officials with a plaque back in the fall of 2018, which is particularly odd considering its competences – oversight of military and civilian intelligence services.

RECOMMENDATIONS:

- The National Security Strategy should re-affirm the standards of democratic civilian control and oversight of the security sector, especially by recognising the role of judiciary and independent oversight bodies in the national security system and by reintroducing the principles of impartiality and political neutrality, while the proposed relocation of the directing role in the national security system from the Government to the President should be revoked;
- Experts from the civil society and academia should be included in the process of drafting action plans for the implementation of both Strategies after their adoption by the National Assembly;
- The EU should **monitor parliamentary work and oversight of the security sector more closely**, with particular emphasis on:
 - » The quality of debates in the Parliament and attempts to create a societal consensus on the key threats and basic values to be protected in each of the Western Balkan societies;
 - » Focus on credibility and functionality of the parliamentary legislative and oversight work, by analysing its impact regarding: a) the improvement of transparency of the security sector, and b) systems in place that guarantee legality, efficiency and effectiveness of security governance;
 - » Whether relevant committees proactively examine high risk areas for state capture in the security sector such as the use of surveillance, confidential procurement, bias in the management of human resources and selection of leadership, (in)dependence of the work of other control and anti-corruption mechanisms in security institutions, and misuse of security institutions in political processes;
 - » Initiation and effects of inquiries scrutinising critical cases or incidents indicative of potential misuse of security institutions.
- **Parliamentary oversight of the security sector in Serbia** should be improved in the following manner:
 - » Proposals to form inquiry committees aimed at investigating specific issues or disputed cases should be accepted;
 - » Quarterly reports on the work of the Ministry of Defence, Ministry of Interior and security services should be regularly submitted and discussed during the relevant parliamentary committees' meetings that are open to the public, in order to enable comprehensive

76 <https://bit.ly/2IVnQKu>

oversight of the work of security actors encompassing all the relevant aspects (from budgetary spending and weapons and military procurement, to corruption risks);

- » All the members of the Defence and Internal Affairs Committee and the Security Services Control Committee should have security clearance in order to be able to gain access to classified data, and be equipped to conduct comprehensive control of the work of security actors.

1.3.3. Real Danger of Politicisation of the Communal Militia

The newly adopted Law on Communal Militia creates the potential for all local power holders to have their own "militia" which would be able to use physical force, handcuffs, a baton, and to operate in civilian clothing.

Almost a decade has passed since the Communal Police was promoted to a city service that was supposed to change Serbia for the better by solving communal problems and relieving "regular" police from non-policing tasks such as complaints about the noise from an apartment building or closing down night clubs after the end of business hours. Although communal police was formed in 21 of Serbia's 29 towns, **there has been no public evaluation of its performance in terms of its contribution to the communal order.** There has been a series of incidents involving communal police, which resulted in the online petition to abolish Communal Police signed by over 17,000 citizens.⁷⁷ Data on Communal Police work exist only for the period 2013-2015.

Communal Police from 2013 to 2015:

- Employed 649 communal police officers
 - Received 77,908 citizens' complaints relating to communal problems
 - Issued 234,536 misdemeanour warrants
 - Filed 39,790 claims with the Misdemeanour Court
-

Official authorities noticed the lack of tangible results and the rise of incidents that involved communal police officers back in 2016; they decided not to spend more than EUR 20,000 on repairing the bad reputation of communal police officers through PR activities, and instead decided to analyse the work of this local self-government service. It is however unknown whether the analysis was ever conducted.

Belgrade city officials initiated the adoption of the **Law on Communal Militia** in early 2019, and it was **adopted in July without adequate public discussion.** The Ministry of Public Administration and Local Self-Government announced a public debate only in regards to the final text of the draft Law. The draft was presented only in Belgrade, at a round table held on 28 February. Given the fact that the Law on Communal Militia envisages the possibility of forming communal militia units not only in cities but also in 150 municipalities across Serbia, this is not enough.

Serbia is now the only country in Europe that uses the word "militia" to describe a state institution in charge of communal order. The new name is not appropriate for a democratic society, as it is used for military and paramilitary formations composed of mostly armed civilians. But, that is not the biggest issue.

Communal Militia officers will be able to use certain police powers including physical force. Additionally, they are allowed to operate covertly and without an official uniform, stop and inspect vehicles, and bring people in for informational interviews. **The Law stipulates a fine of EUR 80**

⁷⁷ https://www.peticije24.com/zahtev_zakidanje_komunalne_policije

to 450 for all the citizens who fail to appear when summoned by the Communal Militia to an informative interview. Regular police in Serbia does not have this level of authority.

The Law does not envisage the establishment of internal control within the Communal Police as mandatory, which reduces checks on the use of their powers. All of this can be interpreted as an act of intimidation or demand for snitching, but also as a way to “repressively instil” obedience to the political regime.

There is a potential that the Communal Militia will become a tool for party recruitment and protection of particular interests instead of those that are public. The newly adopted Law abolished the restriction regarding the maximum number of members of the Communal Police, providing the mayors with the option to hire more people. The Law does not envisage public competition for the Head of Communal Militia; s/he is rather appointed at the discretion of the mayor.

The fact that one of the founders of the ruling SNS party and the current Director of the Security Intelligence Agency, Bratislav Gašić, purchased footwear and clothing for the entire communal police in his own birth town of Kruševac⁷⁸ is indicative of privatisation and blurring of lines of accountability between institutions, which can strengthen the party influence on communal militia.

RECOMMENDATIONS:

- MPs should urgently change the name Communal Militia to Communal Police Service;
- The Ministry of Public Administration and Local Self-Government should publish on its official website all annual reports on the work of the Communal Police;
- The Internal Control Sector operating within the Ministry of the Interior should examine the lawfulness of the use of coercive measures by communal police officers and present the results publicly to the Parliament;
- The Government should urgently examine the work of the Communal Police to date, by setting up an independent and impartial commission comprising a representative of the Protector of Citizens and an organisation engaged in the protection of human rights;
- It is necessary to open a new public debate on the future of the Communal Police, which would be fully transparent, participatory and inclusive.

Story 2 TV Pink Flew Drones over an Opposition Meeting Without a License

Experts say that six unmanned aircraft which, according to the *owner of Pink TV Željko Mitrović*, enabled this television to broadcast live the April 13 rally organised in downtown Belgrade, *flew in restricted airspace without the knowledge of the competent institutions and necessary licences*, thus endangering security of citizens and air traffic in the area.⁷⁹

The rally lasted five hours and there has been no definitive information regarding the number of protesters – estimates varied from several thousand according to the government representatives, to several tens of thousands as counted by the opposition and certain media outlets. The owner of *Pink TV*, a pro-government television whose frequent negative campaigns target those who do not agree with or support the regime, was among the first to estimate that the crowd at the rally numbered just 7,500 people, which he called “a debacle of the opposition”. Mitrović’s television broadcast the rally live via an unmanned aircraft, i.e. drone.

The *Centre for Investigative Journalism of Serbia* (CINS) revealed that Mitrović and the people who were shooting footage for him did not notify the Serbia and Montenegro Air Traffic Services (SMATSA) and the Civil Aviation Directorate

78 <http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:780596-Gasic-kupio-unforme-za-celu-komunalnu-policiju>

79 <https://www.cins.rs/en/pink-tv-drones-werent-allowed-to-fly-over-one-of-the-five-million-rally/>

of the Republic of Serbia, even though they were not allowed to fly without doing this. Representatives of the Directorate, vested with the power to enact regulations and control the area of air traffic, told CINS that they did not have information that the aircraft broadcasting live footage on *Pink TV* had obtained the permission to fly, and that they did not know how said footage had been made. The Ministry of Defence is also involved in the permission-granting process, because pursuant to the Law on Defence it must control any potential recording and publicising of footage of military facilities.

Since the Parliament and the Presidency building are in the restricted airspace, the aircraft also should have obtained the consent of the Ministry of Interior. The Ministry issues an opinion because buildings protected by the Security Unit Protecting Specific Persons and Facilities, which is part of the Police Directorate, is located in that part of Belgrade. *Anyone manning a drone in the restricted airspace in Belgrade without the consent of the Ministry of Defence and the Ministry of Interior, and without permission from the Civil Aviation Directorate, is violating the law.* The penalty for legal entities is a fine ranging from RSD 500,000 to two million.

CINS journalist did not receive any answer as to whether the aircraft had the permission required from the two ministries – the Ministry of Interior and the Ministry of Defence.

Nonetheless, even if *Pink TV* had obtained those permits, it should not have flown on April 13 because it had not informed SMATSA about it. Data presented by SMATSA and the Directorate show that airspace allocation was not requested for that day for the area in front of the Serbian Parliament. According to the list delivered by SMATSA, on that day only one unmanned aircraft had permission to fly near the Terazije square, but it did not shoot any footage for *Pink TV*.

Flights within a 500-metre radius of a state institution also need to be approved by the owner or user of the facility.

Permits *TV Pink* unmanned aircraft should have had on April 13:

- 1 Flight permit from the Civil Aviation Directorate
- 2 Permission to shoot aerial footage from the Ministry of Defence
- 3 Opinion of the Ministry of Interior (requested by Civil Aviation Directorate and the Ministry of Defence)
- 4 Airspace allocation from SMATSA
- 5 Permission from nearby state institutions for flights within 500-meter radius of their location, or at least notification to the owner or the user of the facility

1.3.4. Shrinking Civic Space

The attacks by representatives of the Government, Parliament, pro-Government media and NGOs (GONGOs) on individual citizens, activists, civil society organisations and journalists⁸⁰ highlighting problems in local and national governance continued throughout the reporting period.⁸¹ The attacks included, but were not limited to: public statements by senior officials against critical voices;⁸² leaking sensitive private data;⁸³ pressure through inspections and criminal investigations⁸⁴; pressure through judicial procedures initiated by politicians in private capacity,⁸⁵ and even physical attacks.⁸⁶ Other tactics included withdrawing collaboration to critical CSOs⁸⁷ and pressuring private companies to do the same⁸⁸.

80 <http://www.bezbednost.org/All-publications/7049/Case-Study-Threats-and-Pressures-Faced-by.shtml>

81 <https://monitor.civicus.org/newsfeed/2019/08/16/brazen-threats-against-critics-government-signals-closing-spaces-dissent/>

82 <https://www.danas.rs/politika/vucic-takozvana-crta-i-cesid-su-laz/>

83 <https://www.danas.rs/drustvo/vulin-koristi-tajne-podatke-mup-a-da-diskredituje-oficire/>

84 <http://rs.n1info.com/Vesti/a494676/Cilj-napada-vlasti-u-Srbiji-na-United-Grupu-je-nanosenje-poslovne-stete.html>

85 <https://www.krik.rs/ministar-popovic-izgubio-sudski-spor-protiv-krik-a/>, <https://www.krik.rs/en/disastrous-privatization-influential-serbian-minister-goes-uninvestigated/>

86 <http://rs.n1info.com/Vesti/a468357/Pretucen-organizator-protesta-Jedan-od-pet-miliona-u-Negotinu.html>

87 <https://mobile.twitter.com/ZakonSu/status/1135498074019770373>

88 <http://iea.rs/blog/2019/04/22/sabotaza-kao-sredstvo-suzavanja-prostora-za-politicki-dijalog/>

In October 2018, a high-level official of the Security Intelligence Agency (BIA) stated that covert operations of foreign powers misusing the opposition, NGOs, media and even some unions for subversive and destructive actions were the most salient security threat in Serbia.⁸⁹ Similar statements were made by ruling party MPs against the civil society and journalists in the Parliament, aiming to discredit all vocal critics of the ruling regime. Most prominent example is the speech of Aleksandar Martinović, chief of Serbian Progressive Party's parliamentary group, made during the plenary session dedicated to the annual Report of the Commissioner for Information of Public Importance and Personal Data Protection in July 2019. Martinović accused several investigative journalists' portals and CSOs of being foreign agents and spies who ask for too much information in "tendentious inquiries aimed at collapsing the security system of the Republic of Serbia".⁹⁰ It is alarming that he characterised requesting information under the FoI act as a threat to national security, which is unacceptable in a democratic society.

ALARM: Judges and Prosecutors under a Smear Campaign

Having voiced a critique regarding judicial matters, even representatives of the judiciary who are organised in professional associations were targeted by pro-regime media. In May 2019, judge Miodrag Majić spoke on national television against the introduction of life imprisonment without probation into the Criminal Code. During the parliamentary debate on the Code, MPs from the ruling party and the Minister of Justice questioned his independence, called him names, and accused him of being part of an NGO working against the national interests.⁹¹ Prosecutor Goran Ilić was targeted mostly by GONGOs and tabloids after publishing a text in which he criticised political influence on the judiciary.⁹² Transparency GONGO from Trstenik filed criminal charges following which the Republic Public Prosecutor initiated disciplinary proceedings against him, while tabloids became filled with photographs showing him at a party that was also attended by several alleged criminals.⁹³ Both Majić and Ilić have also strongly criticised the draft constitutional amendments in the area of judiciary.

Silencing of critical voices was supported by the creation of a parallel civil society, the so-called Government operated non-governmental organisations (GONGOs), established and funded with the aim of providing support where such support was missing, e.g. debate on the Constitution.⁹⁴ Many of these GONGOs are established as CSOs, Internet portals or institutes, and they have names whose goal is to have them confused with authentic civil society organisations. Most provide little or no information about their missions, staff, projects or funding. Although with different proclaimed missions and areas of work, all these organisations share one characteristic: their goal is to discredit anyone who critically interprets the work of the ruling party, including the European Commission. For example, Trstenik-based GONGO called *Transparency*⁹⁵ filed criminal charges against the Commissioner for Information of Public Importance and Personal Data Protection⁹⁶ and the charity led by an actor who was critical of the Government.⁹⁷ It also discredited the latest EU Report on Serbia as "lump, lacking evidence and obviously political"⁹⁸, as published in the pro-regime tabloid *Informer*. Some of the portals are used just for smear campaigns, such as the media outlet *Investigation*⁹⁹ (author's translation) which started defaming individual government critics (journalists, activists, CSOs etc.) by revealing and distorting diverse content from their private lives and social media profiles. Another prominent example are troll attacks against investigative journalist organisation *Južne Vesti* after it published an article on trolling organised by ruling party. The list goes on.

89 <http://rs.n1info.com/English/NEWS/a425869/External-factors-not-most-serious-threats-President-says.html>

90 <https://www.cenzolovka.rs/pritisci-i-napadi/sns-u-skupstini-osporava-ustavna-prava-novinarima-i-nvo/>

91 <http://rs.n1info.com/Vesti/a485141/Martinovic-i-Gojkovic-o-Majicu.html>

92 <https://www.danas.rs/drustvo/zagorka-dolovac-inicirala-postupak-protiv-svog-zamenika/>

93 <http://rs.n1info.com/English/NEWS/a507334/You-are-a-criminal-on-Serbia-if-you-say-the-truth-a-lawyer-says.html>

94 <http://www.yucom.org.rs/antonijevic-vlast-da-prestane-da-osniva-orgnizacije-koje-opstruiraju-konstruktivan-rad/>

95 Full name: Council for Monitoring, Human Rights and Fight against Corruption.

96 <https://www.danas.rs/drustvo/vladin-sluzbenik-preko-svoje-nvo-napada-poverenika>

97 <https://www.raskrikavanje.rs/page.php?id=269>

98 <https://informer.rs/vesti/politika/439232/transparentnost-kritike-izvestaju-napretku-srbije-pausalne-bez-dokaza-ocigledno-politicke>

99 <http://istraga.rs/>

The right-wing GONGOs close to the security sector serve as promoters of controversial ideas such as forming citizen patrols to fight against youth delinquency and narcotics traders.¹⁰⁰ These ideas aim at increasing control over civilian population, while glorifying non-transparency under the guise of patriotism.

Story 3 - Regulatory Authority for Electronic Media of Serbia Ignored Its Own Expert Service to Protect Pro-Government Media in an Electoral Campaign

CINS has published details of the reports by the Regulatory Authority of Electronic Media (REM) Supervision and Analysis Service, which reveal several violations by Pink and Studio B televisions during the election campaign for Belgrade city administration in 2018.¹⁰¹ The pro-regime televisions led negative campaigns against the most prominent leader of the opposition, Dragan Djilas and other opposition leaders, as well as against journalist Tamara Skrozza. The REM Council ignored the findings of its own expert service, concluded that there were no grounds for action, and never published the report.

In its news programme, Pink TV broadcast Skrozza's statements by taking them out of context and editing them in such a way that it seemed as if she were insulting the President of Serbia, Aleksandar Vučić, in a very vulgar manner.

The reason for the attack on Skrozza was the report by Center for Research, Transparency and Accountability (CRTA), a civil society organisation which showed that ahead of the 2018 election for Belgrade city administration the media favoured the authorities rather than the opposition. Skrozza took part in presenting the report on January 23, and just a day later Pink launched its campaign against her.

CRTA and the Independent Journalists' Association of Serbia (NUNS) launched a campaign dubbed "Wake REM Up" in which several hundred citizens submitted complaints to the institution asking it to punish Pink TV for its reporting. REM remained silent. In May, two months after the election, citizens who had filed the complaints received e-mails containing a conclusion by the REM Council that there were no grounds to take action against the above media outlets.

CINS, however, revealed the report by the regulatory body's Supervision and Analysis Service which monitors media broadcasts and reports to the Council for review, about the subject of complaints by the citizens pertaining to the reporting on Tamara Skrozza and CRTA. Reports of the REM's expert service state that Pink had indeed violated three provisions of REM's rulebook on human rights protection in the area of providing media services. This rulebook, along with others created by REM, provides a detailed definition of the media's legal obligations pertaining to professional reporting; thus, violation of some of its provisions may in fact also be interpreted as a violation of the Law on Electronic Media.

At Pink's proposal, REM bundled up about 250 complaints submitted against the television. In the report, the Service concluded that Pink had deliberately shortened Skrozza's statements on Vučić so that their context would not be understandable, in a bid to depict her as biased. It is also stated in the report that the television denied Skrozza and CRTA the right to present their own sides of the story, placed parts of the organisation's press release in an ironic and demeaning context, and failed to clearly separate facts from opinions and comments. A similar violation was noted in the second report on the case, which the Council analysed separately and which CINS was also allowed to access. *The REM Council, however, ignored the findings of its own expert body and decided not to pursue TV Pink for its transgressions, hiding the complete report from the public and filing it for their own purposes with a changed conclusion.*

Other reports by REM Service that CINS had insight into, also never published, point to other violations committed by televisions prior to the elections of 2018. At that time, Pink aired negative reports on **Dragan Djilas**, the main opposition candidate for the mayor of Belgrade, and was joined in the anti-campaign by the current candidate for the fifth national free-to-air TV license, the Belgrade-based Studio B television.

In her reply to REM, Studio B editor-in-chief Ivana Vučićević said, among other things, that those who had submitted the report against the broadcaster were free to change the channel if they did not like the content. Vučićević also said that complaints constituted interference with the Studio B editorial policy.

Just like TV Pink, Studio B was not punished in any of these cases, despite the findings of the REM expert Service.

According to the conclusions of the REM Service, which the CINS journalists had access to, the above constituted (another) forbidden anti-campaign in which Pink failed to separate opinions and comments from the facts and denied Djilas the right to have his side heard. The programme was also not clearly labelled as part of the election campaign.

100 <http://rs.n1info.com/Vesti/a481982/Inicijativa-za-gradjanske-patrole.html>

101 <https://www.cins.rs/en/rem-council-ignores-findings-of-its-own-service-in-bid-to-justify-television-campaigns/>

RECOMMENDATIONS:

- The attacks on CSOs by representatives of the Government, Parliament and government-funded media should stop. Government officials should refrain from labelling civil society, media and opposition representatives as foreign mercenaries and security threats;
- Government institutions should condemn smear campaigns that appear in tabloid and social media targeting the civil society, other media outlets and opposition representatives;
- The government should do everything in its power to bring to justice perpetrators as well as those that have ordered these vicious attacks;
- Government institutions should actively participate in a meaningful dialogue with civil society actors.

1.4. Regional Issues and Good Neighbourly Relations

Relations with neighbours have been kept stable, but there has been no specific progress in solving open issues with Croatia and BiH. Negotiations with Pristina have been frozen since the end of 2018. In the observed period, the regional framework was dominated by economic themes and multilateral economic cooperation in various formats, with certain positive results.

Regional relations are still partially determined by the state of the Euro-integration process and war heritage from the 1990s. **The process of Serbia's European integration has slowed down compared to the same period last year.** Only one chapter (Chapter 9 - Financial Services) was opened at the Tenth Intergovernmental Conference in Brussels held on 27 June, so the rhythm of the opening of chapters (two each June and December) has decreased. The reason for this might have been the European Parliamentary elections of the end of May 2019, which delayed the publication of progress reports for the Western Balkan countries including Serbia, or reticence of EU politicians to talk about the enlargement issue in positive terms. Besides that, certain negative marks contained in the progress report - concerning freedom of expression, limited progress in fight against corruption, and practical blockade of the negotiations with Pristina - are going to burden Serbia-EU relations and preclude the speeding up of negotiations tempo, most of all the opening of chapters.

On the other hand, the European Union's enlargement process is not a priority for the European Commission, and numerous statements by the European states' officials have indicated that countries of the Western Balkans will have to show more willingness and ability to reach the requested levels of development on their own. It seems that the public in the European states is evermore negatively set toward the enlargement process, which further restrains the EU Member States' steps toward the Western Balkan countries, as visible from the repeated delay in granting the date for the opening of negotiations with Albania and North Macedonia.

1.4.1. Belgrade-Pristina Relations

The negotiations process between Belgrade and Pristina has been formally blocked since the end of 2018 and the introduction of tariffs on goods from Serbia and Bosnia and Herzegovina by Pristina. During the spring and summer of 2019 Brussels' success was absent in that domain, followed by the EU electoral campaign on one side and a reassessment of positions in the most important capitals interested in the process on the other (Berlin, Paris, and especially Washington). European Union states tried to clear a path for the continuation of negotiations at the Berlin summit with Western Balkan countries at the end of April, but had no success. That failure postponed the planned meeting in Paris slated for early July. The formation of the new European Commission with a new team in charge of foreign and security policy, and the appointment of a special representative for the Balkans within the State Department which already covers that geographic area, suggest renewed efforts to revamp the negotiations and eventually strike a deal. We should expect a new diplomatic offensive after the election and the formation of new government in Pristina in October.

The Kosovo Army was officially formed also in December 2018,, which happens to be another move that is perceived by the Serbian Government as unacceptable. On the other hand, the Serbian Government, more specifically the Ministry of Foreign Affairs, continues its campaign for withdrawal of recognition of Kosovo independence among the countries that had already recognised Kosovo statehood. The media, especially pro-government tabloids, remain engaged in nationalist rhetoric and even hate speech.¹⁰²

During the reporting period, the Belgrade Centre for Security Policy (BCSP) surveyed the perception of Serbian citizens regarding the Brussels Dialogue,¹⁰³ which pointed to several common findings. First, an overwhelming majority of the Serbian citizens is not familiar with the content of the technical agreements that had been reached as part of the EU-mediated dialogue. Most have not even heard of a number of agreements that were made between Belgrade and Pristina, which reflects lack of promotion of achievements by both governments. Second, the majority of the participants believe that the Dialogue so far has not been beneficial for the citizens, but only for the politicians in power and other elites. The great majority have not personally felt any effects of the agreements reached to date. A minority believes that some things have been improved, but they too admit that the improvements are minor – several participants stated that the freedom of movement has been improved (while some others claimed that the situation had been the same prior to the Brussels Dialogue), some believe that the integration of police and judiciary in northern Kosovo municipalities contribute to a greater security of Kosovo Serbs (while others strongly disagree), a number of participants of Albanian ethnicity (from Bujanovac and Preševo) believe that agreements on telecommunications and on freedom of movement have indeed facilitated communication with and travel to Kosovo. Third, the attitude of the majority of citizens towards Kosovo seems to be heavily influenced by the dominant nationalist discourses about this matter.

At the informal summit of the EU foreign affairs ministers (Gymnich format) and the Western Balkans partners and Turkey in Helsinki at the end of August 2019, dedicated to a reset of regional dynamics, the EU representatives wanted to stress that the EU enlargement process into the Western Balkans will not be slowed down and shunned by the incoming Brussels administration. Serbia resented the organisers' invitation extended to Pristina representatives as an unusual step for the summit that previously included invitations only to candidate countries, which however showed the importance of Belgrade - Pristina relations not only in the bilateral context, but in the regional and European context as well.

In May, Prime Minister Brnabić participated in the **Annual European Bank for Reconstruction and Development Governor's Meeting** in Sarajevo – the largest economic summit in the region in 2019. Somewhat shaded by the dispute about the (non)participation of Pristina delegation, the summit was focused on regional infrastructure and energy project development, and on removal of customs barriers. Prime Minister Brnabić visited Sarajevo for the second time in early July, for the **South-East European Cooperation Process (SEECP)** summit, where she met with Bulgarian Prime Minister Borisov and Turkey's President Erdogan, with whom she acknowledged the partnership for the construction of the highway through Srem to Bosnia and Herzegovina.

At the end of March, President Vučić participated in the **quadrilateral summit** in Bucharest with hosts and Prime Ministers of Bulgaria and Greece, Borisov and Tsipras. Three neighbouring EU Member States have reaffirmed their support for Serbia's path to membership. Minister of Construction Zorana Mihajlović was also a member of the Serbian delegation, which showed the importance of infrastructure issues in regional development policies. The guest of the quadrilateral meeting was the Vice President of Turkey Fuat Oktay, with whom President Vučić reaffirmed the importance of the trilateral format between Serbia, BiH and Turkey.

102 For example, dailies "Alo" and "Informer" regularly use the term "Šiptari" - a derogatory term for Albanians. According to the decision of a higher court in Serbia, the use of that term constitutes hate speech. <http://www.yihr.rs/bhs/presudom-viseg-suda-potvrden-govor-mrznje-informera-protiv-anite-mitic/>

103 During the reporting period, BCSP conducted 16 (sixteen) focus groups in 8 (eight) towns in Serbia.

1.4.2. War Heritage: Limited Progress in Border and Missing Persons Issues

The **Protocol on Designating Triple Border Spot between Bosnia and Herzegovina, Montenegro and Serbia** was signed on 15 May 2019 in Sarajevo. The triple border spot between BiH, Serbia and Montenegro will be located in the place called Zelena Glava, between Priboj (Serbia), Čajniče (BiH) and Pljevlja (Montenegro) municipalities. The agreement represents a codification of undisputed positions between first and foremost Serbia and Bosnia and Herzegovina regarding their border line. This small but necessary step toward a possible agreement between these two countries on determination of the border line was hailed by states' representatives as a positive step and a signal that the border issue has been recognised as important, within the European integration context and not just bilaterally. Yet, other than this step, the border issue was not a specific topic at the top, and public statements were few and far between, much like in previous years.

There were no developments or hints of closer positions of Serbia and Croatia concerning their own border issue. The meeting of national coordinators for open issues was held in April in Belgrade and, besides the exchange of opinions, has resulted in a public statement that open issues between two countries should not be used to influence the process of Serbia's accession negotiations with the EU, but should be dealt with bilaterally through established inter-state mechanisms. The Framework Agreement between President Vučić and President Grabar-Kitarović from the beginning of 2018 on the two-year deadline for the states to reach an agreement does not look like it will lead to a solution. Having in mind the acerbic public rhetoric present in both countries, as well as presidential elections in Croatia (in December 2019 - January 2020) and parliamentary elections in Serbia (probably in March 2020), the chances for reaching an agreement by the set deadline are not great.

At the margins of the Berlin Process summit in Poznan, which took place on 4 July, the **first Report on the Activities of the Group on Missing Persons** was publicly presented, as per the Framework Plan from the autumn of 2018. In a positive tone, the report presented the progress made in the exchange of information between national coordinators, functionality of the data base on missing persons, and the steps towards practical inclusion of families of missing persons in the search process. Considering that the Group on Missing Persons was established only last year and that this is the first report in this format, we can say that expected progress has been made concerning this issue.

The War Crimes Prosecutor's Office is working on 18 indictments against 49 defendants, 186 suspects and on approximately 2400 cases that are currently in the investigative phase. Most of the indictments are the product of cooperation with prosecutors from Bosnia and Herzegovina and were assigned from the BiH. After the meeting of Serbian and Croatian prosecutors in February 2019, there was no visible progress in two states' cooperation in this domain. As a result of the revision of the Action Plan for Chapter 23,, topics defined in the National Strategy for War Crimes Prosecution in 2016 that were not included in the old Action Plan are now included in the new one. With the help of the International Residual Mechanism for Criminal Tribunals, the Judiciary Academy has 18 future deputy prosecutors and aides in training, as the measure of strengthening the capacities of the Prosecutor's Office. Yet, cooperation with the International Residual Mechanism for Criminal Tribunals is still burdened by the cases of Serbian Radical Party members, as a result of the decision that they must be tried in The Hague and not in Belgrade.

A meeting of the Mixed Committee for the Division of Diplomatic and Consular Property of former SFRY was held in Belgrade on 2-3 July 2019, and for the first time in seven years the group reached a number of decisions on some of the real estate, refreshed the list of remaining immovable property, and defined the steps to be taken, in cooperation with Interpol, to investigate and search for property whose fate is still unclear. The next meeting of the committee is scheduled for February 2020 in Sarajevo.

1.4.3. Salient Topics in Bilateral Relations

There have been no major political oscillations in Serbia's relations with its neighbours in the observed period, but there were no significant breakthroughs either. As regards **relations with Croatia**, there were some noticeable "regular" tensions in the public discourse over the annual commemoration of the "Oluja" action and the expulsion of the Serb population from Croatia. Besides that, media gave much attention to various incidents that took place in Croatia, where Serbs were victims of attacks. In the absence of the improvement of bilateral political relations, the created image gives a sense of deep tension that exists between the two states, without noticeable potential for positive growth.

At the end of August, and after a full year of preparations, **Serbia and North Macedonia** opened an integrated railway customs point (one stop shop) at the Tabanovce–Preševo border crossing on Corridor 10. Both custom services will work together at the unified point in Tabanovce, and the trains will no longer have to stop at the Preševo station for customs checks. Simplification of the customs procedures and the development of existing border crossing points to resemble that of Tabanovce–Preševo are part of the initiative for economic connectivity of six regional countries by 2023.

Tomor Morina, one of former commanders of the KLA in the 1998-1999 war was arrested in North Macedonia, per war crimes warrant issued by Serbia through the Interpol. Two weeks later the Supreme Court of North Macedonia has confirmed the lower court decision not to extradite Morina to Serbia, on the grounds of insufficient legal basis, and has released him from prison. Strong reactions followed from the officials in Belgrade, and the Minister of Internal Affairs Nebojsa Stefanovic said that "Macedonia has trampled the essence of international law".¹⁰⁴ Relations with North Macedonia show an occasional capability of aggravation on certain issues that were in this case related to different position on Kosovo.

Some members of the Governments of **Serbia and Montenegro** have engaged in a public feud on the Draft Law on the Freedom of Worship that was adopted by the Montenegrin Government in June. In some segments of the Serbian public the draft of that Law was perceived as preparation for taking over the property rights over some religious edifices of the Serbian Orthodox Church in Montenegro. On that occasion, Minister of Foreign Affairs Dačić said that "no one fared well when going against the shrines", concluding that "this will have dire consequences for the two countries' relations", while the Minister for Innovation Popović said that "all of us in Serbia have to stand firm, together with our suffering nation and the Church in Montenegro, and send a clear message to Milo Djukanović that Serbs will never let him to destroy our Church, desecrate Ostrog and extinguish the millennial Serbianhood of Montenegro".¹⁰⁵ For its part, the Government of Montenegro said that it "will not allow anyone to influence its decisions, and that it needed no advice on what to do".¹⁰⁶ In its own way, this exchange of harsh words represents the continuation of a similar feud from last year, prompted by the adoption of the Montenegrin Parliament resolution on nullifying the results of the Podgorica Assembly and an already visible trend of negative public rhetoric between the segments governing structures.

The relations with **Bosnia and Herzegovina** were dominated by economic topics and mostly in multilateral formats such as annual EBRD meeting, SEECP or Belgrade - Sarajevo - Istanbul trilateral. In the previous period, the main obstacle to further development of relations came from the inability to form full government structures in BiH after the October 2018 elections, such as the Council of Ministers that would have competencies to discuss high-level open issues.

104 "Stefanović: S. Makedonija pogazila suštinu međunarodnog prava", RSE, 14 August 2019, prava<https://www.slobodnaevropa.org/a/30109653.html>

105 „Predlog crnogorskog Zakona o slobodi veroispovesti, politika ili pravo“, RTS, 14. jun 2019, <http://www.rts.rs/page/stories/sr/story/9/politika/3558000/predlog-crnogorskog-zakona-o-slobodi-veroispovesti-politika-ili-pravo.html>

106 „Crnogorski Predlog zakona o slobodi veroispovesti povod za zatezanje odnosa Beograda i Podgorice“, Insajder, 14. jun 2019, <https://insajder.net/sr/sajt/vazno/14772/>

The Berlin Process Summit in Poznan of 4-5 July 2019 focused on economic topics. Strengthening of relation between the chambers of commerce through the Chambers' Forum, the adoption of the Guarantee for Youth Mechanism worth 10 million EUR, the strengthening of regional connectivity agenda by way of the EU support package of 180 million euros allotted for investments in eight infrastructure projects, and the agreement on the Implementation Action Plan for the Regional Railway Strategy have kept up the high level of regional cooperation that was somewhat under duress since the end of 2018 and Pristina's tariffs on goods from Serbia and Bosnia and Herzegovina.

RECOMMENDATIONS:

- Serbia and Croatia should agree to prolong the two-year deadline for solving the open issues agreed upon at the beginning of 2018. The upcoming elections in both countries in winter and spring do not promise an advantageous climate for solving the border dispute, so the intensification of direct negotiations after the elections would be the most reasonable action;
- Serbia should be prepared for high-level talks with Bosnia and Herzegovina at the moment when the new Council of Ministers is formed in Sarajevo;
- Decision-makers and officials should refrain from making radical speeches and remarks, and must be mindful of the damage that these could do to the prospects of regional stability and good neighbourly relations;
- Parties to the Belgrade-Pristina dialogue should refrain from enemy/nationalist rhetoric and make an effort to implement what was agreed so far, for the benefit of the citizens.

1.5. Anti-Discrimination Policy and Gender Equality

Given the fact that Reports 1 and 2 of the Council on the implementation of the Action Plan for the negotiations on Chapter 23 for 2019 are not publicly available, the analysis provided in this report could only be based on the first draft revision of the AP 23, created following the review of the comments received from the NGOs, dated June 2019.¹⁰⁷

The Council for the implementation of the Action Plan for the negotiations on Chapter 23 accepted all the comments of the Autonomous Women's Centre (AWC) regarding unrealistic timelines.

With regard to the comments that planned activities still do not correspond with set goals, i.e. the interim benchmarks, that they remained without the corresponding budget (with the exception of some donor funds), and that supervision and monitoring of the implementation is activities is purely formal, the Council for the implementation of AP 23 replied that said *comments do not contain a specific proposal for AP amendments. As for the impact indicators which are provided in the AP 23 at the level of each recommendation (and which can serve as indicators of change, as opposed to result indicators), the Council noted the they would be thoroughly considered and, where necessary, improved following the submission of the analyses on the implementation of AP 23 in relation to IBMs, namely in the second draft of the revised AP.*

With regard to the activities that were carried out in the previous period, it can be concluded that most public debates/calls related to laws and strategic documents on gender equality and protection from violence took place during the summer 2019, organised predominately by the Ministry for Social Policy and the Ministry of Justice. The practice of holding debates in the summertime is repeated each year, with the intention of limiting the participation of NGOs and reducing their ability to participate at public debates in large numbers. In June, July and August 2019 only AWC submitted written comments and suggestions concerning four draft laws and three strategies.

107 <https://www.mpravde.gov.rs/files/1.%20Revised%20AP23%20Judiciary.docx>

CEDAW's Concluding Remarks Are still not Integrated in the Action Plan for Chapter 23

On March 2019, Serbia received the Concluding Observations of the UN Committee on the Elimination of Discrimination against Women (CEDAW)¹⁰⁸ regarding the Fourth Periodic Report on the Implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women.¹⁰⁹ Although it could not be concluded that progress had been made, it was expected that relevant recommendations of this CEDAW Committee will be integrated into the revised Chapter 23 Action Plan. That did not happen.¹¹⁰

The conclusions of the CEDAW Committee **were not presented and discussed** in the Serbian Parliament or before the Parliament's Committee on Human and Minority Rights and Gender Equality, although the Committee emphasised the key role of legislature in ensuring the full implementation of the Convention and urged the Parliament to take the necessary steps to implement the new Concluding Observations (paragraph 8).

The CEDAW Committee recalled the importance of adopting new anti-discrimination laws and providing budgetary resources sufficient for regular monitoring and impact assessment (paragraph 12). It sought to strengthen the knowledge of judges, prosecutors and lawyers about the Convention, as well as their capacity to invoke it and apply it directly in judicial proceedings (paragraph 14). The Committee also referred to the work of the independent human rights institutions, calling for the visibility, accessibility and transparency of the Ombudsman institution, especially in rural areas, to encourage women to use this complaint mechanism and to ensure that it operates in accordance with the Paris principles (paragraph 18). However, the Committee made no reference to the work of the Commissioner for the Protection of Equality, who missed the opportunity to report to this international body on the status of women in Serbia.¹¹¹

Strategy and Anti-Discrimination Law: Improved Transparency

After the initiative of the Coalition against Discrimination¹¹² to withdraw the Draft Law on Amendments to the Law on Prohibition of Discrimination from the process of adoption by the Parliament due to the absence of any public debate, a **public debate** on the draft Law **was announced in September 2019.**¹¹³ The proposed amendments regarding Art. 18, are not in accordance with Directive 2000/43/EC and Directive 2000/78/EC.¹¹⁴ The timeline for the adoption is now set for the **third and fourth quarters of 2019.**

The current Strategy had expired, and the timeline for adopting the new strategic document has been set for the **third and fourth quarters of 2019.** In August 2019, the Ministry for Social Policy published the analyses of the effects/base line for the creation of the new Strategy for the period 2020-2025.¹¹⁵ New activity – *Monitoring of the implementation of the Strategy for prevention and protection from discrimination and its Action Plan by the Council for monitoring the implementation of the AP for the Strategy for prevention and protection from discrimination* was envisaged to replace earlier activity 3.6.1.2, even though the above Council did not adopt the **Sixth Report**¹¹⁶ on the implementation of the AP for the Strategy for prevention and protection

108 <https://bit.ly/30S8eh8>

109 <https://bit.ly/357ZhU9>

110 <http://preugovor.org/Tekstovi/1542/Neposvecenost-rodnoj-ravnopravnosti.shtml>

111 Even though the Special Report on the discrimination of women was prepared by the Commissioner in 2015; available only in Serbian at: <http://ravnopravnost.gov.rs/rs/izvestaji/>.

112 <https://www.womenngo.org.rs/en/news/1381-awc-supports-the-request-of-the-withdrawal-of-the-draft-law-on-the-prohibition-of-discrimination-from-the-assembly-adoption-procedure>.

113 <https://www.minrzs.gov.rs/sr/aktuelnosti/obavestenja/javna-rasprava-o-nacrtu-zakona-o-izmenama-i-dopunama-zakona-o-zabrani-diskriminacije-sprovodice-se-u-periodu-od-2-do-23-septembra-2019-godine>

114 More in AWC's comments on the Draft Law, available at: <https://www.womenngo.org.rs/vesti/1501-azc-komentari-na-nacrt-zakona-o-zabrani-diskriminacije>

115 [https://www.minrzs.gov.rs/sr/konkursi/izrada-predloga-strategije-prevencije-i-zastite-od-diskriminacije-za-period-od-2020-do-2025-godine](https://www.minrzs.gov.rs/sr/konkursi/izrada-predloga-strategije-prevenције-i-zastite-od-diskriminacije-za-period-od-2020-do-2025-godine)

116 Available only in Serbian at: <https://www.ljudskaprava.gov.rs/sr/node/22571>

from discrimination for the third and fourth quarters of 2017,¹¹⁷ or previous two periodic reports prepared by the Office for Human and Minority Rights, confirming the **inefficiency of this mechanism**.

Gender Equality: Strengthening the Anti-Gender Discourse

The CEDAW Committee's Concluding Observations included 77 recommendations to Serbian concerning 24 areas (some of which are complex and contain a number of specific recommendations). The Committee reiterated all its previous recommendations (from 2013) in four areas: special interim measures, discriminatory gender stereotypes, employment, and women's health.

The CEDAW Committee requested that Serbia **take all measures against the anti-gender discourse** and its negative impact on achievements (paragraph 10). It was also recommended that, with a view to early adoption, **the new draft Law on Gender Equality be revised in accordance with the Convention**, through an inclusive participatory process and in cooperation with civil society organisations working in the field of women's rights (paragraph 12). This did not happen. The latest version of the draft new Law on Gender Equality is not publicly available on the website of the Ministry for Social Policy, and the timeline for its adoption is now planned for the **third and fourth quarter of 2019**.

The CEDAW Committee calls on the state to **vigorously pursue efforts to eliminate multiple and interconnected forms of discrimination experienced by women exposed to adverse social impacts** (paragraph 44). Since this issue is seen as a matter of urgency, Serbia is required to provide written information within two years on the steps taken to implement this recommendation (paragraph 52), confirming that **the measures that have been taken so far are insufficient**.

In August 2019, **the draft Action Plan for the National Strategy for improving the status of women and promoting gender equality for the period 2019-2020 was subjected to public debate**. The content of the AP did not sufficiently incorporate the conclusions of the CEDAW Committee. The planned budgetary resources and their structure are inadequate, there is no clear link between the outcomes and the planned measures and activities, no figures have been provided for many initial values (although they do exist), and it is unclear as to what progress will actually be evaluated.¹¹⁸ The timeline for the adoption of the AP is now planned for the **third and fourth quarter of 2019**.

1.5.1. Social protection: Inconsistencies and Inadequate Solutions

In May 2019, the Autonomous Women's Centre submitted to the Republic Institute for Social Protection comments on the initial version of the **National Social Protection Strategy for the period 2019-2025**.¹¹⁹ Besides a list of concrete comments, including those that commend new measures of support for specific beneficiary groups, several inconsistencies were identified between the Draft Law on Social Protection (from the public discussion in August 2018) and the Draft Strategy.

The vision of the new Strategy expresses a social-democratic orientation of a welfare state, which does not happen to be Serbia's current political, economic and social orientation. Also, some of the envisaged measures are not in accordance with the document's vision. It was highlighted that data in the description of the current situation are not disaggregated by gender, which will directly

¹¹⁷ Of the 120 measures, 53 were either partially implemented (17), not implemented (21) or there were no data of the status of their implementation (15).

¹¹⁸ <https://www.womenngo.org.rs/vesti/1478-komentari-azc-na-akcioni-plan-za-sprovođenje-strategije-za-rodnu-ravnopravnost-za-period-2019-2020-godine>

¹¹⁹ <https://www.womenngo.org.rs/en/news/1448-comments-of-the-autonomous-women-s-center-concerning-the-development-of-the-national-social-protection-strategy-for-the-period-2019-2025>

affect both the measures and monitoring of the effects of their implementation. Moreover, the conclusion that “there are no gender differences” in poverty and social exclusion cannot be correct, bearing in mind the majority of women in a great number of categories that are most affected by poverty.

In July 2019, the Autonomous Women’s Centre submitted comments on the **Draft Law on Social Cards**.¹²⁰ Although the systematic solution to the problem of obtaining documentation for exercising rights in the field of social protection should facilitate the position of beneficiaries, the Ministry for Social Policy did not offer adequate solutions to a number of issues to which the Draft Law relates. The purpose and reason for certain provisions are not clear, articles offer the possibility of broad interpretations, even in cases in which the state institutions deal with personal and especially sensitive personal data of citizens, creating **serious concerns regarding the possibility of misuse of various data**.

In July 2019, after almost a year of public consultation on the **Draft Law on Social Protection**, during which at least 506 signatories¹²¹ requested the draft Law be withdrawn because it “**criminalises poverty**” by introducing forced labour for the citizens who use social aid, the Ministry for Social Policy organised a consultation meeting with stakeholders on the “updated Draft Law”. Besides the fact that the purpose of the meeting was not quite clear in terms of the regulation that governs the process of drafting legal documents, the key problem is that the Ministry did not conduct an analysis of the effects of the considered options on the society, including effects on different categories of population, especially vulnerable groups, whose situation may be exacerbated by the implementation of public policy measures. AWC submitted its comments,¹²² concluding that the document may have been updated but was not harmonised, not only with the comments of civil society organisations but, above all, with the commitments made by the Republic of Serbia with respect to the EU accession process.

The Autonomous Women’s Centre also pointed to the **inappropriate report on the public debate** (held from 27 July to 5 August 2018), particularly **regarding explanations for rejected proposals submitted by civil society organisations** and inconsistent solutions concerning support and services for victims of violence. The inadequacy of the “solution” which involved the establishment of a national SOS telephone line was highlighted due to the fact that as many as six providers had been licensed by 2018, including the provider which was created by the Ministry for Social Policy (in just three days, on 25-28 December 2018) within the public social care institution.

Although the activity on the analysis of compliance of the criminal legislation with the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* has been removed from the revised AP for Chapter 23 as already implemented,¹²³ as was the activity regarding the harmonisation of criminal legislation with the content of the Convention, which has not been fully implemented, **both activities have been included** in the draft Action Plan for the Implementation of the Gender Equality Strategy for the Period 2019-2020, which confirms the **inconsistency of these documents, but also the unnecessary repetition of activities**.

120 <https://www.womenngo.org.rs/vesti/1467-zakon-o-socijalnim-kartama-da-li-ce-elektronski-sistem-unaprediti-ostvarivanje-prava>

121 <https://ukljucise.tragfondacija.org/index.php>; <https://www.womenngo.org.rs/vesti/1227-azc-jedna-od-inicijatorki-povlacenja-nacrta-zakona-o-izmenama-i-dopunama-zakona-o-socijalnoj-zastiti-poslato-506-zahteva>

122 <https://www.womenngo.org.rs/vesti/1468-konsultacije-godinu-dana-posle-javne-rasprave-konsultacije-o-nacrtu-izmena-i-dopuna-zakona-o-socijalnoj-zastiti>

123 Within the EU funded PLAC project <http://www.info-evropa.rs/wp-content/uploads/2016/06/Compliance-analysis.pdf>

The fact that amending the discriminatory articles of the **Law on Financial Support to Families with Children** was not planned in draft Action Plan for the National Strategy for Improving the Status of Women and Promoting Gender Equality for the Period 2019-2020, not even after the submission of constitutional appeals,¹²⁴ citizens protests and data on more than 13,000 women whose salaries were significantly lowered during maternity leave (more about the effects of the Law in section “Children’s Rights”) shows that the Government of Serbia is continuing with its **policy of punishing women in the labour market** when they decide to bear children. Although all these women have been paying taxes and contributions on their salaries, the State of Serbia reduced the previously achieved level of their right guaranteed by Article 11 (2b) of the CEDAW Convention.¹²⁵ The policy of the Government of Serbia is to distract women from entering the labour market and encourage young women to stay at home and raise children, for which the State will “reward” them with social benefits.

RECOMMENDATIONS:

- Ensure fully implement the CEDAW Committee’s Concluding Observations on the Fourth Periodic Report on the Implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women and take all anti-gender discourse measures;
- The adoption of anti-discrimination laws should not reduce the attained level of women’s/ citizens’ rights;
- Vigorous measures should be taken to eliminate multiple and interconnected forms of discrimination experienced by women exposed to adverse social impacts;
- Clear indicators need to be defined to measure, monitor and evaluate the effects of the implementation of laws, national strategies and action plans.

124 Initiative submitted to the Constitutional Court by the organisation A11 regarding Article 25, paragraphs 1-6. Available at: <http://www.a11initiative.org/en/a-11-initiative-has-lodged-an-initiative-for-assessment-the-constitutionality-of-the-law-on-financial-support-to-the-family-with-children/>. Initiative of the Commissioner for the Protection of Equality submitted to the Constitutional Court regarding Article 17, paragraph 2 and Article 18, paragraph 2. available at: <http://ravnopravnost.gov.rs/rs/inicijativa-za-izmenu-zakona-o-finansijskoj-podrsi-porodici-sa-decom-2/>

125 CEDAW, Article 11, paragraph 2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures: (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

2. CHAPTER 23 – JUDICIARY AND FUNDAMENTAL RIGHTS

2.1. Judiciary

Constitutional Reform of the Judiciary

The Parliament has not been active regarding initiating constitutional change proposed by the Government in late 2018. The Government took over the entire drafting process – which is in contravention of the Serbian Constitution and the Action Plan for Chapter 23 – and presented a Draft that did not fit the purpose of guaranteeing judicial independence.

The Government finalised the Draft Constitutional Amendments in the area of judiciary and submitted the Proposal for constitutional change to the Serbian Parliament in November 2018. So far, the proposal has been discussed only in the parliamentary Committee for Constitutional Affairs and Legislation in June 2019, with the Minister of Justice and several opposition members also present. Before it starts a debate on the substance of the proposed solutions, the Parliament must formally initiate a constitutional change with 2/3 majority. This should have occurred before the Government started drafting the amendments. Instead, the Government has led the process since summer 2017, keeping the Parliament aside and expecting it to simply rubber-stamp the proposal.

This could have been gleaned from the First Draft of the Revised Action Plan for Chapter 23, published in January 2019¹²⁶, which imposed unrealistic deadlines for completing the process of constitutional change – in the second and third quarter of 2019 – and for adjusting the laws governing the area of judiciary with the revised Constitution (by the end of 2019). After interventions by the civil society during a short public debate,¹²⁷ the revisions were improved¹²⁸ with a detailed description of further steps to be taken to complete the process in accordance with Serbian normative framework, including holding public hearings in the relevant committee and holding a referendum to confirm the constitutional change. However, there will not be another Venice Commission assessment of the final version of the Amendments or the Constitutional Law implementing the amendments. The deadline was moved to the second quarter of 2020, which still seems unrealistic, especially in view of parliamentary elections next spring.

The Draft Constitutional Amendments drafted by the Ministry of Justice do not introduce adequate minimal standards of judicial independence as set in the Action Plan for Chapter 23 (Activity 1.1.1). For example, the role of the Parliament in the judicial and prosecutorial councils was supposed to become only declaratory. However, this is not the case since, according to the proposal, both councils have an even number of members, which is unusual, and only half of them are judges/prosecutors. All non-judicial members are chosen by the Parliament, except for the guaranteed membership of the Minister of Justice in the Prosecutorial Council. The independence of the Judicial Academy is not guaranteed, and the election of all future judges is dependent on their completion of this programme, which is under the direct control of the executive.

126 <https://www.mpravde.gov.rs/tekst/26460/prvi-nacrt-revidiranog-akcionog-plana-za-poglavlje-23.php>

127 <http://www.yucom.org.rs/wp-content/uploads/2019/05/Zbirni-komentar-Radne-grupe-NKEU-za-Poglavlje-23-na-prvi-nacrt-revidiranog-AP-23.pdf>

128 New version of the Revised AP23 was published in June and submitted to the European Commission for assessment: <https://www.mpravde.gov.rs/tekst/26438/prvi-nacrt-revidiranog-ap-pg23-izmenjen-na-osnovu-komentara-organizacija-civilnog-drustva.php>

RECOMMENDATIONS:

- The Parliament should officially initiate the constitutional change and include experts from academia and civil society in improving the Draft Constitutional Amendments submitted by the Government;
- Constitutional Law for implementing the amendments should also be submitted to the Venice Commission for evaluation.

2.1.1. Professionalism/Competence/Efficiency

While the amendments to the Law on Enforcement and Security have been adopted in the **second quarter of 2019**, six months earlier than planned, in the first draft of the revised AP 23 of June 2019 amendments to the Civil Procedure Code and the Criminal Procedure Code (Activities 1.3.6.1 and 1.3.6.2) have been postponed until the **fourth quarter of 2020**. It can be concluded that amendments to these laws are envisaged without the analyses of all necessary changes, and only concerning service of process, recording of trials, and discipline in the course of the proceedings. Having in mind the activities related to the creation of the *National Strategy on the rights of victims and witnesses of crime for the period 2019-2025 with the accompanying Action Plan*, the question remains whether or not, and how, Activities 1.3.6.2 and 1.4.4.5 to 1.4.4.7 are connected.

It cannot be confirmed that the amended Activity 1.3.10.1 (previously 1.3.11.1), *Analysis of the implementation of the National Strategy for Judicial Reform for the period 2013-2018* was implemented prior to the creation of the new Strategy for the Judiciary for the period 2019-2024. The Ministry of Justice conducted a public debate on the new Strategy and made available the text of the draft Strategy (dated July 2019);¹²⁹ the draft Strategy, however, does not mention the above analysis. In the first draft revision of the AP for Chapter 23 of June 2019, the new Strategy is planned to be adopted in the fourth quarter 2019.

With regard to the AWC comment on the reasons for adopting a new Law on Mediation, the Council for the implementation of AP 23 replied that *the IPA 2016 Project "Support to the Supreme Court of Cassation" elaborates this issue in detail, and its implementation is currently under way*. Since the contents of the IPA project are not publicly available on the Ministry's website, this explanation lacks information from the above-mentioned elaboration. Unlike the draft AP from February 2019, in the version of July 2019 **new activities** (1.3.6.13-1.3.6.15) related to drafting and adopting a Strategic framework for the improvement of the application of mediation, the implementation of the adopted strategic framework for mediation, and the adoption of the new Law on Mediation all **lack timelines**. Information about the establishment of the Working group in charge of amending the Law on Mediation could only be read as news; namely it was stated that the first meeting of the Working Group was held on 30 January 2019, and that the WG was to complete the draft by 30 June 2019.¹³⁰ Although it could be determined from the April news that draft Strategy on Mediation had been created and presented at public round tables, the draft text of the Strategy cannot be found on the Ministry's website.

The AWC comment suggesting monitoring and resolving old cases in prosecutor's offices was not accepted. No indicators were provided for monitoring the implementation of amendments to the Law on Enforcement and Security that refer to enforcement judges (1.3.7.5). Regular supervision has been planned only for enforcement agents, but not for judges who have jurisdiction over the enforcement of court decisions.

¹²⁹ https://www.mpravde.gov.rs/files/New%20Working%20Text%20of%20the%20JDS%20_ENG_%20public%20discussion%20comme%20nts%20incorporated.pdf

¹³⁰ Available only in Serbian, at: <https://www.mpravde.gov.rs/vest/22233/unapredjenje-normativnog-okvira-za-primenu-medijacije-radi-efikasnijeg-i-delotvornijeg-resavanja-sporova.php>

We can only hope that new activities (1.2.1.7, 1.2.1.8, 1.2.1.17, 1.3.5.2 and 1.3.5.3) regarding the case weighting methodology to be applied in all the courts and public prosecutor's offices, proper distribution of cases, and a solution to the unequal workloads of judges and public prosecutors will resolve the problems with the backlog of prosecution cases that are reaching the statute of limitations and the backlog in enforcement of family law decisions. These activities have been added, accompanied by a comment that budget will be provided through the IPA 2017 Project "Support to the SPC and RPPO in performing their competences related to prosecutorial governance and coordination" (programming in progress), without a timeline except for the activity 1.2.1.17 which is due to be implemented in the **third and fourth quarter of 2021**.

2.1.2. War Crimes

With regard to the AWC comment on why Activities 1.4.4.5, 1.4.4.6 and 1.4.4.7 were inserted as new activities relating to war crimes when they refer to all victims and witnesses of all criminal offences (not only to victims and witnesses of war crimes), the Council for the implementation of the AP 23 replied *that the statement is correct and reasonable, and they are of the opinion that these activities should also be added, and that they do belong here because of the importance attached to them and their mutual interconnection with strategic documents, primarily with Chapter 24 and the National Strategy on the rights of victims and witnesses of crime for the period 2019-2025, with the accompanying Action Plan which is under preparation.*

During the public debate on the **Draft Law on the Rights of Fighters, Disabled Veterans, Civilian Persons Disabled in War and Members of their Families**, organised in June 2019 by the Ministry for Social Policy, the Autonomous Women's Centre and Women in Black submitted comments requesting the recognition of survivors of sexual violence in conflict as civilian victims of war.¹³¹

The definition of civilian victims of war contained in the Draft Law is **discriminatory** and **excludes** a wide circle of persons: those who do not have a physical disability of 50%, who are not citizens of the Republic of Serbia, who have not been injured "by the enemy" and persons whose injuries are of psychological nature. The Humanitarian Law Fund submitted similar comments regarding the unconstitutional nature of regulations that differentiate between the psychological and physical integrity and exclude various categories of victims from the definition, **victims of sexual violence** in particular.

The Republic of Serbia is the only country in the region whose legislation does not recognise victims of sexual violence in war, and which does not provide any form of reparation. This is contrary to numerous international acts, including the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Resolution 1325, and the recently adopted Resolution 2467. As stated in Serbia's Progress Report for 2018: "The UN **Human Rights Committee** and the **Commissioner for Human Rights of the Council of Europe** expressed concerns as to the discriminatory nature of this law. **Sexual violence in conflict has not been adequately addressed and further efforts are required in this area.**"

131 <https://www.womenngo.org.rs/en/news/1463-women-survivors-of-sexual-violence-in-war-should-be-recognized-as-civilian-victims-of-war>

2.2. Fight against Corruption

2.2.1. Absence of Strategic Frameworks, Lack of Political Will and Effective Monitoring

Generally speaking, there have been some improvements in the legislative framework for the fight against corruption, but there have been no improvements in the implementation of the existing one since March 2019. **The deadlines for the implementation of the overall Action Plan for Chapter 23 and the National Anti-Corruption Strategy for the period 2013–2018 have expired.** Serbia did not achieve the goals that were set in these acts. Most of the normative activities have not been implemented, and, considering the same approach presented in the extended Action Plan (until 2021), whose adoption is still pending, there is no reason to believe that the situation will improve.

Namely, **the system for monitoring and oversight of these strategic acts brought no results**, and no substantial changes are envisaged in the first draft revision of the Action Plan for Chapter 23. It is clear that the absence of political will of the Serbian authorities is preventing the solution of these problems. Moreover, the fact that **nine months have passed without the creation of any strategic documents in the area** provides additional evidence as to the low level of priority that fight against corruption is given by the current Government and Parliament.

Information about the performance of repressive anti-corruption bodies indicates an increase in the number of cases resolved by using plea bargaining. However, the published data are still incomprehensive; they do not include a comparison with previous periods and data on confiscated proceeds of corruption, information on the use of task forces, and on forensic accountants, while data concerning financial investigations carried out in parallel to criminal ones are missing. There has been no progress regarding the suppression of high level corruption.

2.2.2. Legislative Framework and the Work of Institutions

As regards legislation, the Law on Lobbying came into force during the observed period, in August 2019, but there are no indications so far that it is being implemented in concrete legislative procedures. In its by-law, the Anti-Corruption Agency failed to correct the omission of the legislator and ensure public access to the activities of persons in public authorities who are approached by lobbyists and interested parties.

After five years of preparation, the new Law on Prevention of Corruption, which will replace the current Law on Anti-Corruption Agency, , failed to resolve many of the problems that were recognised in previous period by national and international experts, EC, GRECO, even by the Government of Serbia and the Agency. The Law slightly improved the powers of the Agency relating to the control of public officials' asset declarations, but did not ensure fully comprehensive reporting. However, the new method of appointment of ACA officials does not provide greater protection from political interests, although it will improve the expertise of future ACA Council members.

There were also some potentially important changes to other legislation, some useful, some potentially harming (see chapter 1.2 - The Parliament).

In this period the Ministry of Justice published the second draft Revision of the Action Plan for Chapter 23. The Government published a revised draft of **the new Media Strategy**.

The Ministries did not publish an updated draft of the **new Law on Public Procurement**, a draft **Law on the Investigation of Property Origin and Special Tax**, or amendments to the **Law on Free Access to Information of Public Importance**. According to the news,¹³² the Government adopted the proposal for the new Law on Public Procurement at the session held on 23 September 2019, but the document was still unavailable on 28 September 2019 (when this report was finalised).

Changes to the Criminal Code and related laws of May 2019 did not affect any of the corruption-related issues.

The Government's results in reducing or diminishing systemic forms of corruption are missing. The National Anti-Corruption Strategy expired in 2018, as well as the existing deadlines for the implementation of the Action Plan for Chapter 23. The Parliament did not discuss these issues regardless of the fact that the report on the implementation of NACS was an integral part of ACA's annual report for 2018, which was included in the parliamentary agenda.

The revised Action Plan for Chapter 23, published by the Ministry of Justice,¹³³ kept the same, obviously unsuccessful, concept of the Action Plans' monitoring and evaluation, including most of the activities that proved to be ineffective. The Ministry accepted several proposals by public debate participants and slightly improved the overall quality of the document. There is no evidence that the implementation of the Action Plan was monitored by the Government in 2019. While earlier practice included a presentation of quarterly reports on the implementation, there have been no reports on eventual achievements during this year.

In response to the procedure launched by GRECO, **the Government established the Coordination Body for steering activities in the implementation of GRECO recommendations in 2018. There is no published information about the activities of that body** in 2019 and, according to the report published in April 2019, Serbia still has to address most of GRECO recommendations.¹³⁴ While the implementation of recommendations related to the ACA is doubtful, having in mind the provisions of new Law on Prevention of Corruption, **there is no doubt that Serbia did nothing to regulate the conflict of interest and the Ethics of MPs**, and that proposed changes of the Constitution do not guarantee full implementation of recommendations related to the composition of judicial councils.

Recommendations of ODIHR and SIGMA/OECD were only partially implemented, when it comes to free access to information, while professionalisation of the public service and some aspects of elections were completely ignored (as discussed in chapter 1.1.2). In late September 2019, representatives of the Ministry of Public Administration and Local Government announced¹³⁵ the revised provisions of the Amendments to the Law on Free Access to Information which would be much more in line with relevant SIGMA recommendations.

There is no information on the activities – whatever they may be – of the other governmental Coordination Body (for the implementation of the Anti-Corruption Strategy which expired in 2018), established five years ago to demonstrate a “high level political will” to curb corruption.

Public debates are not organised in accordance with the law and the Government's Rules of Procedure for all draft laws where the existing regulation makes it mandatory. Consequences were in particular harmful and visible in the case of amendments to the Criminal Code and the adoption of a “lex specialis” to resolve the CHF loans problem.

132 <https://www.srbija.gov.rs/vest/413256/usvojen-predlog-zakona-o-javnim-nabavkama.php>

133 <https://www.mpravde.gov.rs/tekst/24658/prvi-nacrt-revidiranog-ap-pg23-izmenjen-na-osnovu-komentara-organizacija-civilnog-drustva.php>

134 <https://rm.coe.int/grecorc4-2019-5-fourth-evaluation-round-corruption-prevention-in-respe/168093bc55>

135 <http://rs.n1info.com/Vesti/a528188/Antic-javna-preduzeca-bice-delimicno-izuzeta-iz-zakona-o-dostupnosti-podataka.html>

Implementation of the law continues to be a problem that is even bigger than failures to improve legislation. Deterioration is particularly visible in the area of free access to information, with an increase of unexecuted Commissioner's decisions. This could be considered a continuation of a broader trend - creation of an "un-accountable" government, a culture where politicians in power do not find it necessary to provide any reasonable explanation for their decisions, not to mention eventual discussions about the substance of these decisions with political opponents or experts.

After a long delay, the Anti-Corruption Agency published at least some information on party financing control (for Belgrade and several local elections), but did not provide any information on the investigation of certain suspected major violations (such as the donation of valuable premises by an individual to the ruling SNS). Furthermore, information on investigation of possible non-compliance of public officials with the duty to distinguish public from political activity is not published in cases when ACA issues only a warning measure or establishes absence of liability. Generally, unlike in previous years, the **Anti-Corruption Agency does not practice visibly criticising the work of the government.** Also notable is the absence of criticism regarding the content of the new Law on Prevention of Corruption (whose numerous components are less detailed than ACA requested) and failure to reform the Law on Financing of Political Activities (which, according to the original plans, was to be amended in 2014).

Story 4 Serbia Showers Pro-Government Media With Public Funds, Often Against Regulations

The state of Serbia has postponed TV Pink's payment of tax debt in the amount of more than RSD 1.52 billion. Pink is fiercely pro-government, and it is the most popular private television in Serbia.¹³⁶ At the same time, two pro-government tabloids are receiving millions at local municipalities' competitions for "public interest" media projects, despite having been reprimanded for professional and ethical transgressions by the self-regulatory Press Council on many occasions. *State-owned news agency Tanjug, also uncritically on the side of the government, is heavily financed by public money, and is continuing to work despite the law which explicitly stipulates that Tanjug was to be shut down a long time ago.* The state has even appropriated RSD 76.5 million for Tanjug to end its existence, which has not happened, and it is unclear whether or not the money was used to fund the continued work of the agency.

Besides the postponement of tax payment, TV Pink has received several credit loans from the Serbian Export Credit and Insurance Agency (AOFI) (the last one was in the amount of RSD 1.28 billion), in the form of help for export contracts. The Agency is prohibited by Law on AOFI from supporting companies that owe taxes, and it is unclear what it is that TV Pink is actually exporting. For each of the last four fiscal years, the state of Serbia has provided TV Pink with reprograms for the tax debt totalling 93 instalments. The RSD 231.2 million debt from 2012 has been reprogrammed into six instalments, RSD 705.01 million into 15 instalments a year later, in 2014 RSD 197.5 million into 12, while in 2016 RSD 389.1 million was reprogrammed into 60 instalments. Serbian tax authorities refused to explain the criteria for granting such preferable treatment to TV Pink. At the same time, tax authorities have been persistently controlling Južne vesti, an independent and critical local Internet portal from the Serbian city of Niš, for years.

CINS has also documented the continuous financial help of AOFI, under unknown conditions. In 2014, AOFI helped finance the export contract of TV Pink with RSD 164.2 million, and guaranteed for another credit loan from a bank with RSD 293.3 million. Despite the fact that one of the requirements for receiving help from AOFI is a document by tax authorities confirming that the company in question owes no tax to the state, and the fact that TV Pink owed RSD 197.5 million three days before the contract with AOFI was signed, help was not only provided, but it also continued in the following years. AOFI continued to support TV Pink with RSD 433.3 million in 2015, and RSD 402.7 million in 2017.

Openly and fiercely pro-government tabloid Informer is competing for state funds which local municipalities and the Serbian Ministry of Culture and Information assign to "public interest media projects". It somehow keeps winning financial support despite the provisions of the Rulebook on the Assessment of Media Products stipulating that funds can be awarded only to media that uphold professional and ethical standards. The Press Council has reprimanded Informer on 44 occasions since 2017, when this tabloid started competing for funds in this way. It still keeps receiving funds from local authorities.

136 <https://www.cins.rs/podobnim-medijima-milioni-iz-dzepa-gradjana/>

Another pro-government tabloid, Srpski Telegraf, keeps receiving local municipality funds in much the same way as Informer, although it was issued a similar number of reprimands by the Press Council.

After a group of media laws was adopted by the Serbian Parliament in 2015, one of the 73 state-owned media to be privatised was the state news agency Tanjug. Attempts at its privatisation failed and, according to the law, it should have been liquidated. It continued to work with discreet financial help by the state and state-owned and co-owned businesses even though the law says it should not exist. It reports very favourably on the government activities, ignoring its failures or criticisms directed at it. The last awarded contract was the one for covering the activities of the Ministry of Finance (which is the agencies' job anyway), amounting to RSD 1.6 million. Since October 2015, when it should have been liquidated, Tanjug received at least RSD 129.11 million of public money, partly for the purpose of liquidation and partly through commercial contracts. In 2017, the City of Belgrade allowed Tanjug to pawn its art collection in order to postpone the payment of tax in the amount of RSD 5.7 million.

2.2.3. Governmental Priorities and Their Implementation

In the period from March to September 2019, the Government of Serbia did not publish a comprehensive report on its activities and the achievement of the goals from the Prime Minister's exposé regarding the fight against corruption. Of all the possible anti-corruption measures, the Prime Minister's exposé from 2017 mentions only the adoption of two laws,¹³⁷ without clear deadlines for their adoption. One of them, the Law on Prevention of Corruption, was adopted in May 2019, while for the Law on Investigation of Property Origin the Ministry of Justice organised a public debate in March 2019. Other laws and duties set out in strategic documents were not considered in the exposé.

The Government web-based platform includes a section titled "Stop Corruption". This section contains only information on police actions. In the last six months (1 March - 17 September) they have published 30 news items on various types of misconduct, including corruption-related offences.

None of provisions of the Law on Prevention of Corruption were improved during the parliamentary debate, despite serious omissions (elaborated in the April 2019 Alarm report). Similarly, there are no signs that any of the problematic provisions, identified in the March 2019 draft Law on Investigation of Property Origin and Special Tax (elaborated in the April 2019 Alarm report) will be resolved based on the input from the public debate.

2.2.4. Other Unfulfilled Action Plans' Measures

A large number of measures contained in the **Action Plan for the Implementation of the Anti-Corruption Strategy (2013–2018)** and the Action Plan for Chapter 23 (2016) have remained unfulfilled.

There have been no attempts to amend the **Law on Financing Political Activities**, although this was envisaged in the Action Plan.

"Professionalisation of public enterprise management" has not been implemented. Statutory provisions governing the appointment of directors and members of supervisory committees in public enterprises contain numerous deficiencies. However, even the existing mechanisms are not being implemented. The process of appointment of directors at the central government level has been completed only in a small number of public enterprises. The Government, instead, kept the majority of the previous directors in **"acting" positions**, violating in some cases even the time limits of the "Acting Director" status. Instead of implementing the existing accountability mechanisms, the quality of directors is discussed by politicians and the media in an arbitrary manner or using irrelevant arguments.

137 <http://www.transparentnost.org.rs/index.php/sr/aktivnosti-2/pod-lupom/9257-ekspoze-o-korupciji>

No effort was made to improve the **public sector and political advertisement rules**, which are neither consistent nor sufficient. The issue is tackled in the current draft of the new Media Strategy, and to a certain extent addressed in the draft Law on Public Procurement.

The existing system of media programme financing still raises controversies, and legal provisions concerning the transparency of media ownership have not resulted in any fundamental progress.

The Law on Protection of Whistle-Blowers, whose implementation began in June 2015, did not increase the number of reported cases of corruption, or at least there is no evidence to the contrary. Systematic oversight of the implementation of the Law, apart from court cases and cases of internal whistle-blowing in ministries, has not been ensured.

There is still no systematic discussion of the **Government's Anti-Corruption Council reports**.¹³⁸ There have been no attempts to introduce mandatory consideration of the Councils' reports into the Government's Rules of Procedure.¹³⁹ Furthermore, the revised Action Plan for Chapter 23 provides for a rather vague duty of the Government to discuss Council's reports (without a deadline) and leaves room for limiting the long-existing *de facto* autonomy of the Council through the process of appointment of new members.

Expectations that the status of civil servants on post will be finally organised in accordance with the Law on Civil Servants were not fulfilled. In most instances the Government just continued to appoint "acting civil servants". The term of office of all acting public officials, i.e. about two thirds of all public administration managers, expired on 1 July 2019. Lack of willingness to act in accordance with the law is particularly obvious from the fact that the Government appointed as many as **20 acting servants** during the last session that preceded the deadline, on 27 June 2019.¹⁴⁰

There have been no changes to **the Law on Public Procurement**, and no progress was noted regarding the drafting of the new **Law on Public-Private Partnerships and Concessions** or amendments to the existing one. Public-private partnerships remain an enormous problem not just in terms of normative deficiencies,¹⁴¹ but also with regard to implementation.¹⁴²

The biggest issue is that exceptions are applied to the **largest infrastructure projects**, resulting in **no competition and no transparency**. The principles underlying the European law in this area are also directly violated. Serbia continued to enter into such arrangements, in particular with PR China, as well as to undermine the system of public procurement by adopting various "**leges speciales**" to suit concrete projects (e.g. the "Morava Corridor", construction of apartments for defence sector employees, etc.).

Results of the implementation of the existing anti-corruption mechanisms contained in the Law on Public Procurement have been very limited due to the shortcomings of certain provisions and, to a greater degree, limited supervisory capacities, primarily those of the Public Procurement Office. The mechanism for sanctioning infractions remains ineffective due to inconsistencies between the Law on Public Procurement and the Law on Misdemeanours. There is also the absence of a reaction of public prosecutors in cases of suspicion of deliberate abuses in connection with public procurement.¹⁴³

138 <http://www.antikorupcija-savet.gov.rs/sr-Cyrl-CS/izvestaji/cid1028/index/>

139 <http://preugovor.org/Amendments/1439/Amendments-to-the-Rule-of-Procedures-of-the.shtml>

140 <http://www.transparentnost.org.rs/index.php/en/ts-and-media/press-issues/10613-of-today-two-thirds-of-public-administration-without-legal-management>

141 http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/TS-Analiza-rizika-od-korupcije-u-propisima-o-javno--privatnom-partnerstvu-2018.pdf

142 <http://transparentnost.org.rs/index.php/en/ts-and-media/press-issues/10441-concession-without-announced-contract-and-study-showing-justification>

143 http://www.transparentnost.org.rs/images/dokumenti_uz_vesti/Ka_efikasnijem_procesuiranju_finalni_izvestaj_TS.pdf

In the area of repression of corruption, there were several publically promoted actions. Some of them were inappropriately commented by political officials, including the President of Republic, Prime minister and Minister of Interior, in particular in the case of alleged abuse of RTS (public broadcasting service) funds for the benefit of the marketing company previously owned by the current leader of one opposition party.¹⁴⁴

RECOMMENDATIONS:

- The Parliament should organise a debate on the implementation of the National Anti-Corruption Strategy 2013-2018, establish responsibility for failures, and request that the Government and ACA open the process of drafting the new Anti-Corruption Strategy. The Parliament should also ask the Government to provide a report on the implementation of AP for Chapter 23 for the year 2019, and carry out an impact-oriented revision of that AP;
- The Government should ensure full implementation of existing rules, in particular through the appointment of top officials of public enterprises, public administration and public services, organising meaningful public debates as part of the legislative process, and ensure the execution of the final decisions of the Commissioner for Information of Public Importance and Personal Data Protection;
- The process of negotiations and the transparency of information pertaining to the signing of international agreements and credit arrangements must become more transparent, so that MPs and the public can have an insight into whether their potential benefits are greater than the damage that occurs due to the non-implementation of regulations governing public procurement and public-private partnerships;
- The Criminal Code must be improved to ensure a more effective legislative framework for curbing corruption through the incorporation of “illicit enrichment” based on UNCAC’s Article 20, a revision of criminal offences of bribery, bribery related to voting and offences related to asset declaration, public procurement and party financing, as well as criminal sanctioning of reprisals against whistle-blowers;
- Public prosecutors have to be provided with necessary resources and staff which will enable them to fully implement their tasks, including those necessary for financial investigations. The State Prosecutorial Council should ensure that prosecutors are held accountable when they fail to investigate corruption and abuse of power or act pro-actively;
- The Government should regularly consider the reports and recommendations of its Anti-Corruption Council and undertake measures to resolve problems identified in them. When the Council publishes reports, the Government should inform the public of the actions taken to resolve systemic problems (e.g. changes in regulations), individual problems (e.g. accelerating or cancelling procedures, dismissal of responsible officials, considering criminal charges) or further verify facts;
- Amending the Constitution is necessary to narrow down the existing broad immunities from criminal prosecution, decrease the number of MPs, redefine the status of independent state bodies, set up a barrier to the violation of rules on the use of public funds through excessive borrowing and international contracts, better organise the resolving of conflicts of interest, and provide firmer guarantees for transparency of Government bodies’ work;
- The Government should consider recommendations of independent authorities (in particular the Anti-Corruption Agency, Commissioner for Information of Public Importance and Personal Data Protection, Ombudsman, Fiscal Council) and report to the Parliament on their fulfilment;

144 <https://www.vreme.com/cms/view.php?id=1715001&print=yes>

- The legal framework and practice regarding elections, campaign rules and oversight of campaign financing should be improved. This includes changes to the Law on Financing Political Activities, regulating “public officials’ campaigning”, and improving rules on misuse of public resources. Public prosecution, ACA and the Republic Authority for Electronic Media should be active in the prevention and investigation of misconduct;
- The Government should speed up its work on the remaining necessary legislative changes and enable the process to be participatory. This includes areas such as free access to information, public debates, public-private partnerships, whistle-blower protection, the media, political and state advertisement, and the work of public enterprises and public administration;
- The Parliament should swiftly elect missing public officials of independent bodies (deputy Commissioners for information of public importance, one board member of the ACA, four deputy Ombudspersons);
- The Government should also increase the transparency of its operations by regularly publishing explanatory notes to by-laws, conclusions that are not of confidential nature, contracts signed, information about advisors and lobbying, and findings based on Government’s oversight of other public bodies;
- Director of the Anti-Corruption Agency should expose his conflict of interest when it comes to the decisions affecting the interests of his former party, and ACA’s Board should decide about said conflict as soon as possible.

2.2.5. Fight against Corruption in the Police

The Sector for Internal Control is still not immune to Political Influence

Amendments to the Law of Police twice in 2018 missed the opportunity to eliminate the possibility of the Minister of Interior, as a political figure, to influence the independent work of the Sector for Internal Control.

The Sector for Internal Control is an organisational unit of the Ministry of Interior tasked with controlling the legality of the work of over 41,000 employees of the Police Directorate and the Ministry itself, protecting the human rights of citizens with regard to police officers’ use of powers, and combating police corruption.

The political, functional and operational independence of the Sector for Internal Control is undermined because the Law on Police stipulates that the Minister of Interior provides guidelines and issues orders (except in case of preliminary investigative and investigative procedures initiated by the public prosecutor),¹⁴⁵ prescribes how internal control is to be conducted,¹⁴⁶ oversees the work of the Head of the Sector,¹⁴⁷ and selects personnel tasked with security vetting of the Sector’s employees.¹⁴⁸

The Sector increased its performance in 2018, most likely due to the long-awaited arrival of 22 additional staff members and the acquisition of new technical equipment (seven new vehicles and IT, audio and video equipment worth nearly EUR 700,000, through EU support). However, there are still gaps in its capacity and performance. For two years in a row, the Sector has been lacking funds for the application of covert surveillance measures or payment for useful information on crimes and their perpetrators, which is very useful in criminal investigations.

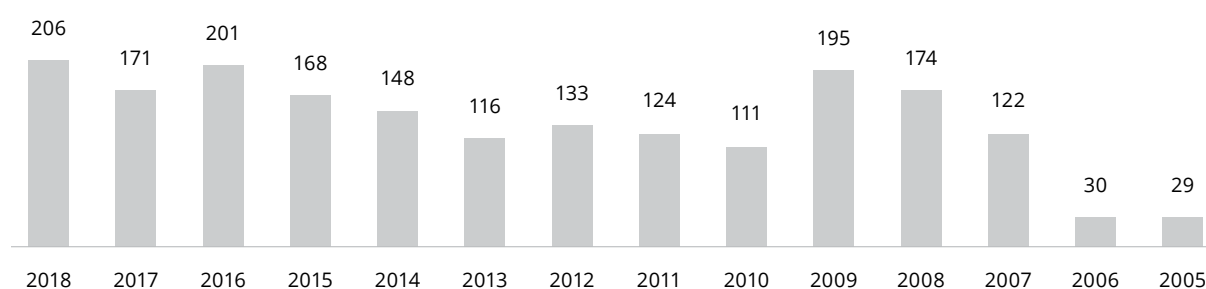
¹⁴⁵ Article 233, Law on Police, Official Gazette of the Republic of Serbia, nos. 6/2016 and 24/2018

¹⁴⁶ Article 225, Law on Police, Official Gazette of the Republic of Serbia, nos. 6/2016 and 24/2018

¹⁴⁷ Article 232, Law on Police, Official Gazette of the Republic of Serbia, nos. 6/2016 and 24/2018

¹⁴⁸ Article 141, para. 10, Law on Police, Official Gazette of the Republic of Serbia, nos. 6/2016 and 24/2018

Graph 1. Number of criminal charges pressed by the Sector for Internal Control since 2005



Lack of credible monitoring of the performance of Internal Control Sector

The Sector employs 124 people and has filed 206 criminal charges in 2018 – more than ever since it was established. However, it is important to be careful with the statistics, as the figures do not give a real account of corruption and crime in the police, and it is difficult to know how effective the Sector for Internal Control is in criminal investigations. There is no credible data on how many of these charges resulted in criminal proceedings initiated by prosecutors. It is not possible to determine the exact number of dismissed Sector's criminal charges because the prosecutor's offices do not keep records of suspects' occupation or the answers received were incomplete. According to the prosecutor's offices that keep records of such data, at least 36 criminal charges that were submitted by the Ministry of Interior against its own employees have been dismissed by the prosecution. In addition, the courts do not record the outcome of criminal proceedings against police officers and other members of the Ministry of Interior.

This means that **precise information on the outcome of the Sector's criminal charges is unknown**. This means that, in practice, it is possible that the Sector for Internal Control presses criminal charges without adequate evidence, and records them as cases that have been resolved regardless of the fact that the prosecution has actually dismissed the charges.

In 2018, based on replies provided by 77 of 85 prosecutor's offices in Serbia, 130 criminal charges filed by all actors (not only by the police) against police officers have been dismissed – 15 more than in 2016. The most common reason for dismissal was that there were no grounds to suspect that a criminal offence that is prosecutable *ex officio* has been committed (63). In 16 cases the public prosecutor deferred criminal prosecution due to the fact that suspected police officers accepted one obligation prescribed by criminal legislation.¹⁴⁹ In five criminal charges, the prosecution found that reported offences did not constitute criminal offences that are prosecutable *ex officio*.

Unknown Results of the New Anti-Corruption Tools

There are no official data about the implementation and effects of the new anti-corruption measures (integrity testing, corruption risk analysis, asset declarations and property controls) although three years have passed since the Ministry of Interior's officials declared these to be key instruments for fighting corruption. In addition, anti-corruption measures, especially the integrity testing, remain poorly regulated.¹⁵⁰

149 Article 283, Criminal Procedure Code, Official Gazette of the Republic of Serbia, nos. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014 and 35/2019

150 Tomić, Nikola (ed.), prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24, September 2018, pp. 46 and 52. Available at: <http://preugovor.org/Alarm-Reports/1460/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

RECOMMENDATIONS:

- The Law on Police should be amended to ensure political, functional, financial and operational independence of the Sector for Internal Control;
- Judicial record-keeping must be better regulated to make it possible to monitor the prosecution of Ministry of Interior employees as well as other public servants. This could include an obligation to introduce data on the occupation of the defendant into the data recorded by the courts and prosecutors; an obligation to ensure uniformity of data collected and maintained on adults accused; integration of records on the outcomes of criminal proceedings initiated by the Ministry of Interior.

Procurement in the Area of Security and Defence

The revised draft Law on Public Procurement reduces the level of checks and balances regarding security and defence procurement provided by the current law. It allows security institutions to exclude their procurement from regular procedure on an arbitrary basis and eliminates the obligation of regular oversight of defence and security procurement by the executive and the Parliament.

The Draft of the new Law on Public Procurement¹⁵¹ was revised to a certain extent after the public debate which took place at the end of 2018. The Draft Law creates a basis for arbitrary exemption from applying public procurement regulation in any contracting carried out by security sector institutions under the pretext of protecting national security interests. It leaves to the contracting parties to decide – largely on their own - if a specific procurement is related to the field of defence and security, which may result in all security and defence procurement being exempted from the general provisions of this Law.

Namely, the Draft Law contains an article (Art. 21) which allows exemption from public procurement procedure in an undefined range of cases in which implementation of the Law would force the Republic of Serbia to reveal information whose publishing would harm national security interests, or in cases when protection of essential security interests cannot be guaranteed by other measures, or when procurement and performance of a public contract or content of the tender are declared to be secret or must be accompanied by special security measures. The governmental working group responded to the concerns raised by the civil society regarding the enormous potential for abuse of this provision by pointing that it was copied from Article 15 of the Directive 2014/24/EU. However, Serbian institutions already have a long track record of triggering confidential procedures, even for the type of goods that did not indicate how implementing regular procedure would harm national security interests (see Alarm below). It is therefore reasonable to conclude that copying the Article 15 of the Directive 2014/24/EU without providing additional safeguards might enable covering up corruption rather than protecting national security. To prevent this, it is vital to uphold and advance the oversight mechanisms established in the current regulation.

ALARM: List of Top Confidential Procurements Carried Out Without a Proper Security-Related Reason:

- The Ministry of Interior had procured more than 1,000 cars in 2017 and 2018 without applying the law or publishing key information about the contract, even though there was no security-related reason to make confidential purchases, especially because previous procurements of the same kind had been public;¹⁵²
- The BIA procured regular furniture for its premises under confidential procedure in 2011, from the fiancé of former Deputy PM.¹⁵³

151 <http://www.ujn.gov.rs/wp-content/uploads/2019/01/Nacrt-Zakona-o-javnim-nabavkama.pdf>

152 <https://pointpulse.net/magazine/new-vehicles-for-serbian-police-a-new-secret/>

153 <https://pistaljka.rs/home/read/195>

RECOMMENDATIONS:

- Keep the obligation of contracting authorities to submit to the Government and the National Parliament annual reports on defence and security contracting (both confidential procurement carried out in line with the Law and procurement that was exempted from the Law) in the Law on Public Procurement;
- In the new Law on Public Procurement, oblige the contracting authorities to submit their annual defence and security procurement plans to the Government, and oblige the Government to inform the competent parliamentary committees thereof.

2.3. Fundamental Rights

2.3.1. Access to Information of Public Importance

ALARM: Reduced Transparency of Companies that Dispose of Public Funds

The revised **Draft Law on the Amendments and Supplements to the Law on Free Access to Information of Public Importance**¹⁵⁴ from December 2018 still has not been transformed into an official proposal and submitted to the Parliament. Like its original version¹⁵⁵ from March 2018, the Draft Law has been criticised by the civil society¹⁵⁶ and the Commissioner for Information of Public Importance¹⁵⁷ **for reducing the right to freedom of information and thus hampering public oversight of the executive.**¹⁵⁸

The Draft Law also **limits the scope of its own implementation by excluding certain legal entities, such as state-owned companies, from being subject to requests for free access to information.** The Draft Law exempts companies with share capital “that operate on the market under the regulations governing companies” from the exercise of right to information, even in cases when the state is a member or a shareholder in such an enterprise. Transparency of the work of companies such as Telekom Serbia, Air Serbia and Serbian Railways is highly important because they dispose of significant public property. Public enterprises can change their legal form to ‘company with share capital’ at any time, based on a discretionary decision and for the purpose of eluding the scope of the Law. Therefore, **excluding this category of state-owned enterprises would severely diminish the transparency of work of the public sector** based on discretionary political decisions.

Moreover, the December draft introduced new limitations – should this draft be adopted, the National Bank of Serbia will be exempted from Commissioner’s control in the appeal process. This will seriously reduce the level of transparency of state-run enterprises and government spending tracked by the Treasury of the National Bank of Serbia.

In late September, the Ministry representative announced that the new Draft Law, which would enter parliamentary procedure in the fall, would only partially exempt companies with shared capital where the state is also a shareholder.¹⁵⁹ The new revised Draft, however, has not been published yet, which made it impossible to inspect the revisions.

154 <https://bit.ly/2kUI0eR>

155 <http://mduls.gov.rs/wp-content/uploads/tekst-nacrta-zakona-sa-obrazlozenjem.docx?script=lat>

156 <https://bit.ly/2kUyw3c>

157 <https://bit.ly/2IX7Cbg>

158 Djurković, Sanja (ed.), *prEUgovor Alarm: Report on Progress of Serbia in Chapters 23 and 24, April 2019*, pp. 47-49. Available at: <http://preugovor.org/Alarm-Reports/1528/Coalition-prEUgovor-Report-on-Progress-of-Serbia.shtml>

159 <http://rs.n1info.com/Vesti/a528188/Antic-javna-preduzeca-bice-delimicno-izuzeta-iz-zakona-o-dostupnosti-podataka.html>

Selected Examples of Obstruction of the Right to Access Information of Public Importance

Procurement of 1000 police vehicles. On several occasions since 2017, the Ministry of Interior (MoI) and the Government refused to respond to the Balkan Investigative Reporting Network's (BIRN) request for information on the procurement of Skoda patrol cars for the police.¹⁶⁰ The procurement was implemented as confidential with no valid justification for secrecy. However, even decisions of the Commissioner for Information of Public Importance to provide access to requested information were ignored. The Administrative Court ruled in BIRN's favor in May and ordered the Government to provide the Act on confidential procurement of patrol vehicles.¹⁶¹ In response, the Government declared this Act confidential as well. This is even more alarming because, pursuant to the current Law, the Government should help the Commissioner to oblige public organs to provide requested information.¹⁶²

Report on the murder of Oliver Ivanović. The Crime and Corruption Reporting Network (KRIK) requested the report of the Serbian Prosecutor for Organised Crime on the murder of Kosovo Serb political leader Oliver Ivanović. In January 2019, Minister of Justice stated that a detailed report was prepared and sent to the Pristina authorities. However, the Ministry refused to forward the report to KRIK, claiming that it does not keep copies of submitted reports.¹⁶³ This political murder case is of great public importance.

Inter-city busses during a major opposition rally in the country's capital. Public Transport Company from Pančevo (a town near Belgrade) did not provide transport to Belgrade on 13 April 2019, when a major opposition rally was organised in the capital.¹⁶⁴ It claimed that it did not have sufficient resources to carry out intercity transport. Transparency Serbia requested that the company provide the number of its busses and drivers, since the explanation seemed dubious. The company refused to respond, claiming that it has the status of an enterprise of importance for defence and that information about its resources was therefore confidential (?!).

The Constitutional Court missed the opportunity to protect the unity of the legal order by allowing absolute exception from the right to freedom of information in the Law on Protection of Competition. In June 2019, the Court dismissed¹⁶⁵ the request of the Commissioner to assess the constitutionality of Article 45 of this Law, which stipulates that the Commission for Protection of Competition, at the request of a party to the proceedings pending before this body, may proclaim certain information not to be of public importance. This is justified for private companies, but not for public enterprises where public money is involved. How slippery this road is became evident in 2015, when the then Minister of Economy appealed to the Commission to grant *de facto* secrecy to documents relating to the public steel company (*Železara*);¹⁶⁶ in 2018, the company (i.e. the state) had to pay more than EUR 10 million in damages for illegally terminating the contract it had been hiding all along.¹⁶⁷

RECOMMENDATIONS:

- The new Draft Law on Amendments and Supplements to the Law on Free Access to Information of Public Importance must not, under any circumstances, reduce the attained level of guarantees regarding citizens' access to information of public importance. State-owned enterprises should not be excused;
- The Government must take all necessary steps to ensure that the above identified issues are remedied, with the aim of achieving the desired impact of improving access to information of public importance in the priority areas identified in the AP 23.

160 <https://pointpulse.net/magazine/new-vehicles-for-serbian-police-a-new-secret/>

161 <http://rs.n1info.com/English/NEWS/a483985/Court-orders-Serbia-s-Govt.-to-provide-data-on-police-cars-purchase.html>

162 <https://www.danas.rs/drustvo/vlada-zaobisla-odluku-upravnog-suda-nabavka-skoda-za-mup-i-dalje-tajna/>

163 <https://www.krik.rs/ministarstvo-pravde-izvestaj-o-ubistvu-ivanovica-smo-poslali-pristini-kopiju-nemamo/>

164 <http://rs.n1info.com/Vesti/a475950/Autobusi-iz-Panceva-od-jutros-ne-saobracaju-za-Beograd.html>

165 <http://www.kzk.gov.rs/en/ustavni-sud-odbacio-predlog-za-ocenu-u>

166 <http://www.politika.rs/sr/clanak/330136/Zasto-je-ugovor-o-zelezari-tajna>

167 <https://insajder.net/sr/sajt/tema/11857/>

Video Surveillance on the Rise, But Still in Legal Vacuum

The legal gap on some of the most pressing data protection issues such as video surveillance is still open, as the issue has not been regulated in the new Law of Personal Data Protection despite civil society recommendations. In parallel, one thousand HUAWEI cameras equipped with face recognition technology are being installed all over Belgrade, under the justification that they will help the police to increase citizens' safety. The Ministry of Interior provided conflicting information and refused to answer FoI requests of civil society organisations regarding the analysis of costs and benefits of this surveillance measure and its effect on personal data. The part of information previously denied by the Ministry of Interior regarding this procurement was found by the Belgrade-based NGO Share Foundation in Huawei's study published on the company's website. After the NGO shared the content of the study in March 2019, including information that cameras had been placed on 60 key sites in the city months before the Ministry's announcement, the study was promptly deleted from the website. The low level of data protection awareness in Serbia, combined with the legal gap and secretive practices of institutions, increases the risk for potential abuse of this highly intrusive technology that recently sparked protests in China.

2.3.2. Personal Data Protection

There are significant challenges to the implementation of the new Law on Personal Data Protection, which came into force in August 2019, caused by the confusing content of the Law and lack of preparation.

The newly appointed Commissioner for Information of Public Importance and Personal Data Protection asked for postponement of implementation of new Law on Personal Data Protection,¹⁶⁸ stating that Law subjects are not ready to take on numerous new obligations¹⁶⁹ and that the Commissioner's organisational capacities are inadequate to provide protection. There was no response from the Parliament. The difficulties of implementation arise also from the incomprehensibility of the Law, which is a mix and mash of provisions copied from EU GDPR and the EU Law Enforcement Directive (LED). Article 40 of the Law contains a provision which allows the rights of data subjects to be limited by means other than the law, which is unconstitutional and contrary to European standards.¹⁷⁰ The NGO Partners for Democratic Change Serbia took this issue to the Constitutional Court, but the case is still pending.¹⁷¹

The Law missed the opportunity to elaborate and provide higher standards concerning matters that were, due to legal nature of LED, left to national parliaments to legislate on. For example, it is still unclear which public bodies, and in which situations, are to implement LED provisions of the Law instead of its general provisions. This could create confusion and lead to exemptions from general rules wider than intended. It is also unclear how long the data would be stored in different situations. The LED provisions of the Law are difficult to implement as they do not specify how the Commissioner can help data subjects to protect their personal data in case of abuse in criminal proceedings and national security measures.

168 <https://www.poverenik.rs/sr/caopштења/3147-повереник-затражио-одлагање-примене-новог-закона-о-заштити-података-о-личности.html>

169 <https://www.poverenik.rs/sr/caopштења/3165-неспремност-руководилаца-за-примену-новог-закона-о-заштити-података-о-личности.html>. By the end of September only 200 of cca 15000 public organs named the person in charge for personal data protection: <http://www.yucom.org.rs/vec-problemi-u-primeni-novog-zakona-o-zastiti-podataka-o-licnosti-institucije-lenje-i-spore/>.

170 <http://www.bezbednost.org/Bezbednost/6874/Spasimo-ustavnu-garanciju-zastite-privatnosti.shtml>

171 <http://www.partners-serbia.org/partneri-srbija-podneli-inicijativu-za-ocenu-ustavnosti-i-zakovitosti-clana-40-zzpl/>

Prominent Cases of Personal Data Abuse

Another case of abuse of personal data for political and party interests occurred during the election campaign in the municipality of Medvedja in September 2019, when the leader of the Serbian Right published a video showing the list of this municipality's welfare recipients. The Commissioner initiated a control procedure at the local Red Cross office for alleged data leakage.¹⁷²

*Leaking sensitive personal data from the security sector to selected media became a practice that serves a purpose of discrediting former and current employees who have publicly criticised the state of affairs and reported irregularities in security institutions.*¹⁷³ The same practice is used against other critical voices, as was prominently shown in 2016 when the Security Intelligence Agency (BIA) leaked photographs and wire-tapped conversations of investigative journalist Stevan Dojčinović to the pro-regime tabloid Informer. Even though Dojčinović won the defamation suit against Informer, BIA never provided all the data that was repeatedly requested by the Ombudsman, who acted upon the journalist's complaint.¹⁷⁴

RECOMMENDATIONS:

- The Law on Personal Data Protection should be amended to align Article 40 with the Constitution and to specify standards from the EU Law Enforcement Directive (LED);
- Video surveillance measures for public security purposes should be regulated by law and thoroughly scrutinised in view of the data protection standards;
- The capacities of the Commissioner's Office should be increased and adjusted to its changed powers in the data protection area;
- Leaking sensitive personal data by government authorities should be thoroughly investigated and sanctioned.

2.3.3. Violence against Women

At least 16 women were killed in the first eight months of 2019 in Serbia in the partnership and family context. There were also three very serious murder attempts, as well as one suicide caused by long lasting violence. In six cases, institutions knew about the previous/current violence yet failed to provide adequate protection to women and children victims due to **failure in assessing the risks** (two femicides, two attempted murders, murder of a perpetrator, and suicide).¹⁷⁵

Authorities Keep Silent Regarding the Omissions of Professionals

Autonomous Women's Centre submitted open letters to the Third Public Prosecutor's Office in Belgrade¹⁷⁶ regarding the shooting of a woman on a children's playground in New Belgrade in front of her baby; to the Republic Public Prosecutor's Office¹⁷⁷ and the Ministry of Interior¹⁷⁸ regarding the murder of a woman at the bus station in Pančevo an hour after she left the safe house; the murder of a violent man by a woman's uncle in Smederevo; and the severe wounding of a woman in Smederevo in front of her two children by a former husband recently released from prison. The Centre demanded that the public be informed of the omissions of professionals in charge of protection and of undertaken measures. No response has been received regarding any of these requests.

172 <https://www.juznevesti.com/Drushtvo/Poverenik-pokrenuo-postupak-nad-Crvenim-krstom-zbog-situacije-iz-Medvedje.sr.html>

173 <https://www.poverenik.rs/саопштења/2961-повереник-поднео-кривичну-пријаву-против-ни-лица-из-министарства-одбране.html>

174 <https://www.krik.rs/pasalica-slucaju-dojcinovica-bia-nije-dostavila-detaljna-obrazlozenja/>

175 <https://www.womenngo.org.rs/en/news/1488-press-release-another-murder-of-a-woman-because-of-inadequate-risk-assessment>; <https://www.womenngo.org.rs/en/news/1444-press-release-triple-murder-for-inadequate-risk-assessment>

176 <https://www.womenngo.org.rs/en/news/1461-open-letter-to-the-third-basic-public-prosecutor-s-office-in-belgrade>

177 <https://www.womenngo.org.rs/en/news/1487-open-letter-to-the-public-prosecutor-s-office>

178 <https://www.womenngo.org.rs/en/news/1486-open-letter-to-the-ministry-of-interior-mr-stefanovic>

Impact indicator 5: CEDAW Concluding Remarks Ascertaining the Progress of Serbia

As mentioned in this Report under Political Criteria, in March 2019 Serbia received the *CEDAW* Concluding Observations on the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women. With regard to gender-based violence, the CEDAW Committee expressed concern over the following: high level of physical violence; increase in all forms of gender-based violence, especially against multiple-discriminated women; frequent misuse of firearms; the fact that state measures target only domestic violence (do not respond to all types of gender-based violence); discriminatory language contained in Article 179 of the Criminal Code; inadequate risk assessments; femicide; lack of timely issuance and effective enforcement of urgent protection orders; lack of effective prosecution; constant disparity between the number of criminal charges and the number of convictions, ending mostly in probation sentences; the small number of reported rape cases; the fact that victim support is mainly provided by donor-dependent civil society organisations; the lack of victims' shelters, and the lack of a comprehensive system for collecting and monitoring case data concerning gender-based violence (para. 23). A number of recommendations were made to improve the situation (paragraph 24).

In the specific objective 1.5, related to the "increased safety of women from gender-based violence", the **Draft Action Plan** for the National Strategy for improving the status of women and promoting **gender equality** for the period 2019-2020 **does not sufficiently take into account the observations and recommendations of the CEDAW Committee**. It also has a completely inadequate budget (extremely low), outcome indicators have nothing to do with planned measures and activities, target values are set incorrectly, and there are no data for many initial values (although they do exist). Particularly problematic is the designated authority responsible for the measure "provide conditions for sustainable, continuous, accessible services of women and feminist organisations specialised in supporting women in situations of violence" - the Ministry of Labour, Employment, Veterans' Affairs and Social Affairs, especially in the aftermath of the controversial establishment of the National SOS hotline for women who have experienced violence¹⁷⁹.

Development and adoption of **new National strategy and Action Plan for combating violence against women in family and partner relationships** is now planned for the **fourth quarter of 2019**. On 26 July 2019, the Ministry for Social Policy announced a public call to NGOs to nominate a member in the Working/Expert Group for the creation of the Strategy.¹⁸⁰ Due to controversial actions of the Ministry of Social Policy regarding the establishment of the national SOS hotline, AWC decided not to apply.

ALARM: Amendments to the Criminal Code Are Not in Line with the Human Rights Conventions

In May 2019,¹⁸¹ the Parliament **adopted the amendments to the Criminal Code introducing life imprisonment**, even though the CoE Commissioner for human rights warned Serbia that such amendments are not in line with the human rights conventions.¹⁸² This activity **has not been previously planned in the AP 23, and no analyses have been conducted regarding the necessity of such a measure**. The amendments will come into force on 1 December 2019.

179 <https://www.womenngo.org.rs/en/news/1483-awc-comments-on-the-action-plan-for-the-implementation-of-the-gender-equality-strategy-for-the-period-2019-2020>

180 <https://www.minrzs.gov.rs/sr/konkursi/javni-poziv-kandidovanje-clana/clanice-radne-i-ekspertske-grupe-za-izradu-nacionalne-strategije-za-sprecavanje-i-suzbijanje-nasilja-nad-zenama-u-porodici-i-partnerskim-odnosima-2020-2025-godine>

181 <https://english.istinomer.rs/interviews/ministry-of-justice-undermines-legal-order/>

182 <http://rs.n1info.com/English/NEWS/a483861/CoE-Commissioner-warns-Tijana-s-Law-not-in-line-with-human-rights-convention.html>

AWC accepted to become a member of the Working Group prior to the announcement of the President of Serbia in January 2019¹⁸³ that such amendments would be drafted upon the invitation of the Ministry of Justice to revise criminal sanctions. At the only two meetings of the Working Group,¹⁸⁴ AWC was the only member that opposed the planned changes, repeatedly stating that **life imprisonment will, paradoxically, lead to milder punishment for first-degree murderers,¹⁸⁵ leaving it to judges to choose between a prison sentence of up to 20 years and life imprisonment.** Data of the Republic Bureau of Statistics for 2017 show that of the 51 final convictions for the crime of aggravated murder, only one-third of the sentences were imprisoned for 30 to 40 years. Also, data from the Women against Violence Network show that only three cases of murder of women brought before the courts in Serbia in the last two years, out of a total of eight, resulted in final sentences of 30 to 40 years in prison. Monitored cases show that when assessing criminal sanctions, judges in Serbia always take into account mitigating circumstances, while aggravating circumstances are taken into account only rarely. If the 30 to 40 year prison sentence is eliminated, it can be expected that in future cases of femicide judges will issue only prison sentences of up to 20 years.

The Autonomous Women's Centre submitted comments and suggestions to the Ministry of Justice,¹⁸⁶ not only regarding life imprisonment but also regarding the amendments to other articles, especially that governing **stalking**, whose **definition** has been made **worse by the adopted amendments.** The Ministry of Justice ignored all AWC's arguments.

Independent Monitoring of the Newly Established National SOS Hotline for Women Experiencing Violence

AWC has prepared the first independent report on the work of the newly formed national SOS hotline for women experiencing violence, which covers the period January-June 2019.¹⁸⁷ It was established that the hotline **received 934 calls from citizens, or 156 on average per month**, while at the same time there were 861 "testing" calls that did not originate from citizens. Although the national SOS hotline is available 24/7, it receives only a fifth of the calls and provides seven times fewer services than SOS hotlines run by women's NGOs working fewer hours and lacking funding. Considering the funds that were allocated to its work¹⁸⁸ and the number of services it provided, the national SOS hotline – entrusted to a public social care institution with no prior experience – turned out to be **very expensive.** Due to recording of all calls by the National SOS hotline without prior notification, women victims of violence continue to seek support from women's organisations, members of the Network Women against Violence, which have been providing this service for more than quarter of a century and where women can remain anonymous.

183 On 24 January 2019 https://www.b92.net/eng/news/politics.php?yyyy=2019&mm=01&dd=14&nav_id=105973 and on April 15, 2019

184 <https://www.mpravde.gov.rs/en/vest/22302/working-group-on-amendments-to-the-criminal-code-meets.php>

185 <https://www.womenngo.org.rs/en/news/1449-press-release-if-adopted-draft-amendments-of-the-criminal-code-will-contribute-to-a-lesser-sanctioning-of-murderers-of-women-in-serbia>

186 <https://www.womenngo.org.rs/en/news/1450-comments-of-the-autonomous-women-s-center-on-the-draft-law-on-amendments-of-the-criminal-code>

187 <https://www.womenngo.org.rs/en/news/1484-there-was-no-need-to-create-a-new-national-sos-helpline-the-first-independent-report-on-the-activities-of-the-newly-formed-national-sos-helpline-for-women-with-experience-of-violence>

188 RSD 30 million, under budget item 481 (Donations to Non-Governmental Organisations).

Table 1. Results of the Women against Violence Network, 2015-2018

	2015	2016	2017	2018
Number of CSOs that shared data on provided services	28	26	23	23
Number of SOS hotline calls received	10,950	12,780	15,443	12,174
Number of women - service users	4,053	5,085	4,753	5,096
Number of CSOs that received funding from budget line 481 – Donations to CSOs	7	8	8	7
Total amount of funds received, in EUR	7,250	9,276	20,979	12,194
Number of CSOs that received funding from budget line 472 – Social Protection Services	2	4	3	3
Total amount of funds received, in EUR	4,240	23,602	13,018	9,583

RECOMMENDATIONS:

- Measures and activities on gender-based violence against women contained in various national strategies and APs should be coordinated; sufficient budgetary resources should be provided for their implementation, as well as relevant indicators of results and outcomes;
- Consistent implementation of the recommendations provided in the Concluding Observations of the UN Committee on the Elimination of Discrimination against Women (CEDAW) is essential.

2.3.4. Rights of the Child

REM Remains Silent regarding Violence against Women and Children in Popular Reality TV Shows

Revised AP 23 was amended to present all the ongoing processes related to the adoption of/ amendments to the laws that govern the rights and protection of children. It is not possible to determine whether or not the **Council for the Rights of the Child**, which is planned to be strengthened (activity 3.6.2.1), actually monitors the effects of the reforms and further policy making as it **has not reacted to any of the legislative processes** or the continuous breach of rights of the child in media during the previous period.

The Women against Violence Network and the Independent Association of Journalists of Serbia were the only ones who repeatedly condemned¹⁸⁹ the lack of appropriate reaction by the Ministry of Culture and Information and REM to violence against women and children in reality programmes that have been broadcast for years on TV Pink and TV Happy. Namely, in the course of the past month three participants of these reality shows were exposed to the following forms of violence: kicking, slapping, hitting and being spat on, where some of them even ended up in hospital. The Ministry and REM have been reminded once again that the TV show “DNA”, focused on determining the paternity of children, is still being broadcast live on TV Pink.

¹⁸⁹ <https://www.womenngo.org.rs/vesti/1441-zaustavimo-nasilje-nad-zenama-i-decom-u-rijaliti-programima>

Paradoxes in the Work of the Ministry of Justice and the Ministry for Social Policy Regarding the Rights of the Child

More than a decade ago, the Ministry of Justice decided that, after seventy or more years, Serbia should re-adopt the Code Civile similar to those of France and Austria. Considering the fact that the Ministry of Labour, Employment, Veterans' and Social Affairs is still responsible for the adoption and amendments of the Family Law, it remained unclear whose decision it was to merge the Family Law and the future Code Civile and thus create a document with more than 2.800 articles. That is exactly what the Ministry for Social Policy has been working on during the past several years - drafting amendments to the Family Law.

In June 2019, the Ministry for Social Policy conducted a **public debate on the Draft Law on the Rights of the Child**,¹⁹⁰ which aims to be the "umbrella" law that will expand the rights of children and establish the Children's Ombudsman by taking that authority away from the Serbian Protector of Citizens. If it is adopted, almost 90 laws will need to be amended in the future. Members of the *prEUgovor* coalition submitted their comments and suggestions,¹⁹¹ listing international documents with which this Law needs to be harmonised (regarding protection from violence, trafficking, asylum and migration) and suggesting future mutual cooperation between the Children's Ombudsman and the Protector of Citizens in cases involving the protection of children and non-violent parents from violence.

In the draft revised Action Plan for Chapter 23, the Ministry of Justice postponed the deadline for the adoption of amendments to the Law on Juveniles for the fourth quarter of 2019 (activity 3.6.2.10). These amendments will only improve the rights of juvenile offenders. Having in mind that the Ministry of Justice is also planning to amend the provisions of the Criminal Procedure Code, but only with regard to the rights of suspects (activity 3.7.1.9), children victims will continue to be traumatised and violated by representatives of the judiciary.

The activity 3.6.2.18, which involved the introduction of **post-traumatic counselling and support for children victims/witnesses in criminal proceedings** provided by the centres for family support and services, **ended** once the EU funded project "Strengthening the justice system and social protection in order to improve child protection in Serbia", implemented by UNICEF in partnership with the Ministry of Justice and the Ministry of Labour, Employment, Veterans' and Social Affairs, was finished. Relevant ministries did not recognise the importance of funding this service from the state- budget. It was stated in the revised Action Plan that a new, more realistic timeline is planned for the first quarter of 2020.

At the same time, the activity 3.6.2.20 involving the development of a new multiannual **strategic framework for the prevention and protection of children from violence** and its accompanying Action Plan have been moved to the fourth quarter of 2019, despite the fact that the public debate on the same Strategy, supposedly planned to last from 2018 until 2022, was held in December 2017.¹⁹² The Council for the AP 23 also postponed the adoption of the **new General Protocol for the protection of children from abuse and neglect** to the **second quarter of 2019** (activity 3.6.2.22), which has obviously expired. The Council commented that amendments were the result of consultations with relevant stakeholders. The *prEUgovor* coalition was not aware of these consultations, and there are no publicly available data thereon on the Ministry's website. Special protocols regarding the protection of children from abuse and neglect (activity 3.6.2.23) are planned to be adopted in the **fourth quarter of 2019**. For unknown reasons, a new Special protocol for the protection of children from abuse and neglect by the health care system has been adopted in 2018,¹⁹³ before the adoption of the new General Protocol.

190 <https://www.minrzs.gov.rs/sr/konkursi/nacrt-zakona-o-pravima-deteta-i-zastitniku-prava-deteta-javni-poziv-za-javnu-raspravu>

191 <https://www.womenngo.org.rs/vesti/1464-zakon-o-pravima-deteta-komentari-clanica-preugovor-koalicije>

192 <https://www.minrzs.gov.rs/sr/aktuelnosti/vesti/javni-poziv-za-ucescu-u-javnoj-raspravi-o-nacrtu-nacionalne-strategije-za-prevenciju-i-zastitu-dece-od-nasilja-za-period-2018-2022-god>

193 <http://www.batut.org.rs/download/novosti/Protokol%20zastite%20dece%20od%20zlostavljanja.pdf>

(Non-)Protection of Children

As of September 2018, AWC started receiving data from the Republic Prosecutor's Office on the gender of the victims and their age (children/adults), in connection with the implementation of the **Law on Prevention of Domestic Violence**. These data show that children in Serbia are protected each month by prolonged emergency protection measures in only 4-5% (see Table 2), most probably in cases where children have been recognised as direct victims. In all other cases of children who had witnessed violence against their mothers, specialised police officers do not issue emergency protection orders for the protection of children.

Table 2. Victims protected by prolonged emergency protection measures in the period September 2018 – August 2019

Total	Female	Male	Adults	Children
20,684	15,298	5,386	19,715	979 (4.9%)

When it comes to the criminal act of domestic violence, the situation is quite similar. Out of 2,768 victims of domestic violence whose proceedings ended with a final criminal judgement in 2017, only 169 children (86 younger than 14 years and 83 of ages 14-18) had been recognised as victims (6%). As regards sexual criminal acts, out 36 victims 7 children have been victims of rape, 21 victims of sexual intercourse with a child, and 61 out of 108 victims of illicit sexual behaviour.

Acquittal for Sexual Intercourse with a Roma Girl (Child)

While the Ministry for Social Policy is announcing amendments to the Family Law that would prohibit marriage of children under 18 years of age,¹⁹⁴ in its June decision¹⁹⁵ the Appellate Court in Belgrade *acquitted the perpetrator of a criminal act 'sexual intercourse with a child' that resulted in pregnancy* (Article 180, para. 2 of the Criminal Code). In the reasoning, the judges claimed that, due to the parties' Roma origin and the socio-cultural context of Roma people engaging in sexual and marital relationships early, *the perpetrator was not obliged to know that sexual intercourse with a child under 14 years of age constitutes a criminal act*. This explanation was based on court expertise in which it was stated also that the Roma girl, who was 13 at the time, had reached emotional and social maturity, that her parents had agreed to the sexual relationship, and that the perpetrator had cousins and friends who have all done the same thing without ever being prosecuted for it.

Legalising the Sale of Babies

While the Ministry of Labour, Employment, Veterans' Affairs and Social Welfare presented the plan for the improved list of rights of the child, the **Ministry of Justice is planning to violate these rights by legalising the sale of babies through surrogacy**. The latest draft of Book Four of the future Code Civile – Family Relations, announced only by media in May 2019,¹⁹⁶ is still **not publicly available** on the website of the Ministry of Justice; it was published only in hard-copy by the Bar Association of Serbia. **Women's uteruses and babies will become a commodity**,¹⁹⁷ despite the provisions of the Criminal Code that sanction trafficking in human beings and taking children from their parents.

194 <https://www.nedeljnik.rs/novi-zakon-roditelji-ce-bit-kaznjeni-zbog-decijeg-braka-pre-18-godine/>

195 Decision Kz1 – 392/2019 dated June 10, 2019, available at: https://www.womenngo.org.rs/images/vesti-19/Presuda_Apelacionog_suda.pdf

196 <https://www.bbc.com/serbian/lat/svet-48135762>

197 <https://pescanik.net/buy-children-women-uteruses/>

It seems that the state of Serbia wishes to legalise a new, more sophisticated manner of trafficking in babies, which would **enable the state to profit from the sales** (court taxes for the certification of surrogacy contracts, taxes from future agencies that will connect future parents with surrogate mothers, gynaecological hospitals...) since the previous “profit making industry of selling babies in Serbia” had to be abandoned because of the cases of infants missing from maternity hospitals.¹⁹⁸

ALARM: Every third new-born child is affected by discriminatory articles of the Law on Financial Support to Families with Children

The Ministry for Social Policy continues with the **discrimination of newborn babies and their mothers** by not proposing amendments to the **Law on Financial Support to Families with Children**. Recent analyses conducted by “Bebac”¹⁹⁹ showed that in the first 11 months of the implementation of Law, **13,147 mothers** who have worked less than 18 months prior to taking a maternity leave have **received remuneration that was significantly lower than the salary they had prior to the maternity leave**, while 25,090 mothers received full salaries during the same period. In the same period, **480 mothers received reduced remunerations** because they earned more than three average salaries in Serbia. **Most affected by this law are the newborn babies, whose growth and well-being is jeopardised.**

All this shows that the **Interim Benchmark 42**, which emphasises improvement of the degree of respect of the rights of children, especially those belonging to vulnerable groups, and provision of appropriate support services to children and families **is not, nor will be, fulfilled.**

RECOMMENDATIONS:

- Improve protection of children victims by adopting legislative changes and introducing state funded post-traumatic counselling and support for children victims/witnesses in criminal proceedings;
- Abandon the adoption of the Book IV - Family Relations of the Code Civile;
- Amend the Law on Financial Support to Families with Children in order to prevent further discrimination of newborn babies, children and their mothers;
- The Regulatory Authority for Electronic Media (REM) should issue its strictest measures against the reality programmes “Parovi” (Couples) and “Zadruga” (Commune) with the aim of combatting violence against women and children in the media.

2.3.5. Strengthening the Protective Procedural Measures

Under-Resourced and Discriminatory Free Legal Aid System

Even though the **Law on Free Legal Aid** enters into force on 1 October 2019, Ministry of Justice **adopted by-laws** relating to the implementation of the Law at the end of September. There are also no budget allocations for its implementation or publicly available information about the trained staff in local self-government units who be deciding on free legal aid applications planned for the **thirs quarter of 2019.**

¹⁹⁸ ECtHR decision in Zorica Jovanović vs. Serbia (no. 21794/08).

¹⁹⁹ <https://www.bebac.com/vesti/stigao-odgovor-ministarstva-za-godinu-dana-osteceno-vise-od-13-000-mama>

In its Concluding Observations on the fourth periodic report of Serbia (CEDAW/C/SRB/4),²⁰⁰ in paragraph 13 the CEDAW Committee expressed its concern regarding:

- (a) *The restrictive criteria for access to legal aid under the Law on Free Legal Aid impede access to justice and exclude civil society organisations and universities as possible legal aid providers;*
- (b) *The recognition of victims of various forms of gender-based violence other than domestic violence as beneficiaries of free legal aid under the Law on the Prevention of Domestic Violence, but not under the Law on Free Legal Aid, may lead to a denial of access to free legal aid;*
- (c) *The new Draft Law on Gender Equality limits the provision of free legal aid to victims of gender-based violence and does not extend to victims of all forms of gender-based discrimination.*

In line with its General recommendation no. 33 (2015) on women's access to justice, in paragraph 14 the Committee recommended that the State party should:

- (a) *Put into force the Law on Free Legal Aid and establish a countrywide legal aid system without further delay, and ensure that adequate human, financial and technical resources are allocated to the implementation and monitoring of the Law;*
- (b) *Review the Law on Free Legal Aid, the Law on the Prevention of Domestic Violence and the new Draft Law on Gender Equality, with a view to ensuring that victims of all forms of gender-based discrimination, including those belonging to disadvantaged groups, have access to free legal aid, and with a view to enabling various actors, including civil society organizations and universities, to provide legal aid (...)*

Six months after receiving the CEDAW Concluding Observations, the established mechanism of the Government of the Republic of Serbia for the implementation of all the recommendations of UN mechanisms for human rights (activity 3.6.1.3) and/or the Ministry of Justice have not conducted any activities to review the received observations and draft amendments to the Law prior to its implementation.

Having in mind all the above, the Interim Benchmark 44 which requests that Serbia adopt a new Law on Legal Aid and establish a well-resourced legal aid system, has not been fulfilled.

Pretend-Will to Improve the Position of Victims

The revised AP 23's activity (3.7.1.9.) concerning the adoption of the amendments to the Criminal Procedure Code (CPC) based on the recommendations from the analysis of alignment with EU Directives,²⁰¹ which relates only to the improvement of the rights of suspects, is planned for the **first quarter of 2020**. It remained unclear why the activity (3.7.1.15.) involving amending the normative framework to effectively implement minimum standards concerning the rights, support and protection of victims of crime/injured parties in accordance with the Directive 2012/29/EU and in line with the analysis is not in any way connected to the amendments of the Criminal Procedure Code, considering that the timeline is the same. It also remained unclear which normative framework will be amended, if not the CPC.

Under the auspices of the project "Support to Victims and Witnesses of Criminal Offences in Serbia", implemented by the Ministry of Justice and the OSCE Mission in Serbia with the financial support of the European Union, the draft National Strategy for Exercising the Rights of Victims and Witnesses of Crimes with the accompanying AP has been created (activity 3.7.1.18) but was not adopted as planned in the **third quarter of 2019**. The public debate on the draft Strategy and

200 <https://undocs.org/en/CEDAW/C/SRB/4>

201 Directive 2013/48/EU, Directive 2010/64/EU, Directive (EU) 2016/343, Directive (EU) 2016/800 and Directive (EU) 2016/1919.

AP was held in June 2019, and the conclusions of the consultative process are publicly available on the website of the Ministry of Justice.²⁰² AWC provided comments and suggestions, first on the working document of the Strategy in March 2019²⁰³ and then again in July during the public debate.²⁰⁴ The Ministry of Justice issued the Report²⁰⁵ on the consultative process stating that it has (partially) accepted four AWC comments, one related to the unrealistic timeline, rejecting the substantial ones regarding the effective organisation of victim support services in courts, prosecutor's offices and the police without concrete explanations.

ALARM: 85% of the victims will not have access to victim support services established in higher courts

The Republic of Serbia does not keep official national statistics on the number of victims, nor had these data been collected prior to the creation of the Strategy. The Statistical Office of the Republic issues annual data only on the number victims in relation to convicted adults, for each offence individually but not in total.²⁰⁶ Given that 90,348 adult perpetrators were reported and 31,759 were convicted in 2017, it could be assumed that the number of victims of these crimes was at least the same. From the available data for 2017, 6,011 persons had been convicted before all the courts in Belgrade - 644 before the Higher Court (10%), 56 before the Special Court (5%) and the remaining 85% before the six basic courts under the jurisdiction of the Higher Court in Belgrade. Therefore, we can conclude that **at least 85% of the victims had contact with the basic prosecutor's offices and courts in Serbia.**

The draft Strategy²⁰⁷ envisages that at least **one judicial assistant will be permanently engaged to provide victim support services** by each support service to be set up **at the higher courts** in the Republic of Serbia (p. 14). A network of **focal points for providing information will be established at basic and higher prosecutor's offices, basic courts and in police departments**, with the aim to provide victims and witnesses with timely and reliable information about available victim support services and their activities, and about types of assistance and support they can receive from these services (p. 17). That means that **85% of the victims will receive only information from the focal points**, while victim support services in the higher courts will remain inaccessible to them, especially if they do not live in acity that has a higher court.

Even victims who manage to access victim support service at the higher courts will not receive adequate support. If we look at data for Belgrade courts of regular jurisdiction, it can be concluded that a judicial assistant would support at least 5,000 victims per year. Mathematically, if a judicial assistant works 250 days per year, it means that s/he would be receiving 20 newly reported cases (victims) per day. If he/she works full time (8 hours), s/he will be able to devote 24 minutes of his/her working time to each victim. From the perspective of the victims' right to help and support, **24 minutes of total support from services that operate within the justice system could hardly be considered as fulfilling the requirements in accordance with the Directive.**

Together with other NGOs who are providing services for victims of crime, AWC was invited to a meeting with OSCE project management on 18 June 2019 to discuss the creation of quality individual assessment of victims to identify their specific needs for support and protection measures (p. 26) by means of a standardised questionnaire that encompasses all necessary elements of such assessment:

202 <https://www.mpravde.gov.rs/sekcija/53/radne-verzije-propisa.php>

203 <https://www.womenngo.org.rs/en/news/1412-comments-on-the-working-text-of-the-national-strategy-on-the-rights-of-victims-and-witnesses-of-crime>

204 <https://www.womenngo.org.rs/en/news/1491-support-for-victims-of-violence-a-strategy-on-the-rights-of-victims-and-witnesses-of-crimes>; <https://www.mpravde.gov.rs/files/Autonomni%20zenski%20centar.pdf>

205 <https://www.mpravde.gov.rs/files/Izvestaj%20o%20konsultativnom%20procesu.pdf>

206 <http://publikacije.stat.gov.rs/G2018/Pdf/G20185643.pdf>, pg. 92.

207 <https://www.mpravde.gov.rs/files/New%20Working%20Text%20of%20the%20Draft%20National%20Strategy%20on%20the%20Rights%20of%20Victims%20and%20Witnesses%20of%20Crime.docx>

- Personal characteristics of the victim;
- Type, nature and circumstances of the criminal offence in question;
- Proper and professional conduct of the interview with the victim.

The project management could not answer the question how this quality individual assessment of a victim's specific needs would be conducted in no more than 24 minutes allotted to judicial assistants to conduct the interview. The only reply was that it was the decision of Ministry of Justice, and that they had nothing to do with it.

From the perspective of victims in Serbia, **Interim Benchmark no. 44** which requires Serbia to amend its legislation (including the Criminal Procedure Code) so as to align it with the *EU acquis* on procedural rights and the rights of victims is not, and will not be fulfilled despite EUR 1.5 million of IPA funds that were invested in it.

Council for the Suppression of Domestic Violence is No Longer Monitoring the Law on Prevention of Domestic violence

Activity 3.7.1.24 – Monitoring the implementation of the special law governing prevention of violence against women in family and partner relationships was terminated by the Ministry of Justice. The Council for the Suppression of Domestic Violence, in charge of monitoring, did not hold a meeting after the second year of implementation of this law. The Report from the second meeting of the Council for the Suppression of Domestic Violence held in June 2018, adopted by the Government in December 2018, is not publicly available. Data on victims and Q&As are publicly available on the special website that was created by the Ministry of Justice.²⁰⁸ Centralised electronic database still has not been created. AWC continues to produce independent monitoring reports.²⁰⁹

RECOMMENDATIONS:

- Review the Law on Free Legal Aid, the Law on the Prevention of Domestic Violence and the new Draft Law on Gender Equality with a view to ensuring that victims of all forms of gender-based discrimination, including those belonging to disadvantaged groups, have access to free legal aid, and with a view to enabling various actors, including civil society organisations and universities, to provide legal aid;
- Revise the Draft National Strategy for Exercising the Rights of Victims and Witnesses of Crimes in order to create victim support services in all basic courts and prosecutor's offices;
- Amend the Criminal Procedure Code so as to align it with the EU acquis concerning procedural rights and the right of victim.

208 <https://iskljucinasilje.rs/>

209 <https://www.womenngo.org.rs/en/independent-reports-on-law-on-prevention-of-dv>

3. CHAPTER 24 – JUSTICE, FREEDOM AND SECURITY

3.1. Police Reform

The organisational reform of the police, which is a key prerequisite for all other reform efforts within Chapter 24, continues to be troubled by delays in implementation and lack of transparency that keeps it outside of the public eye.

The most important, top-level strategic document related to police reform, namely the Action Plan for Chapter 24, was submitted under the second round of consultations to the National Convention on the EU in April 2019. The revision had two main goals: to address the identified shortcomings, primarily significant delays, and to include new measures with the aim of meeting the interim benchmarks set by the European Commission back in 2016. The following key proposals by civil society²¹⁰ were not incorporated by the Government after the consultations with NCEU.²¹¹

The revised Action Plan has not properly integrated measures that would address the crucial interim benchmark that aims to guarantee operational independence of the police: “Serbia is taking [...] detailed steps to establish robust safeguards to ensure that the police integrity is strengthened and that police services are operationally independent from political interests and shielded from criminal influence”. The Government proposed to carry out anti-corruption training to prevent leaks from the police, but this measure does not address the problem of freeing police investigations from political influence.

The Ministry of Interior also refused to keep, as part of reporting on the implementation of the Action Plan, updates on the achieved level of police reform in accordance with the recommendation on professionalisation of the police and rationalisation of its structure aimed at improving the efficiency of the police. Bearing in mind that the planned activities listed in the previous versions of the Action Plan have not been fully implemented, we suggest that this information be returned to the introductory part of the Action Plan, or added to it as an Annex, and reported on regularly. This is important because activities like reforming the organisational structure, defining the required number of employees, distinguishing civilian from police employees, career advancement, etc. are a prerequisite for all other reforms under Chapter 24, as well as for fulfilling the above-mentioned interim benchmark on the operational independence of police.

RECOMMENDATIONS:

- Secure the operational autonomy of the police from the Ministry of the Interior during the pre-investigation and investigation phase in practice and through measures specified in the revised AP for Chapter 24;
- Reporting on police reform should be maintained as part of reporting on the implementation of AP for Chapter 24, while evidence of the implementation of measures from the AP should be published on the MoI website.

210 http://bezbednost.org/upload/document/nkeu_komentari_na_revidirani_ap_p24.pdf u maju 2019

211 <http://www.bezbednost.org/Svi-dokumenti/7012/Odgovori-Pregovaracke-grupe-na-komentare-Radne.shtml>

3.2. Migration and Asylum

Work on aligning EU migration acquis with the national legal framework and drafting sub-legislative regulations for their implementation has continued. Besides that, different capacity building activities of competent authorities necessary for securing a proper and effective enforcement of thematically specific issues within the provisions of the Law on Asylum and Temporary Protection and the Law on Foreigners have been organised as well. However, it is necessary to strengthen implementation and enforcement of the new legal concepts envisaged in the Law on Foreigners²¹² and the Law on Asylum and Temporary Protection²¹³ intended to regulate the stay of migrants and refugees in the territory of the Republic of Serbia.

Overall Situation

According to the UNHCR data,²¹⁴ the number of migrants and refugees present in Serbia decreased from about 4,330 (February 2019) to 2,997 (August 2019), while the number of reported observed arrivals increased from about 1,094 (February 2019) to 3,673 (August 2019), which indicates an increase in irregular movement through Serbia.

Currently, a total of 2,420 migrants and asylum seekers are accommodated in 16 reception and asylum centres.²¹⁵ According to the data provided in monthly Site profile reports,²¹⁶ the national structure of accommodated migrants has changed slightly, meaning that the number of accommodated Iranians has decreased in the period from February to July, the number of Syrians has increased,²¹⁷ while in certain centres like Asylum Center Bogovađa the majority of accommodated migrants (47%)²¹⁸ are other nationals (there are much fewer Iranians, Afghanistans, Syrians and Pakistanis).

The number of active accommodation capacities corresponds to the number of migrants present at the territory. In the reporting period action has been taken to further upgrade the capacities in Reception Center Obrenovac in line with the EASO reception standards and prepare it to be converted into an asylum centre.

According to the reports of international and civil society organisations working in the field, the percentage of irregular returns of third country nationals from neighbouring countries to Serbia is still significantly high, especially from Croatia and Bosnia and Herzegovina.²¹⁹

In July, after months of official denials, Croatian President finally admitted in an interview given to the Swiss television that the country's police were involved in violent pushbacks of migrants and asylum seekers.²²⁰ Competent authorities of the Republic of Serbia have recently spoken for the first time about the issue of violent treatment of migrants by Croatian police officers when apprehended attempting to cross the state border.²²¹ In order to protect migrants from unlawful treatment by law enforcement officials in the border areas and provide credible evidence of alleged irregular returns and violations of fundamental rights, it is important to consider the possibility of establishing an independent border monitoring system that would include civil society organisations. In the event that the issue of establishing state accountability for violations

212 Official Gazette of the Republic of Serbia, nos. 24/2018-3 and 31/2019-7.

213 Official Gazette of the Republic of Serbia, no. 24/2018-3.

214 UNHCR, Serbia Snapshot, August 2019.

215 Ibid.

216 http://www.kirs.gov.rs/wb-page.php?kat_id=118.

217 For example in RC Sombor from 11% to 38%, or in RC Šid from 2% to 13%.

218 UNHCR, Centre profiling Serbia, July 2019. <https://data2.unhcr.org/en/documents/download/55034>.

219 UNHCR, Serbia Snapshot, August 2019.

220 <https://www.theguardian.com/world/2019/jul/16/croatian-police-use-violence-to-push-back-migrants-says-president>.

221 <https://www.slobodnaevropa.org/a/30142425.html>.

of human rights of migrants in actions taken in the cross-border zone is raised before any of the international or regional human rights mechanisms, an existing independent border monitoring system might be able to provide necessary evidence and thus assist Serbian authorities in arguing their position.

Table 3. Asylum statistics

2019 ²²²	February	March	April	May	June	July	August
Registered intention to seek asylum	467	693	720	1,174	1,151	1,562	1,240
Applications for asylum	36	25	14	22	16	16	8
Positive decisions	10	16	3	10	3	7	7

Legislative Activities Continued

The first set of amendments to the new Law on Foreigners was adopted during the reporting period, focusing mostly on regulating the procedure for issuing temporary residence permits, or more specifically on enabling the electronic submission of applications for temporary residence permits and introducing a joint application for temporary residence and work permit for foreigners. The implementation of these provisions will start on 1 December 2020, by which time all the necessary technical and logistical preparations should have been made, including the adoption of appropriate by-laws and further development of the necessary electronic database.

In association with EASO, national authorities continued work on developing the Methodology and Evaluation Action Plan for the implementation of Serbia's asylum legislation.²²³ With the determined set of indicators, this document will help to evaluate the effect of the implementation of transposed legislation and will serve as a baseline for planning the next stages of legislative alignment with the EU acquis in the area of asylum.

Additionally, work on the implementation of current legislative provisions was continued, and several accompanying by-laws have been adopted during the reporting period.

Law on Asylum and Temporary Protection: In February, the Government adopted a Programme to support voluntary return of foreigners for the period 2019-2021,²²⁴ which regulates the scope of responsibilities of competent authorities, thus creating and institutional framework for conducting voluntary return procedure of foreigners who, pursuant to the provisions of the Law on Asylum and Temporary Protection and the Law on Foreigners are entitled to access to the Programme.

Law on Foreigners is the act²²⁵ that regulates the details of some of the grounds for refusing entry into the Republic of Serbia to foreigners. According to this Law, it will be deemed that a foreigner does not have sufficient means to support himself during his stay in Serbia if he does not have the funds in the amount of EUR 50 per day. Further, the Law stipulates that vaccination certificates are needed when entering the country from the areas affected by an epidemic of

²²² UNHCR, Serbia Snapshot, August 2019.

²²³ Report on implementation of the AP 24, period January-July 2019.

²²⁴ Official Gazette of the Republic of Serbia, no.10/2019.

²²⁵ Official Gazette of the Republic of Serbia, N=no.20/2019.

infectious diseases, in accordance with the regulations on the protection of the population against infectious diseases, and that areas affected by an epidemic of infectious diseases shall be determined based on information available to the Ministry of Health. It is commendable that the Law specifies what circumstances the border police is to assess when considering whether there is reasonable suspicion that a foreigner will not use residence for the intended purposes. However, there is no clear distinction between the grounds for refusing entry for reasons that a person could endanger the security of Serbia or its citizens, and the refusal of entry because a negative security risk assessment has been made regarding a person's entry or residence in Serbia, especially since, according to the security risk assessment procedure, if the competent authorities determine that the entry of a foreigner would endanger the security of Serbia or its citizens, the consequences of such determination would be a negative risk assessment.

Additionally, competent ministries adopted two by-laws²²⁶ that regulate the technical characteristics and procedure for issuing different IDs to foreigners: regular ID, temporary ID and special ID. Thus, these provisions will enable the implementation of the state obligation to issue an identity card to foreigners when necessary preconditions are met and, specifically, will create legal presumptions for the holders of the right to be issued a temporary ID card for foreigners (foreigners who have been issued a decision on the deferral of removal by force, and foreigners who have been issued a decision imposing mandatory stay in a particular place), which would provide them with easier access to other socio-economic rights during their stay in Serbia.

ALARM: Serbia Violated International Law by Extraditing Kurdish Activist to Turkey

The Committee against Torture found that the Republic of Serbia had violated Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by taking action related to the extradition of Kurdish political activist Cevdet Ayaz to Turkey on 25 December 2017.²²⁷

More specifically, it took the position that Serbian competent authorities “have not carried out an assessment of the risk of torture that the complainant would be exposed to following an extradition to Turkey”, and that they did not “carry out an assessment if the charges against the complaint were of a political nature, as it was required”, thus having “failed in their duty to carry out an individual risk assessment before returning him to Turkey”.²²⁸

RECOMMENDATIONS:

- It is essential to secure all the necessary preconditions for full and effective implementation of the Law on Foreigners and the Law on Asylum and Temporary Protection;
- Take necessary steps to achieve full application of the Law on Foreigners and realisation of legal prerequisites for solving the legal status of persons residing in the Republic of Serbia without a regulated status;
- In this regard, it is particularly important to strengthen the infrastructure and human capacities of the institutions in charge of implementing legal provisions on returns and standards of protection and respect of human rights of TCN returnees;
- It is of crucial importance to monitor the effects of implementation of the Law on Asylum and Temporary Protection and the Law on Foreigners, especially those related to the provisions governing the non-refoulement principle;
- It is important to strengthen the connection between the system for combating irregular migration and the asylum system.

²²⁶ Official Gazette of the Republic of Serbia, no.20/2019 and Official Gazette of the Republic of Serbia, no. 54/2019.

²²⁷ <http://www.bgcentar.org.rs/bgcentar/wp-content/uploads/2019/09/BCHR-Saop%C5%A1tenje-za-medije-D%C5%BEevdet-Ajaz.pdf>.

²²⁸ G/SO229/31 SRB (2) of 16 August 2019.

3.3. Violence in Sport

Once Again, Violence Overtakes Sport

Two acts of vandalism occurred almost simultaneously when two most popular football clubs in Serbia (Red Star and Partizan) qualified for the Champions League and the Europa League.

At the end of August 2019, a group of Partizan fans in hoods threw flares onto the “Miloš the Great” highway and attacked cars with bats, damaging several cars and injuring three people.²²⁹ Several days after, a dozen fans got into a fight using poles and torches at the Bridge of Liberty in Novi Sad, just before the start of a football match between Red Star and Vojvodina.²³⁰ The response of the institutions was pale. The highway rampage was just a rumour until a video of the incident appeared on social media and was followed by police arrests. In Novi Sad, police quickly stopped the possible large-scale violence at the bridge, but notified the prosecutor’s office no less than five hours after the incident. It is unknown whether anyone was arrested.

The Action Team of the Government responsible for development and implementation of the 2013 National Strategy against Violence and Indecent Behaviour at Sports Events and the National Council for Preventing Negative Incidents in Sport **did not conduct a single activity as part of the national plan to combat violence in sport** during the first half of 2018,²³¹ and there have been no changes since July 2019²³². In addition, after its expiry at the end of 2018, the future of the 2013 National Strategy remains unclear.

Even though the Government decided to form a National Council for Preventing Negative Incidents in Sport in August 2017,²³³ the constitutive session was held four months later, in December 2017.²³⁴ Following this, there has been no publicly available information on the Council’s activities.

No Adequate Deterrence for Sport Violence

Sentencing for violent behaviour at sports has been lenient and ban from attending sports events is not implemented in a satisfactory manner. According to the Bureau of Statistics, as many as 53 out of 94 sentences due to violent behaviour at a sporting event in 2018 were probational, with only 12 individuals serving time in prison. This is a continuous trend.²³⁵ In the town of Valjevo, there are more convicted players than hooligans.²³⁶

The number of bans from attending matches is small, relative to a large number of incidents. As many as 434 violations of public order were recorded in the period from 2011 to 2015.²³⁷ Under the Criminal Code, a judge may prohibit an offender from attending sports events if that is necessary to ensure public safety. The ban is pronounced with a penalty or suspended sentence. According to the Ministry of Interior, 188 individuals in Serbia have been banned from attending sporting events until the end of 2017. It is not known how many hooligans have violated this measure – which, according to Serbian legislation, appears in two forms.

229 https://youtu.be/y_af0HjQrWs

230 <https://www.021.rs/story/Novi-Sad/Hronika/222770/Niko-nije-uhapsen-zbog-tuce-navijaca-na-Mostu-slobode.html>

231 Ministry of Interior (July 2018), Action Plan for Chapter 24 – Report for period from January-June 2018. Accessed 22 September 2018, at: <https://goo.gl/Xnjkek>, p. 35.

232 Ministry of Interior (July 2019), Action Plan for Chapter 24 – Report for period from January-June 2019. Accessed 13 September 2019, at: <http://bit.ly/2mftu1j>

233 Decision on educating the National Council for Preventing Negative Incidents in Sport, Official Gazette of the Republic of Serbia, no. 79/2017.

234 Beta, (9 December 2017), National Council for Preventing Negative Incidents in Sport holds first meeting. Accessed 22 September 2018, at: <https://beta.rs/politika/79498-nacionalni-savet-za-sprecavanje-negativnih-pojava-u-sportu-odrzao-prvi-sastanak>

235 <http://publikacije.stat.gov.rs/G2019/Doc/G20191192.docx>

236 Marković, Saša, (2016), Security Measure “Ban from attending certain sporting events” in practice in the police and justice system. *Nauka, bezbednost, policija*, 21(1), 133-160.

237 Ministry of Interior, Police Directorate (2017), Strategic Assessment of Public Security, Belgrade, p. 74

The Law on the Prevention of Violence and Misbehaviour at Sports Events and Public Gatherings obliges the person subjected to the banning order to personally contact, immediately prior to a sports event, an officer at a local police department or police station in the area in which the offender happens to be present at the time. The subject must stay on their premises during the event. However, a number of “famous hooligans” have been seen at sports events in disregard of the ban.²³⁸ The courts are not interested in the implementation of the measure, as they do not submit information about sentences for violent behaviour at sports events or public gatherings to the police on their own, but only at the request of the police.²³⁹ As a result, the police are not fully and timely informed about court epilogues.

Leaders of hooligan groups in Serbia are tied to violent incidents and criminal activities, which has been a known fact for quite some time. For example, a 2012 study shows that as many as 279 criminal charges have been brought against a sample of 30 hooligan group leaders, of which 26 were for violent offences, 11 for violence at a sporting event and 16, for criminal offences against state officials. From the same sample, 12 of the hooligan group leaders are linked with offences pertaining to drugs, while 22 are implicated in property crimes.²⁴⁰ From 2011 to 2015, there have been 158 violent events that involved the participation of football hooligans, while 17 hooligan gang leaders and members lost their lives during this period.²⁴¹

BIRN also reported that one of the leaders of Partizan fan group called “Janičari” was sentenced to a prison term of five years and 10 months in 2013 for running a drug-dealing ring; however, the First Basic Court in Belgrade postponed his imprisonment 10 times for health reasons. Members of Red Star fan groups have a similar chokehold over nightclub security in Belgrade.²⁴² This has led to **suspicion that there might be cooperation between the state and football supporter groups**, and that in exchange for obedience in the streets, hooligans can pursue their ‘business’ activities relatively undisturbed. *KRIK* found evidence of connections among the Serbian government, the criminal underworld and the hooligans.²⁴³

RECOMMENDATIONS:

- It is necessary to evaluate the implementation of the 2013 National Strategy against Violence and Indecent Behaviour at Sports Events and start working on a new strategic framework;
- A public debate should be initiated on new plans to prevent violence in sport, with special emphasis on affirming a clear role for the National Council for Preventing Negative Incidents in Sport;
- The work of stadium stewards should be regulated; they should be provided with good quality training and the professionalisation of this role should be considered;
- The banning of individuals from sporting events must be implemented in practice through better cooperation between the police and the judiciary. Prosecutors and judges should attend matches, especially high-risk matches, so that violators can be processed immediately and convicted.

238 Dimovski, Dragan and Ilić, Ivan, (2015), Violence and Sport in Serbia: the example of the Niš higher court jurisdiction, *Nauka, bezbednost, policija*, 20(1), 119-133.

239 Marković, Saša, (2016), Security Measure “Ban from attending certain sporting events” in practice in the police and justice system. *Nauka, bezbednost, policija*, 21(1), pg. 157

240 Saša Milojević, Branislav Simonović, Bojan Janković, Božidar Otašević, Veljko Turanjanin. (2013), *Youth and Hooliganism at Sports Events*, Belgrade: OSCE Mission to Serbia, p. 39.

241 Ministry of Interior, Police Directorate (2017), *Strategic Assessment of Public Security*, Belgrade, p. 72.

242 Jeremić, Ivana, (22 July 2019), Foul Play: Serbia's Football Hooligans Get Down to Business. Accessed 31 July 2019, at <https://balkaninsight.com/2019/07/22/foul-play-serbias-football-hooligans-get-down-to-business/>

243 Pavlović, Bojana and Dojčinović, Stevan, (20 July 2017), Serbian President's Party Tied to Football Hooligans. Accessed 31 July 2019, at <https://www.occrp.org/en/investigations/6744-serbian-president-s-party-tied-to-football-hooligans>

3.4 Fight against Organised Crime

Prosecutor's Offices Silent after the Allegations of Ties between Politicians and Members of Organised Crime Groups

The retired head of Serbia's Criminal Investigation Department of the Police, Rodoljub Milović, confirmed in an interview the years-long rumours about complex ties between the police, politicians and criminal groups.²⁴⁴

Milović said that there are active remains of the Zemun Clan that are close to the ruling party. In particular, Milović spoke of direct ties of the Serbian Health Minister Zlatibor Lončar with Belgrade's Zemun Clan and other criminal gangs. Lončar allegedly injected a lethal cocktail into the IV drip of a Montenegrin mobster in 2002 and the Clan apparently rewarded him with a free apartment.²⁴⁵

After the interview, there were no official statements from the Prosecution, the Ministry of the Interior, the Ministry of Justice, or any other government representative for that matter. Only Prime Minister Ana Brnabić shortly said that she could not change ministers based on people's claims.

Still, Rodoljub Milović is not just any person. For seven years he served as head of the Criminal Police Directorate, which is the second-highest position in the Police Directorate. The Spanish police honoured Milović for outstanding cooperation in the fight against illegal drug trafficking.

In June 2014, Milović was dismissed from the position of Chief of Criminal Police. The then Prime Minister Aleksandar Vučić explained the dismissal by claiming that the police had started to meddle in politics and added that dismissed police officers were "honourable" and that Milović will have a successful future. Two years after the dismissal, he retired. The real reason for his departure remained unclear until now.

Police Whistle-Blower from Niš Still Out of Job

Nebojša Blagoić, former police inspector in the Criminal Police Department of the city of Niš, with 27 years of professional experience, was prematurely and unlawfully sent into retirement in October 2015 after he discovering that Serbian Security-Intelligence Agency was leaking information to a local businessman who was at the time under police investigation and had ties to the Serbian Progressive Party. The Administrative Court has since ruled twice that Blagoić's retirement was unlawful and ordered the Ministry of Interior to re-hire him.

RECOMMENDATION:

- The prosecution should at least investigate allegations made by the former crime police chief that current Health Minister and MP are linked to organised crime and inform the public on results.

244 <https://www.krik.rs/rodoljub-milovic-u-vrhu-vlasti-ima-saradnika-zemunskog-klana/>>

245 <https://www.occrp.org/en/investigations/4961-serbia-skeletons-in-the-closet-how-did-the-health-minister-get-an-apartment>>

The Police Still Rely on Security Services in Criminal Investigations

The role of security services in criminal investigations persists in practice and has not been adequately tackled in the revised Action Plan for Chapter 24.

The activities envisaged in the revised Action Plan for Chapter 24 (of March 2019) do not lead to police independence from the security services in conducting criminal investigations, which was one of the recommendations contained in the Screening Report and Interim Benchmarks.

It is not only that the recommendation referring to the review of the role and practice of the security services in applying special investigative measures in criminal investigations has not been implemented to date; in fact, it has been redefined in the latest revision of the Action Plan for Chapter 24 (AP 24) of March 2019²⁴⁶ so that there is no longer a clear obligation of the authorities in Serbia to ensure independence of the police from the security services in this area. Specifically, the revised Action Plan now lists the overall result as: “Defined competencies and regulations related to interception of communication in criminal investigations, as well as competencies and regulations related to interception of communication for security purposes.” Authorities in Serbia have regularly reported to the EU that the competencies and regulations regarding interception of communication in Serbia were clear and that the regulations were aligned with EU standards (see the introductory part of sub-chapter 6.2 in both the first and revised version of AP 24). It is therefore unclear why it is now listed as a result, since the real problem actually lies in the fact that communication interception equipment is located at the Security and Intelligence Agency (BIA) and that the police have to rely on BIA resources when conducting secret surveillance of communications.²⁴⁷

The activities listed in the revised AP 24 (6.2.4.1 to 6.2.4.5) that follow from this recommendation are the same as in the first version of the AP for Chapter 24, despite the fact that the Serbian authorities have reported that some of them have already been completed. For example, it is stated in the Report on the Implementation of the AP for Chapter 24 for July-December 2016²⁴⁸ that the Working Group for the Analysis of the Role and Practice of the Security Services in Special Investigative Measures In Criminal Investigations had been formed, and that it had prepared the analysis which had been provided to members of the Security Services Coordination Bureau during that year. The new version of AP 24 envisages the establishment of a working group that will define the areas and aspects to be covered by the comparative analysis of the role and practice of the security services of EU Member States in conducting special investigative activities in criminal investigations, as well as issues of interest to be analysed and answered, and provides that that the working group will be the one that will prepare this analysis (see the report on the implementation of AP 24 for July-December 2017,²⁴⁹ activity 6.2.3.2). Despite the fact that the analysis is now called “comparative”, it is reasonable to assume that the new working group will be composed mainly of the same members, as this is a very specific area of expertise, and that the experience of the members of the “old” Working Group should also be made use of. Also, the “old” Working Group had been obliged to prepare the analysis it presented to the Bureau in 2015 based on pre-defined areas and aspects.

Furthermore, the revised AP 24 does not mention which EU countries will be comparatively analysed. This is very important, since within the TAIEX mission in 2017 the Working Group was presented with a model from neighbouring Romania; after the mission ended, the Working Group concluded that it had been presented with only one model that was similar to the so-called Serbian model, and that the Romanian model itself had been subjected to EU criticism (see the

246 <http://www.bezbednost.org/Svi-dokumenti/6991/Nacrt-revidiranog-Akcionog-plana-za-Poglavlje-24.shtml>

247 Petrović, Predrag. Djokić, Katarina. Slippery Slopes of the Reform of the Serbian Security Services. Belgrade Centre for Security Policy. Available at: <https://bit.ly/2SZsmuS>

248 <http://www.bezbednost.org/Svi-dokumenti/6474/Izvestaj-o-sprovođenju-aktivnosti-iz-Akcionog.shtml>

249 The report is available at: <https://bit.ly/2kjrAwz>

report on the implementation of AP 24 for July-December 2017, activity 6.2.3.1).²⁵⁰ The questions to be asked here are the following: how is it possible that the security-intelligence services and the police of Serbia did not know that the situations in Serbia and Romania were very similar in this area, and why were time and other resources wasted? Even more importantly, given that not even the revised AP 24 specifies pre-determined EU countries that will be covered by the comparative analysis, the citizens of Serbia have no guarantees that a similar situation will not be repeated. As Northern Macedonia is undergoing a similar process, i.e. conducting analyses on how to ensure independence of its police force from the security service when it comes to communication interception, it would make sense to (make) use (of) its experiences, regardless of the fact that Northern Macedonia is not a member of the European Union.

RECOMMENDATIONS:

- Activities 6.2.4.1-3. in the Draft Revised Action Plan for Chapter 24 should contain a clear obligation of the authorities in Serbia to ensure independence of the police from the security services in criminal investigations;
- Serbia should use fresh North Macedonian experience in revising the structure of the national security-intelligence system in order to ensure independence of its police force from the security service when it comes to communication interception.

3.4.1. Suppressing and Combating Trafficking in Human Beings

Most international and domestic reports and analyses indicate an overall progress in the regulation of the legislative framework, drafting and adoption of strategic documents, action plans, guidelines, procedures and other acts in the field of prevention and combating trafficking in human beings in Serbia. On the other hand, serious shortcomings and failure to meet the minimum standards have been detected regarding the application of the existing frameworks, starting from detection, identification, support and protection, treatment of victims during court proceedings, and finally, lack of successful social inclusion of the victims.

In the first half of 2019, almost all identified victims of trafficking (19) were citizens of Serbia (90%). Female victims (70%) are predominant, half of whom are minors exposed to sexual exploitation.

Significant progress, both in preventing and combating trafficking in human beings, is not possible without the actual implementation of existing frameworks. Successful implementation will, however, remain lacking until the time when most institutions and organisations active in combating trafficking in human beings are networked into a well-connected, efficient and mutually open and proactive front, both horizontally and vertically. Otherwise, all the experience and knowledge of each actor individually, remains incompletely used, rendering the response of the “system” weaker than it has to be. In the end, the victims are the ones who suffer the most.

International Reports and Analyses - Key Issues

The *CEDAW Concluding Observations* point to a worrying trend of decrease in the number of convictions for trafficking in human beings, partly due to the use of plea agreements. Also, victims are generally referred to civil proceedings to obtain compensation.

The issues of protecting victims in court proceedings and obtaining compensation and legal assistance were also highlighted in the *Second GRETA Report for Serbia*,²⁵¹ which called on the authorities to ensure that crimes are effectively investigated and prosecuted, as well as proportionately sanctioned in order to discourage potential perpetrators.

²⁵⁰ Ibid.

²⁵¹ <https://rm.coe.int/greta-2017-37-frg-srb-en/16807809fd>

The US State Department's *Trafficking in Persons Report for 2019*²⁵² highlights the need for a victim-centered approach, as well as protection measures for victims who testify in court to reduce intimidation and re-victimisation. The report also points to a frequent occurrence where, following a plea agreement, cases of trafficking for sexual exploitation are prosecuted as cases of prostitution.

Most of the observed reports refer to the **omissions in the area of victim protection**, lack of formal, transparent indicators and criteria for the formal identification of victims, small number of cases where victims of trafficking in human beings are awarded the status of particularly sensitive witness, protection of victims' rights during lengthy court proceedings, and the problem of compensation or continuation of the court practice of directing victims to seek compensation in litigation proceedings, although they tend to be long and expose the victim to additional trauma due to repeated encounters with the abuser.

Legislative Framework of Serbia Compared to the EU acquis in the Field of Combating Trafficking in Human Beings

Serbian legislation still has **deficiencies and legal gaps in relation to the existing *acquis communautaire***, both in the area of prohibition of trafficking in human beings and the area of victims' rights.²⁵³ In line with the need for legal criminalisation of trafficking in human beings to accompany EU Anti-Trafficking Directive (2011/36), Article 2, referring to the irrelevance of the victim's consent, the constitutional prohibition of trafficking in human beings should be strengthened by a provision providing that the victim's consent to any form of trafficking in people is not relevant in the event of a breach of the prohibition. The incrimination of trafficking in human beings in Article 388 of the Criminal Code should be supplemented in order to fully comply with Directive 2011/36. Some of the proposals are: to envisage abduction and fraud as means of committing an act; to bring back a qualifying circumstance if the act of trafficking in human beings was committed by a civil servant in the course of duty; to make it an aggravating circumstance if the perpetrator is intentionally or knowingly negligent and jeopardises the life of the victim; to introduce the possibility of temporarily or permanently closing the business premises used for committing the criminal offence of trafficking in human beings; to stop initiating criminal proceedings and punishing victims for their participation in the crimes (introducing an explicit legal provision that addresses this issue). The study also deals with the rights of victims of trafficking: the right to accommodation, the right to be informed about international protection, to receive information at first contact, to be informed without delay of the release or escape of the offender or defendant from detention or imprisonment, and many others, pointing to the shortcomings and providing guidance for aligning the legislative framework with the acquis. One of the main conclusions was that an enormous step forward was made with regard to the legislative framework, but that much remains to be done to improve the implementation of existing solutions.

Action Plan (2019 - 2020) of the Strategy for Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children, and Protection of Victims for the Period 2017-2022

The Action Plan for this and the following year was adopted in July 2019. One of the positive developments is that civil society organisations are mentioned for the first time as implementing partners. On the other hand, **the document foresees noticeably fewer of activities** and proposals of the Working Group members **compared to its earlier versions**. ASTRA indicates that a total of 23 activities have been eliminated from just four measures (1, 3, 4 and 5). Most of the activities that did not end up in the final version are those from Measure 4, related to the direct support for victims. ASTRA has repeatedly drawn attention to the fact that most of the adopted activities

252 <https://rs.usembassy.gov/wp-content/uploads/sites/235/trafficking-in-persons-report-2019-serbia-country-specific-english.pdf>

253 ASTRA's Study on Compatibility of the Law of the Republic of Serbia with EU Acquis Communautaire in the Area of Combating Trafficking in Human Beings, available at: <https://bit.ly/2mDqjG>.

refer to training, indicators and other similar activities, with a clear disproportion in terms of victim support, services, referrals and cooperation among all actors – which happens to be a weak point that is highlighted in most reports. The rationale for reducing the number of activities is the lack of funds in the budget of the competent ministries. On the other hand, certain activities for which donor funding was secured and which were previously confirmed as necessary (i.e. service analysis, National Rapporteur for Trafficking in Persons, Child Alert) - were not included in the Action Plan. Also, there is a lack of clarity on the criteria determining which activities that can and should be listed in the Action Plan and those which cannot be listed since they represent regular activities of responsible institutions.

Standard Operating Procedures for the Treatment of Trafficking in Human Beings (SOP)

Standard Operating Procedures for the Treatment of Trafficking in Human Beings (SOP) were adopted in February 2019.²⁵⁴ The SOP lists the *Centre for the Protection of Victims of Trafficking* as one of the four relevant institutions to report to on the alleged cases of trafficking (Centre for Protection of Victims of Trafficking in Human Beings, Prosecutor's Office in the city of origin, Police and Centre for Social Work in the city/municipality where the case was reported). In the event that a civil society organisation (SOP mentions CSOs ASTRA and CSOs ATINA) comes into possession of information regarding a potential victim of trafficking in human beings, according to the SOP representatives of CSOs are to inform the *"Prosecutor's Office, Mol/Police and the Centre so that they can identify the person and continue providing support"*.

Having in mind that most reports and analyses indicate the need to enhance cross-sectoral cooperation, the SOP certainly sets the stage for this. However, practice shows that so far there have been no major developments. In accordance with Chapter III of the SOP, which specifies how the procedures are monitored and updated, at the last meeting of the Special Working Group on the Implementation and Monitoring of the Strategy against Trafficking in Human Beings, the national coordinator announced that an evaluation of the SOP would be carried out at the end of the year. The *EU Twinning Team of the IPA 2014 Support to Strengthening the Fight against Trafficking in Human Beings* project recommends further discussion of the SOP and the practical implementation of the referral system, especially between the Centre for the Protection of Victims and Civil Society Organisations, with the aim of establishing transparent and sustainable cooperation between all partners. It also recommends that these efforts be accompanied by adequate funding for CSOs that implement support programs.

ALARM: Deteriorating Cooperation of Institutions with ASTRA

After two decades of good cooperation with most of the institutions of the system, the situation has changed. Namely, even if the initial exchange of information was made between a particular institution and ASTRA, at the moment when the Centre for the Protection of Trafficking Victims becomes involved, contact with the ASTRA team is minimised or completely severed.

Centre for the Protection of Victims of Trafficking in Human Beings

The Strategy for Prevention and Suppression of Trafficking in Human Beings, especially Women and Children, and Protection of Victims for the Period 2017-2022, points out that the establishment of the Centre initiated the process of institutionalisation of support for victims of trafficking in human beings. Seven years after the establishment of the Centre, the Draft Law on Social Protection, presented in July 2019, finally specified its activities and position within the legislative framework, stating that *"the Centre for the Protection of Victims of Trafficking performs the tasks of identifying, protecting the rights and interests of victims of trafficking, determining their status, assessing the need for and planning the support in accordance with the law."* The proposed Law on Social Protection also brings a novelty in the form of granting the status of officials both

254 <https://bit.ly/2p31Giz>

to professional workers of the Centre for the Protection of Victims of Trafficking in Human Beings and professional employees of the centers for social work. **A state shelter for women victims of trafficking opened in February 2019, admitting its first victim in July.** With its actions as well as in its reports, the Centre seeks to position itself as the primary coordinating body for providing support to victims of trafficking. The capacities of the Centre are still insufficient to properly respond to all the needs, as reported by the Centre itself in its annual reports – ranging from the number of professional staff and difficulties with unsuitable premises, to obstacles such as the inability to conduct field visits in the first part of the year because of the specific public bodies' funding rules.

On the other hand, practice shows that, in its efforts to build up its position, **the Centre is missing, neglecting or ignoring resources that already exist in Serbia, including civil society organisations.** Consequently, victims are denied the services and support that belong to them by all standards. This is not just a subjective impression (of a civil society organisation), and can be found also in numerous reports and recommendations to strengthen and make effective cooperation between all actors who need to and can contribute to the prevention and fight against trafficking in human beings.

As an example, below we provide an overview of the institutions addressed by the ASTRA's Victim Support Unit regarding forwarding information and taking further action to verify and assist (potential victims). It shows whether feedback was received, and in which form. Since the beginning of the year, ASTRA's Unit has submitted at the request of citizens, parents or co-workers 18 inquiries to various institutions regarding 20 (potential) victims of trafficking in human beings (14 adult women and six minors - two boys and four girls).

Table 4. Overview of institutions reacting to information forwarded by ASTRA's Victim Support Unit

Institution	Number of inquiries	Feedback
Police (various departments)	6	No feedback, except in one case where ASTRA was instructed to write to another police station due to the jurisdiction issue.
Centres for social work	5	4 by phone, 1 official notification
Center for protection of victims of human trafficking	4	3 by phone, 1 official notification
Prosecution	2	None
Ministry of Interior	1	Yes

In the field of preventive action, upon receiving a call from citizens or associates, the Victims' Support Unit addresses competent institutions in writing regarding various legal entities as well as those that are unregistered. The Unit receives written responses from each Inspectorate for Labor Inspection at the Ministry of Labor, Employment, Veterans' and Social Affairs, or Market Inspectorate at the Ministry of Trade, Tourism and Telecommunications.

Regarding the inquiries related to the European Missing Child Number in Serbia, ASTRA's calls and letters to the competent authorities are usually left without official feedback. With the exception of one glaring example, what seems to be a very simple action - sharing of information and mutual respect of all who work on the same problem - happens to be the weakest link.

In competent institutions, the practice of responding in writing in a timely manner is almost non-existing. Feedback is generally not provided formally, but mostly informally in a telephone conversation, mainly on the initiative of the ASTRA Support Team.

This trend of quick rejection of attempts to communicate and cooperate is detrimental to the entire process of combating trafficking in human beings, especially given the severity of trauma and subsequent stigmatisation of the victims and their families, especially children. ASTRA maintains contacts with victims for many years, providing assistance and support when most other mechanisms and channels are running on low or depleting resources. However, there are some **alarming situations when, in an attempt to help the victim or children of the victim, the civil society organisation runs into a wall of non-cooperation and misunderstanding by competent institutions.**

Case Study: ASTRA ID 5897

ASTRA is in contact with the girl's mother, who is her legal guardian but fails to exercise her rights as a parent because she is prevented from doing so by her former partner, the girl's father.

Considering that he was already known to the relevant institutions concerning domestic violence, and that he had been investigated for the sexual exploitation of his current partner, we contacted various services to relocate the girl (Centre for Social Work, Centre for the Protection of Victims of Trafficking in Human Beings, the Basic Public Prosecutor's Office, the Higher Public Prosecutor's Office).

However, to date, *the system (institutions) was unable to prevent further violence against the girl*, who, due to the control and influence of her father, has no contact whatsoever with her mother. Violence to which her father subjects her or the risk of her further abuse and possible exploitation are not substantially recognised and the abuser exercises his will without any sanctions, endangering his daughter's interests and rights.

RECOMMENDATIONS:

- Initiate a process involving all relevant institutions (ministries) and, in accordance with the existing procedures, start the process of amending the legislative framework to align it with the acquis in the field of prevention and combating trafficking in human beings;
- Provide conditions for the transparent and inclusive process of development and adoption of official indicators for the identification of victims of trafficking in human beings;
- Create a detailed and comprehensive overview of the services offered to victims of trafficking in Serbia, as a starting point for the analysis of missing services;
- Design the process and regularly evaluate the services of the Centre for Victims of Trafficking as the key institution for the protection of victims of trafficking;
- Plan resources for further development and improvement of services for victims of trafficking, equally involving civil society organisations with experience in this field and fully utilising all available capacities to make the range of services more adequate and their quality better.

3.4.2 Fighting Cybercrime

The latest Report on the implementation of the AP 24 (January-July 2019)²⁵⁵ with regard to activities 6.2.9.1, 6.2.9.2 and 6.2.9.3 does not contain any information on the manner in which the Strategy to combat cybercrime in Serbia for the period 2019-2023 with the accompanying Action Plan, adopted year ago, is being implemented. The Strategy itself was adopted without the participation of women's organisations that provide support to women victims of cybercrime in Serbia, which resulted in the absence of any measures and activities relating to cybercrimes against women. Draft revised Action Plan for Chapter 24 (of March 2019), which is still waiting to be adopted, listed only activities connected with amending the law with respect to financial cybercrimes.

Objective I of the Cybercrime Strategy 2019-2023²⁵⁶ envisages harmonisation of the legislation of the Republic of Serbia with the *acquis* and standards of the European Union in the field of combating cybercrime - in particular Directive 2013/40 and Directive 2011/93, ignoring the ratified *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (the Istanbul convention).

Although the list of crimes has been a visible expanded to include offences committed using a new generation of mobile phones, misuse of computer and security cameras, as well as "revenge porn" (still not adequately criminalised in Serbia), data of the Republic Bureau of Statistics indicate that **in 2017 only one case ended in criminal sanction – it involved publishing an unauthorised photograph**. This is a direct consequence of the fact that crimes of illicit publishing are prosecuted in private criminal lawsuits. Victims have no knowledge, skills or ability to obtain evidence, nor can they afford to hire an attorney. In the experience of women who addressed AWC, Special Prosecutor's Office and Special Police Unit for Cybercrime refuse to provide assistance to victims of such crimes to discover the owner of the IP address. The Ministry of Justice refused to amend existing criminal acts of illicit publishing of photos/videos (Articles 144, 145, 146 and 153 of the Criminal Code) so that they could be prosecuted *ex officio*, as suggested by AWC during the latest changes of the Criminal Code.²⁵⁷

RECOMMENDATION:

- Amend the relevant articles of the Criminal Code in order so that the criminal act of illicit publishing can be prosecuted *ex officio*.

255 <https://bit.ly/2oH6km7>

256 Official Gazette of the RS, no. 71 of 25 September 2018

257 https://www.womenngo.org.rs/images/vesti-19/Autonomni_zenski_centar_-_komentar_i_predlozi_-_15.4.2019.pdf

3.5. Fight against Terrorism

Serbia has finally established a National Coordination Body for Prevention and Fight against Terrorism. However, its work has been troubled by personnel issues.

There has been some progress in the area of fight against terrorism, but only in formal terms. Namely, the authorities in Serbia have finally established a National Coordination Body for Prevention and Fight against Terrorism and appointed a National Coordinator. However, there have been some problems.²⁵⁸

The Government appointed Dijana Hrkaločić as National Coordinator, even though she was the State Secretary at the MoI of Serbia at the time and had no more than five years of experience in the Ministry of Interior. In addition, she was linked to numerous scandals such as connection with criminal and sports fans' groups,²⁵⁹ politicisation of the police, and attempts to illegitimately interfere with the election process.²⁶⁰ At the meeting of the Working Group of the National Convention on the European Union for Chapter 24 and the Government Negotiating Group for Chapter, held on 24 May 2019, the Belgrade Centre for Security Policy asked the MoI and BIA representatives about the criteria and qualifications based on which Dijana Hrkaločić was appointed head of this body, considering that other members of the body were experienced professionals. The representatives of both institutions assured the participants at the meeting that Ms. Hrkaločić was a good choice and that she possessed good qualifications, above all those related to coordination.²⁶¹ However, on 29 May the MoI informed the public that, as of the following day, Dijana Hrkaločić would no longer hold any office in the Serbian MoI.²⁶²

The Decision on the establishment of the National Coordination Body was amended shortly afterwards and the provision appointing Dijana Hrkaločić as National Coordinator for Prevention and Fight against Terrorism was deleted (paragraph 1, item 2).²⁶³ Serbia remained without the National Coordinator until 11 June 2019, when the Decision was amended yet again, appointing Vladimir Rebić, Director of the Serbian Police, National Coordinator.²⁶⁴ However, the Police Director already has enough to do managing a complex system such as the MoI, which employs close to 50,000 people, and it is therefore questionable to what extent he will be able to devote himself to this (additional) task. The question that arises in this case is: why is it that the Serbian Government did not appoint to this position MoI and BIA members with years of experience in the fight against terrorism?

RECOMMENDATION:

- The Government should appoint one of MoI or BIA members highly experienced in the fight against terrorism to the position of the National Coordinator for Prevention and Fight against Terrorism.

258 Decision on the Establishment of the National Coordination Body for Prevention and Fight against Terrorism and on the Appointment of National Coordinator for Prevention and Fight against Terrorism, "Official Gazette of the Republic of Serbia" no. 29 of 19 April 2019

259 <https://www.krik.rs/rad-dijane-hrkalo-cic-u-mup-u-mafijaska-ubistva-veze-kriminala-i-policije-i-prijave-protiv-nje/>

260 <http://rs.n1info.com/Video/Info/a444870/Zasto-je-Dijana-Hrkalo-cic-bila-u-Lucanima.html><http://rs.n1info.com/Vesti/a444864/Stefanovic-poslao-Hrkalo-cic-da-smiri-situaciju-medjutim-privodjenja-i-tenzije.html>

261 <http://www.bezbednost.org/Vesti-iz-BCBP/7015/Sistemska-reforma-policije-je-neophodan-korak-za-shtml>

262 <http://bit.ly/Hrkalo-cic>

263 Decision to Supplement the Decision on the Establishment of the National Coordination Body for Prevention and Fight against Terrorism and on the Designation and Appointment of National Coordinator for Prevention and Fight against Terrorism, "Official Gazette of the Republic of Serbia" no. 38 of 31 May 2019

264 Decision to Supplement the Decision on the Establishment of the National Coordination Body for Prevention and Fight against Terrorism and on the Designation and Appointment of National Coordinator for Prevention and Fight against Terrorism, "Official Gazette of the Republic of Serbia" no. 41 of 11 June 2019

3.5.1. Right-Wing Extremism

The Government failed to address the issue of right-wing extremism as part of the prevention, prosecution and investigation of extremism. During the reporting period, the far right in Serbia remained vocal in promoting their ideas, threatening and attacking minorities and human rights defenders, and influencing mainstream politics and discourses. There have been several events that give reason to worry about a rise of the far right in Serbia.

In late April 2019, a nationalist lynch-mob attacked a bakery in Borča, owned by an ethnic Albanian.²⁶⁵ Although the right-wingers stormed the bakery (but were stopped by the police), placed pig heads on the car belonging to the bakery owner and shouted death threats, the Serbian Minister of Interior characterised this event as a “peaceful protest without any incidents”,²⁶⁶ thus normalising and approving the far-right lynch mob. Furthermore, Sofija Todorović, a human rights activist who was tweeting live from the above mentioned attack on the bakery, has herself become a target of concerted campaign, and has received a number of threats by extreme nationalists on her social media account.²⁶⁷ Although she filed several complains with the Prosecutor’s Office, requesting protection, the state institutions remained silent. In July 2019, the European Court for Human Rights ordered the Serbian Government to submit all the official documents related to Todorović’s case, which is still pending.²⁶⁸

In May 2019, a little known right-wing organisation Centre for Security, Investigations and Defence DBA proposed formation of para-police units, the so-called “citizens’ patrols”, which would allegedly help police in providing local safety to citizens.²⁶⁹ The fact that this initiative was launched and supported by extreme right wingers, some of which have a criminal record, provoked a harsh reaction, mostly in the civil society and opposition parties. The main concern was that the proposed units would in reality function as right wing militias, providing legitimacy and state support to far right organisations. The Ministry of Interior distanced itself from the initiative, but only after the opposition raised this issue in the media.²⁷⁰

In late May 2019, several right wing and football hooligan organisations protested against “Miredita/Dobar dan” - the annual festival of Kosovo culture that takes place in Belgrade. They gathered in front of the festival venues and shouted nationalist slogans, as well as insults to the participants. The police prevented any serious violent incidents.²⁷¹

In July 2019, a group of right wingers tried to stop a theatre play about the Srebrenica genocide, organised by the Helsinki Committee for Human Rights. They stormed into the venue, sang nationalist songs and shouted praises to Ratko Mladić. Present police officers did not stop them from entering the venue, although it was obvious from their outfits that they came to interrupt the play and provoke an incident. Eventually, the police forced them out.²⁷²

265 <https://balkaninsight.com/2019/04/29/serbian-nationalists-target-albanian-baker-over-cousins-gesture/>

266 <http://rs.n1info.com/Vesti/a479730/Stefanovic-Okupljanje-u-Borci-bez-incidenata-nijedno-staklo-nije-naprsllo.html>

267 <https://balkaninsight.com/2019/05/06/serbian-nationalists-target-birn-staffer-for-defending-baker/>

268 <https://www.danas.rs/drustvo/evropski-sud-vlada-srbije-da-dostavi-sva-dokumente-iz-slucaja-sofije-todorovic/>

269 <https://www.dw.com/sr/gra%C4%91anska-patrola-ili-desni%C4%8Darska-milicija/a-48729697>

270 <https://www.danas.rs/politika/tepic-gradjanske-patrole-su-kriminalne-patrole-i-namera-je-da-legitimisu-gradjane-bez-konsekveneci/>

271 <https://www.slobodnaevropa.org/a/miredita-dobar-dan/29970613.html>, <https://www.slobodnaevropa.org/a/29972864.html>

272 <https://www.danas.rs/drustvo/desnicari-upali-na-predstavu-o-srebrenici-publika-i-glumci-ih-terali-napolje/>

At the end of August 2019, Serbian football club Red Star Belgrade placed outside its stadium a tank which was allegedly used during the war in Croatia in the early 1990s.²⁷³ Serbian Ministries of Defence and Internal Affairs claimed that it was a “model of a tank”, which was not state property.²⁷⁴ None of the officials condemned this act, although it clearly represents an act of celebration of war in the course of which numerous war crimes had been committed. This event highlights the fact that extreme ethnic nationalism remains the ideology of football hooligans’ groups.

RECOMMENDATION:

- The authorities should condemn extremist attacks and initiate adequate procedures against perpetrators.

3.6. Judicial Cooperation in Civil, Commercial and Criminal Matters

Draft revised Action Plan for Chapter 24 (of March 2019) failed to present the current situation regarding judicial cooperation in civil, commercial and criminal matters. There is no list of EU directives and regulations with which legislation is to be harmonised, or information as to whether at least partial harmonisation has been achieved in the previous five years. Cooperation between the Council for Monitoring Chapter 23 and the Negotiating Group for Chapter 24 is not visible, which is reflected in activities that are inconsistent, especially regarding timelines of activities listed in both APs, and subsequently the content. From the latest Report on the implementation of the AP 24 (January-July 2019)²⁷⁵, timelines for Activities 5.1.1, 5.1.2, 5.1.3, 5.3.1 and 5.3.3 have been postponed to the fourth quarter 2019 - more than three years after the initial deadlines.

From the draft revised AP it cannot be concluded how project-funded activities oblige a competent authority designated to carry out the activities when that authority is not MoI. Experiences of women who addressed the AWC show that judges in family law disputes do not know how to fulfil the request with regard to judicial cooperation, thus refusing or ignoring requests for obtaining relevant evidence. It is still unknown why the draft new Private International Law, drafted in June 2014, has not been adopted.

RECOMMENDATION:

- Enhance the activities regarding judicial cooperation in civil, commercial and criminal matters.

273 <https://www.bbc.com/news/blogs-news-from-elsewhere-49485400>

274 <http://rs.n1info.com/Vesti/a520856/Stefanovic-Ispred-Zvezdinog-stadiona-je-maketa-a-ne-tenk.html>

275 <https://bit.ly/2oH6km7>



This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of coalition prEUgovor and can in no way be taken to reflect the views of the European Union.