

PREUGOVOR ALARM

REPORT ON THE PROGRESS OF SERBIA IN CLUSTER 1

Jelena Pejić Nikić, ed.

Belgrade, May 2023

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PREUGOVOR

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About prEUgovor

The prEUgovor coalition (Eng. prEUunup) is the first coalition of civil society organisations formed 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. It is comprised of seven civil society organisations with expertise in the thematic areas covered by the “Fundamentals” Cluster. 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.



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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 (BCBP)

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 Cluster 1* 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, i.e. from Cluster 1 in the new enlargement methodology.

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. Depending on the topicality and importance of other topics within cluster 1, the coalition seeks to engage external authors from other civil society organizations that have expertise in these topics. 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.

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List of Abbreviations

AP	Action Plan
AP 23	Action Plan for Chapter 23
AP 24	Action Plan for Chapter 24
BAN	Balkan Anti-Trafficking Network
BIA	Security Information Agency of Serbia
B&H	Bosnia and Herzegovina
CB	Coordination Body for Monitoring the Implementation of the Action Plan for Chapter 23
CC	Criminal Code
CEDAW	UN Committee on the Elimination of Discrimination against Women
CEPOL	EU Agency for Law Enforcement Training
CHU	Central Harmonisation Unit
CND	UN Committee on Drugs and Crime
CPC	Criminal Procedure Code
CPL	Civil Procedure Law
CPWG	Child Protection Working Group
CRM	Common Regional Market
CSO	Civil society organisation
DPNSEE	Drug Policy Network South East Europe
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
EC	European Commission
EP	European Parliament
EPS	Electric Company of Serbia
EWS	Early Warning System
FATF	Financial Action Task Force
GOPAC	Global Organization of Parliamentarians Against Corruption
GRECO	Council of Europe's Group of States against Corruption
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
HJC	High Judicial Council
HPC	High Prosecutorial Council
HPPO	Higher Public Prosecutor's Office
IJET	Institute for the Improvement of Education and Training
LGBTQ+	Lesbian, gay, bisexual, transgender, queer and other
MoI	Ministry of Interior
MoJ	Ministry of Justice

MONEYVAL	Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (in the framework of the Council of Europe)
MP	Member of Parliament
NCEU	National Convention on the European Union
NEC	National Education Council
NGO	Non-governmental organisation
NPM	National Preventive Mechanism
NRM	National Referral System
NUNS	Independent Journalists' Association of Serbia
ODIHR	OSCE Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Cooperation in Europe
PPO	Public Procurement Office
REM	Regulatory Authority for Electronic Media
RTS	Public Broadcasting Service of Serbia
SLAPP	strategic lawsuits against public participation
SNS	Serbian Progressive Party
SOP	standard operating procedure
SORS	Statistical Office of the Republic of Serbia
SPS	Socialist Party of Serbia
SRS	Serbian Radical Party
SVM	Alliance of Hungarians of Vojvodina
SWG	Standing Working Group for Journalists' Safety
TCN	third country nationals
THB	Trafficking in human beings
UN	United Nations
US	United States (of America)
VSU	Victim Support Unit

Introduction with Summary

We present you the jubilee 20th prEUgovor Alarm Report, the regular semi-annual overview of the state of reforms in Serbia in key areas of European integration. For a decade now, the organisations gathered in the prEUgovor coalition have been documenting the words and deeds of the Serbian authorities and relevant institutions, analysing them within a broader picture so that both the domestic and international public understand the importance and scope of the undertaken reform activities. Alarm reports were published even when official reports on the implementation of action plans were not, or they offered a picture of a parallel reality, the reverse side of which needed to be illuminated. These twenty reports, therefore, together provide a comprehensive and faithful, critically coloured account of the decade of European integration of Serbia.

In that period, reasons for alarming the public did not disappear; on the contrary. The volume of reports grew steadily, and the recommendations were often repeated because they were rarely fulfilled. For years, the prEUgovor coalition has been warning about the state capture, which is taking place parallel to and intertwined with the EU accession process. While the authorities are trying to show some progress in the formal process and open new negotiation chapters, i.e. clusters, the effects of the activities undertaken on the ground are not satisfactory. Obligations are often interpreted minimally, criticism is belittled, and results are presented as better than they really are. On the other hand, the reports of the European Commission have become more critical in the previous three years, and the resolutions of the European Parliament are increasingly harsh in their condemnation of bad practices in Serbia.

Serbia is still only halfway when it comes to the standards it needs to reach and consistently apply in chapters 23 and 24. The problematic functioning of democratic institutions, monitored within the framework of political criteria, spills over into other areas. Chronically bad ratings for the state of media freedom, judicial independence, fight against high-level corruption and organised crime show that there is no will to solve key and already identified problems while evading responsibility. The political and media scene is very polarised; there is a lack of a culture of dialogue and tolerance of criticism, which are necessary for finding the best and legitimate solutions.

The period covered by this Alarm report – from November 2022 to April 2023 – overlaps with the first six months of the new government's work. In the areas monitored by the prEUgovor coalition, the main focus was on the completion of judicial reform by adopting judicial laws and on drafting a new Draft Law on Internal Affairs, the provisions of which had previously caused strong reactions from the expert public and citizens. Several incidents indicate systemic failures and negligence towards fundamental rights and freedoms.

The coalition reiterates the necessity to revive the transformational potential of the EU enlargement policy with credible words and deeds. Just as it did a decade ago, prEUgovor insists that the accession process must not be a goal in itself, but a means to achieve essential progress in the further democratisation and organisation of the state based on the rule of law.

POLITICAL CRITERIA

The Agency for Prevention of Corruption has published reports on the control of the election campaign for the parliamentary, presidential and local **elections** held in April 2022, but they left too many issues unresolved. Data on the outcome of further controls and on initiated procedures may only be visible later. While there is speculation about holding snap elections in the fall, the President of the Republic and the leader of the ruling party is promoting a new political movement throughout Serbia.

Chair of the **Parliament**, chairs or vice-chairs of parliamentary committees from the parliamentary majority continued, sometimes contrary to the Constitution and Rules of Procedure, to obstruct the work of the Parliament. The Parliament started its regular sitting on 19 April 2023, i.e. with 50 days delay. In the reporting period, opposition MPs cannot put their proposals on the agenda due to manipulation in scheduling sessions. Similarly, attempts of committee chairs or vice-chairs from opposition to schedule committee sessions were obstructed. Collected signatures for peoples' initiative to the Parliament to discuss one law that would forbid lithium mining remained "lost". The Parliament finally discussed

independent bodies' reports for 2021 and elected heads of several independent institutions in procedures that could be improved. The transparency of the Parliament did not improve systemically. The Code of Conduct remained a dead letter. Despite heated debates about issues related to the security sector, and the relevant committees holding regular sessions, it cannot be said that the National Assembly exercised effective oversight of the security sector during the reporting period.

The Ministry for Human and Minority Rights and Social Dialogue has set up an agenda for consultations to establish the Council for Development and Cooperation with **Civil Society**, whose legitimacy will largely depend on the number of civil society organisations (CSOs) involved in its creation. Even when CSOs participate in formal procedures, their inputs are rarely accepted. Meanwhile, attacks on human rights defenders have continued. New research revealed vast amounts of public money has been donated to GONGOs and tabloids.

Serbia's relations with neighbours were stable during the reporting period. After the severe tensions last fall, Serbia and Kosovo entered a phase of intensive negotiations at the highest political level, which resulted in the acceptance of the EU proposal of the path of normalisation and its Implementation Annex. This opens the door for the implementation in practice, which should be in focus in the coming period. In the multilateral forums, Serbia in principle maintained its constructive role, while Belgrade kept its focus on the Open Balkans initiative. There has been a notable improvement in the bilateral relations with Croatia, while relations with other neighbours remained positive.

As regards **declarative commitment to European integration**, public criticism of the EU by Serbian officials noticeably dropped in the reporting period. While Serbia did not align itself with any of the restrictive EU measures towards Russia in relation to the Russian war against Ukraine, Serbian officials generally avoided making accusations against the EU the way they did in the previous reporting period.

CHAPTER 23

Nine **judicial laws** were adopted in early February 2023 in order to comply with the constitutional amendments within the stipulated deadline. Apart from the five laws that passed the public discussion and evaluation of the Venice Commission, four laws on combating special forms of crime were changed in a shortcut, but their apparently technical changes hide fundamentally bad solutions. Formal procedures in which the interested public was involved were rendered meaningless in the accelerated finale of the process, which did not leave time to really consider the proposals and comments made for the improvement of legal provisions. That is why previously criticized solutions were retained – on the quorum for decision-making in the judicial councils, on the transparency of their work or on the criteria for the selection of prominent lawyers, among other.

The implementation of the new laws began with the election of prominent lawyers in two judicial councils. Despite certain efforts to reduce the political influence on this procedure so as to lead to an inter-party consensus, the lack of such a consensus triggered an unblocking mechanism that was criticized by the expert community and the Venice Commission, and the final decision on the appointment reflected the position of the parliamentary majority. At the same time, the sudden transfer of two female prosecutors who were in charge of abuse of office proceedings in the public company "Elektroprivreda Srbije" cast a shadow on the discourse on strengthening the independence of the prosecutor's office and caused an uproar from experts and the general public.

As regards to the **fight against corruption**, all the negative trends that had been noted in previous reports have continued or intensified, especially when it comes to the management of state-owned enterprises and public administration and in public procurement. Furthermore, the transformation process of the largest state-owned enterprise (EPS) was performed in a way that would significantly reduce or exclude the application of anti-corruption rules to this company and their officials. In the reporting period, the Government did not even start preparing amendments to anti-corruption regulations concerning the recommendations of relevant international bodies. Work on the new Anti-corruption Strategy started in March 2023, with a significant delay compared to plans and without comprehensive analysis and commitment of government institutions. The results of the implementation of Operational Plan for the Prevention of Corruption in Areas of Special Risk are not visible yet. This period was also marked by

the absence of reaction of the competent authorities in some potential cases of high-level corruption. Statistics for 2022 show a trend of a decrease in the number of criminal charges, indictments and verdicts compared to the previous year.

Despite the legal framework for **freedom of expression and freedom of the media** that is largely established and harmonised with European standards, 9 years after the beginning of the implementation of media regulations Serbia is still plagued by major problems in this area. In some areas, problems that affect journalists, among others, remain completely unregulated, such as the internet, intimidation and milder forms of hate speech, heavy pressures and SLAPP lawsuits. Progress is again limited by the establishment of certain frameworks or new working groups, while the political will to allow implementation, adequate control and responsibility of institutions is missing.

In regard to the **status of vulnerable groups and anti-discrimination**, the protection of persons with mental disorders, and especially the protection of children's rights, is still a serious concern, because planned activities (many of which are normative) have not been implemented for years, despite indicators of an alarming situation. The public space abounds with examples of discriminatory speech and behaviour, including attacks against national, racial and other minorities, as well as all kinds of dissenters. On the other hand, the state believes that it has fulfilled its obligations in the area of non-discrimination by adopting the strategy and the action plan, and by forming the Council to monitor them. Domestic and international organisations are unanimous in their assessment that Serbia is experiencing a steady decline in freedoms and democratic processes, and that socio-political conditions are unfavourable for the realisation of human rights in many areas and towards many minority groups.

Gender inequality is particularly obvious in the family environment and in relation to finances. There is strong opposition to the gender-sensitive language, which will become a legal obligation in textbooks from mid-2024. There has been no reaction from the authorities regarding the 12 murders of women that occurred in the first four months of 2023. Repeated demands from women's organisations to establish a National Mechanism for monitoring and analysing cases of femicide remained unanswered, while the conduct of competent institutions discourage women to report violence. Various types of security threats and pressures on (women's) organisations that point to the corrupt actions of state authorities are continuing while public funds are being distributed to secret projects and fictitious organisations.

Amendments to the law did not bring tangible progress in terms of **access to information of public importance**, as the problems of the administrative silence, abuse of rights and non-enforcement of Commissioner's decisions persist. The adoption of the **Personal Data Protection** Strategy and amendments to the Personal Data Protection Law and other regulations are yet to follow. The Ministry of Internal Affairs (MUP) continued work on legalizing the use of technology for mass biometric surveillance of the population.

CHAPTER 24

The Ministry of Interior once again failed to produce a new Draft Law on Internal Affairs of sufficient quality and to ensure a proper consultation process, causing the Draft to be withdrawn from the legislative procedure for the second time in December 2022. During the subsequent consultation process with civil society organisations as part of producing the third Draft, worrying trends were identified within the police organisation that threaten to further undermine its integrity and professionalism. Improving police integrity and ensuring operational autonomy from the influence of politics and organised crime remains the key aspect of **police reform** in line with the Chapter 24 benchmarks.

As regards **migration and asylum**, work on amending the legislative framework in order to liberalise the labour market for a wider range of foreigners was the focus of the competent authorities in the reporting period. However, the issue of the continuous presence of migrants without regulated legal status stresses the need to enhance the implementation of legal concepts provided by the Law on Foreigners and the Law on Asylum and Temporary Protection. Serbia has aligned its visa policy with the EU in line with the requirements presented to government officials, which has influenced the migratory movements to the EU through the Western Balkan route. Cross-border incidents, including elements of violence, still occur.

Serbia is still not implementing a strategic approach to the **fight against organised crime**. Instead, the practice of competent authorities is focused on individual cases. Organised criminal group Vračarci was arrested in this reporting period. The Prosecutor's Office for Organised Crime maintained bilateral cooperation with the prosecutor's offices from the region and the European Union. Representatives of the Ministry of the Interior informed the public that the fight against organised crime was successful in 2022; however, data to support this statement are not publicly available. It is necessary to investigate the allegations raised by professional journalists about the links between political structures and criminal groups.

The deterioration of the state **anti-trafficking** framework continued in the reporting period. The umbrella national public policy document in the field expired at the end of 2022. The Council for Combating Human Trafficking hasn't met for four years. The legal status of the Centre for Human Trafficking Victims' Protection remains unclear, foreign victims of labour exploitation are invisible to the Centre and victims are reluctant to cooperate with the Centre and other state institutions due to lack of trust. The variety and complexity of the cases civil society organisations are dealing with increases, while the state support in any form is still lacking.

Far-right groups and parliamentary political parties of the **extreme right** have been very active in the past 6 months, focusing their activities on undermining President Vučić's acceptance of the Franco-German framework for normalising the relations between Serbia and Kosovo. Faced with the decline of popularity and the reduced patience of the Western countries, the Serbian Government responded firmly this time, arresting several far-righters who threatened violence and organising a smear campaign against the leaders of extreme-right parliamentary political parties. A public opinion poll showed that far-right and pro-Russian stances are widespread among Serbian citizens, especially youth, as a result of the nationalistic and pro-Russian rhetoric the ruling party consistently applied for more than 10 years.

The key issues in the area of **drugs** are the lack of strategic planning and weak coordination of different stakeholders. Use of narcotics and possession for personal use are still criminalised. Serbia has not implemented several activities related to the treatment and destruction of seized precursors and amendments to the Criminal Procedure Code concerning the procedure for the destruction of psychoactive substances. International cooperation is fruitful, and the capacity building of law enforcement is improving. Drug-related public health issues are marginalised, especially in the EU accession process.

1. DEMOCRACY

1.1. Elections

1.1.1. Report on control of election campaign financing left too many issues unresolved

The Agency for Prevention of Corruption published first a report on the conducted control of campaign financing in all cities and municipalities where the elections were held in April 2022, then a special report related to the presidential and Belgrade¹ elections, and finally, in early December 2022, the findings on the control for the parliamentary elections.²

All these reports were published within the legal deadline prescribed for the first time in 2022 (120 days from the deadline for political entities to submit campaign expense reports). This is the best that can be said about Agency's control report. As prEUgovor suggested at the time of the adoption of the "new" Law on Financing political activities³, ahead of the 2022 elections, it was necessary to determine precisely what must be the subject of control by the Agency and what is the minimum data that the Agency should present in its report on the conducted control.

In the process of analysis and control, Agency analyzed reports of political parties, coalitions and citizens' groups on campaign expenditures and requested additional information and data specifications from them. The Agency also said it had requested data from other public institutions and that they had all submitted the requested data. Data on budget transfers for financing political entities were obtained first. On the other hand, based on the list of authorities from which information is requested, it appears that some other potentially relevant data have not been requested from institutions (e.g. data on the use of publicly owned real estate). The Report of the Agency does not specify whether data were requested from the Regulatory Body for Electronic Media (REM) – in connection with the advertising of political entities on TV and radio stations, as well as the Ministry of Interior – in connection with holding public rallies. All commercial banks have submitted the requested data on current account turnover to the Agency. Agency also requested information from service providers for political campaigns (marketing agencies, billboard issuers, and media), but the list of such service providers is not published.

In all cases where irregularities have been found, the phrase "irregularities indicating possible violations of the Law" is used, followed by "that the procedure of checking the facts is underway before the Agency in order to establish the existence of a violation of the law". Such remarks are against the spirit of the norm that introduced a deadline for drafting reports on campaign finance control. Namely, the Law provided for the obligation of the Agency to publish only one report within 120 days, which implies the obligation to complete the entire control procedure by that moment. Data on the outcome of further controls and initiated procedures may be visible in some way only in the Agency's annual activity reports. Previous experience shows that these data are presented summarily, at the level of initiated procedures and outcomes during the calendar year, and not so that it can be traced towards each election campaign and each violator.

1 <https://bit.ly/3h5Wwgx>

2 <https://bit.ly/40waFWe>

3 prEUgovor, How to Improve Transparency and Control of Campaign Financing, December 2021, pp. 21-23, <https://preugovor.org/Amendments/1705/How-to-Improve-Transparency-and-Control-of.shtml>

The task of establishing all the important facts over the course of four months might require the hiring of additional personnel.⁴ The Agency has the right “to engage appropriate experts and institutions” to carry out control tasks and not just to hire observers who monitor certain activities during the campaign. For the sake of effective control, the Agency has the legal right to receive additional funds. Specifically, the Agency for the April 2022 elections had the right to demand from the budget of Serbia 8.7 million dinars for the control of presidential elections, another 8.7 million dinars for parliamentary elections and about 4.4 million for Belgrade elections, which is app 2 million dinars more than Agency actually requested and spent on their observers.

Agency’s findings for presidential elections – some irregularities found, important information missing

While reviewing the report for the presidential elections, the Agency said that it found no irregularities in the reports of presidential candidates of coalitions “We must”, “For a united, just and stable Serbia” and “Aleksandar Vučić – Together we can do everything”.

In the presidential elections, most such irregularities were found in the Sovereignists’ coalition. Thus, it is stated that one invoice is not shown in the report (to which funds from public sources were transferred), that the costs of election material and other campaign expenses were expressed in a larger amount compared to the issued invoices, that most of the campaign expenses were paid from the account of the Citizens’ Association “Enough is Enough – Restart”. The Agency’s report does not explain this further, but there could be two violations here – financing the election campaign by citizens’ associations, which is prohibited and payment of campaign expenses from an account that is not intended for the election campaign, i.e. directly by a third party.

With the “Zavetnici” candidate, it was stated that some advertising costs were not shown and that expenses for several election campaigns were paid from the same account. With the Coalition for the Kingdom of Serbia – DSS, the problem was identified when receiving one contribution. In regards to the presidential candidate of “Dveri”, irregularities were found in certain expenses (slightly more than half a million dinars).

Although the Agency states that it carried out its own monitoring of the election campaign finance, the findings of this monitoring are not included in the report on the conducted control for the presidential elections. The Agency neither presents the findings of its monitoring of individual campaign expenses nor does it indicate that its monitoring results match those reported by political parties in their campaign finance reports. Although it is stated that the Agency collected data from service providers, it remains invisible whether it compared discounts provided to different political entities. Similarly, it remained unclear whether the Agency analyzed if some political subject presented their expenditures within the “wrong” report, e.g. in the report on Presidential elections instead of Belgrade city elections.

Slight improvements in the report for parliamentary elections

The report on the control of parliamentary elections by structure follows the one for the presidential elections and contains similar shortcomings. However, some improvements are also noticeable, which can also be associated with some of the proposals Transparency Serbia, member of prEUgovor, had given earlier.⁵

In the introductory part, it is noted that out of 19 political subjects, 16 of them submitted preliminary reports in a timely manner, and 15 submitted their final reports. The Agency states that it has filed requests for initiating misdemeanour proceedings in cases where preliminary (Party of Justice and Reconciliation, Roma Party, Serbo-Russian Movement) or final reports (Roma Party, Serbian – Russian Movement, Alternative for Changes and citizens’ group “Abducted babies – Ana Pejić”) were not submitted at all or were submitted after deadline.

⁴ The Agency is authorized to do so on the basis of Article 32, paragraph 1. Law on Financing Political Activities.

⁵ <https://izbori.transparentnost.org.rs/analiza-izvestaja-o-troskovima-izborne-kampanje-2022-sa-preporukama-za-postupanje-agencije-za-sprecavanje-korupcije/>

Similar to the presidential election, data on the Agency's observers are listed as one of the sources for control, but not their findings. It only states that the data was used for comparative analysis during the control, but not what exactly was established in this way. The Agency spent 19 million dinars from the budget for this type of control. In other words, the public is left to believe that all the expenses identified by observers are indeed found in party reports. If this is true, the information would be much more convincing if the Agency accurately showed which campaign expenses were verified in this way in each of the reports of political entities (for example, by type of promotional material, by the number of billboards observed, by the costs observed at public gatherings, and the like).

Based on reports by its own observers, the Agency said it conducted nine *ex officio* proceedings and issued seven warning measures, while two proceedings were suspended. These proceedings were conducted due to the failure of (unnamed) political entities to mark the advertising material they distributed at the election stalls during the election silence.

The Agency found no irregularities in the reports of the parliamentary lists SPS-JS, SVM, SRS, "We Must" SDA and "Let's Go People". Regarding the SRS report, it is noted that there are outstanding debts related to advertising on TV *Pink* and *Happy*, but no additional information is provided on the agreed period of payment of these debts, which could be of importance for determining possible non-market benefits that were not available to other political entities. With the Let's Go People coalition, the Agency found that it had debts of 16.7 million dinars (Pink, Happy, "Druid's Workshop" and other smaller suppliers).

In the report of the coalition list "Aleksandar Vučić – Together we can do everything", as a possible violation of the law, it was established that the costs of election material are shown in the part of the report on other campaign expenses, instead of where they belong (billboards, election materials, advertising on TV stations). Also, it was found that this report shows some expenses (billboards) related to the campaign for the Belgrade elections. The total value of the alleged costs of marketing agencies, which in fact relate to providers of other types of services, was worth 76.4 million dinars. The value of billboards that have been wrongly attributed to this campaign is not stated.

This is a significant positive shift from previously published control reports and can also be linked to some issues raised by TS based on its own monitoring. Among the main TS' recommendations is the one related to the need to determine the true purpose of the costs that are incorrectly presented in sections such as "other costs of marketing agencies", "other advertising costs", "other costs", and the like. Also, TS drew attention to the fact that there is a high probability that advertising costs, especially billboards, were wrongly attributed to national instead of local elections.

In the electoral list United for Victory of Serbia, the Agency found some irregularities. Among other things, it is stated that part of the costs were paid in cash, but it is not stated what amount it is, which is probably an irregularity that is further checked. It is noted that there is a debt to a marketing agency (about 4.7 million dinars).

With the coalition NADA (Coalition for the Kingdom of Serbia – DSS), it is stated that funds were paid to the account for financing regular work from the municipality of Bajina Bašta (about RSD 30.000), which were misrepresented as income for the election campaign. According to the findings of the Agency, the second irregularity on the revenue side is a contribution of 800 thousand dinars from one person, which exceeds the legal threshold of ten average monthly salaries. Advertising costs in this list were shown in the "Cost of election material" section, but the value is not specified. The Agency determined "deviations" – outstanding administrative costs (about 24 thousand dinars).

With Zavetnici, the Agency identified cash payments in several transactions as an irregularity. It is also stated that expenses were paid for three different campaigns from the same account. The Party of Progress and Reconciliation (SPP) also had irregularities. However, the report does not contain all the data collected and spent (the second part of the money received from the budget on the basis of success in the elections).

Similar to the presidential election, a number of irregularities were found in the Sovereignists' report. It was shown that their own funds were used even though they were not transferred to a separate account for the campaign, and the cost of the election material is shown in a smaller amount than the actual amount. Part of the costs was paid from the account of the Association of Citizens "Enough is Enough – Restart" (it seems that it is about 80 thousand dinars), which is contrary to the law.

DVERI – POKS coalition also had irregularities. It is said that the report does not contain all expenses, one contribution is shown in a smaller amount than the actual amount (for 99 thousand dinars), and the other contribution was not made through the current account (but a payment institution). In terms of expenditures, the Agency found that the report did not include data on costs worth a total of about 1.45 million dinars (which seem to have been found in statements from the campaign finance account).

Irregularities were also found in the coalition Together for Vojvodina, the Alternative for Change – Albanian Democratic Alternative coalition and the Coalition of Albanians of the Valley.

🔍 Investigative story 1: The prosecution is scrutinizing the leader of Leviathan because of the election campaign funds

The Higher Public Prosecutor's Office in Belgrade is scrutinising how the Russian Minority Alliance coalition disposed money from its campaign account.⁶ The account was opened for the coalition by the Serbian Russian Movement, and the money was handled by Pavle Bihali, the founder of the right-wing organisation Leviathan. The prosecution initiated the proceedings based on the Agency for the Prevention of Corruption report, which indicates that Bihali first transferred the money for campaign financing to his personal account and withdrew it without grounds. This is prohibited because the funds from the special account for the election campaign should be used to pay expenses to companies and individuals who provide services directly.

The coalition of the Russian Minority Alliance consisted of the Serbian-Russian movement, the Greek Srbiza movement and the Serbian-Russian Wolves party. According to the coalition agreement, Bihali was authorised to handle finances, open a dedicated account for the election campaign and submit reports.

This coalition participated in the 2022 parliamentary and Belgrade elections. For that campaign, according to the calculation of Transparency Serbia, they should have been paid a little more than 20 million dinars from the budget. According to this organisation's monitoring, the coalition had a modest campaign.

Pavle Bihali says for CINS that he does not know that proceedings are being conducted against him in the prosecutor's office and denies that he has committed a crime. He said he spent about 370 thousand euros on the campaign from "his own pocket". He paid for something in cash, such as the "flyer boy". He did not want to comment on what happened to the money from the budget that "landed" in their account.

The Agency's register does not show that the Russian Minority Union submitted reports before or after the election on how and how much money they received and spent during the campaign. That is why the Agency filed misdemeanour charges against them.

6 <https://www.cins.rs/vodja-levijatana-pod-lupom-tuzilastva-zbog-novca-iz-izborne-kampanje/>

1.1.2. While speculating on snap elections, the President of the Republic promotes a new political movement

President of the state, Aleksandar Vučić, in media statements and the session of the Main Board of the Serbian Progressive Party of 10 March 2023, announced the formation of the "People's Movement for the State"⁷. As explained, the Movement "will not only gather members of the Serbian Progressive Party (SNS) and other political parties, but also non-partisan personalities and all those who care about decent and rational Serbia."⁸

The day before, at the President's official website of the state body, Aleksandar Vučić announced a visit to the Pčinja district for Saturday, 11 March 2023.⁹ As part of this visit, various activities were held (works' tours, announcements of works, etc.), and in Vranje a rally in the sports hall, which was marked as his "address to the citizens".

The rally was organised without visible party features, but it is clear from numerous media reports that those gathered were supporters of the Serbian Progressive Party (SNS) and that they were organised in other cities.¹⁰ According to some sources, representatives of the SNS participated in the organisation of citizens' arrival at this gathering, and that "quotas" were set for bringing employees of certain public institutions and public companies from Vranje.^{11,12}

In his "address to the citizens", the President spoke about the formation of a new movement "in late May or early June", inviting everyone to join. "In the next two months, we will work on the organisational form together with many people. It is a movement for our only state Serbia, which we must preserve, but for our children, for which we must be wise, smart and responsible with the policy we will lead", said President Vučić.¹³ Vucic also spoke about the Movement's connection with the "party", obviously referring to the party he leads and to which the gathered citizens belong: "I will be part of a team that will be above the party. That doesn't mean shutting down the party. At times when this situation is in the world, we need to gather all those people who are and who are not in the parties, all of us, to unite to be ready to welcome everything that is happening around us."¹⁴

Transparency Serbia, member of prEUgovor, addressed the Agency for Prevention of Corruption on 14 March, pointing out possible violations of the law and facts that the Agency should establish.¹⁵ The only reaction from the Agency so far has been a response to a journalist's question¹⁶, which states that the data on the costs of parties for financing the rally will be visible only in the annual financial report, which is due on 30 April 2024, and that the Agency will then conduct regular control of those reports, and that Vucic "unequivocally addressed citizens as president of the state."¹⁷

The Law on Prevention of Corruption and the Law on Financing Political Activities contain deadlines within which the Agency should investigate the reported violation of the rules, but only when such report is submitted during the election campaign. However, Agency is authorized, as indicated by Transparency Serbia¹⁸, by the Article 32 of the Law on Financing of Political Activities to collect data on the financing of meetings, both from political parties and from the companies that provided services to them, without waiting for the submission of the annual report. According to the response of the public company from

7 <https://www.sns.org.rs/novosti/vesti/vucic-moramo-da-se-okupimo-svi-koji-zelimo-pristojnu-srbiju>

8 Ibid.

9 <https://www.predsednik.rs/pres-centar/najave-obavestenja/najava-za-medije-za-11032023-pcjinjski-okrug>

10 <https://bit.ly/3BoLI48>, <https://bit.ly/42EtPu8>

11 <https://www.danas.rs/vesti/politika/dogovorena-kvota-prisutnih-za-vucicev-miting-u-vranju/>

12 <https://bit.ly/3W6jTHa>

13 <https://www.predsednik.rs/pres-centar/vesti/poseta-pcjinjskom-okrugu>

14 <https://www.rts.rs/vesti/politika/5149408/vucic-danas-u-poseti-pcjinjskom-okrugu-.html>

15 <https://bit.ly/42SEOzO>

16 <https://bit.ly/42V5JLr>

17 Ibid.

18 <https://bit.ly/42SEOzO>, p. 5th

Vranje, which manages the sports hall used for the rally, the lease was not paid because “there was no lease of the hall”, but it was “the president’s visit to the city of Vranje and a tour of the sports hall”.¹⁹

Four years ago, the Agency concluded on a similar occasion that “the president did not break the law.”²⁰ The campaign “The Future of Serbia”, led by the then and current President of the Republic, allegedly represented “the exercise of constitutional powers of the President of the Republic, and not the promotion of political parties using public resources”.²¹

In the case of the 2023 rallies, the President of the Republic indisputably announced that he is acting in an official capacity and thus fulfilled one legal obligation²². However, when acting in an official capacity, he should not promote political entities.²³ What makes the legal assessment more complicated is the fact that Aleksandar Vučić promoted a political entity that does not exist yet – the “People’s Movement for the State”. In other words, violation of the law will become unequivocal only later – if a political party under such a name actually appears (or coalition with such a name in some future elections). When it comes to the provisions of the Law on Financing Political Activities, it is disputed whether the SNS, as a political party, can use its own resources (obtained almost entirely from the budget) to finance a political gathering organised (officially) by a state body.

In a similar way as in Vranje, the promotion of Aleksandar Vučić and the new political movement, with organised transport of supporters of his current party, continued in Sremska Mitrovica (17 March),²⁴ Kraljevo (31 March)²⁵ and Sokobanja (28 April).²⁶ The most attention was drawn to the rally in Kraljevo, to which the participants were brought from other cities in more than a hundred buses.²⁷ This gathering is known also for the pre-prepared songs of the audience,²⁸ the alleged existence of entry tickets²⁹, the protests of the local opposition³⁰, as well as the fact that the participants used some party³¹ flags, in addition to the usual billboard with the picture and signature of Aleksandar Vučić (without naming his function) and the message “Serbia dreams and makes dreams come true”.³²

In the meantime, between the promotions, there are constant announcements³³ and speculations of a possibility to hold snap elections³⁴ and the withdrawal of Vučić from the leadership of the Serbian Progressive Party,³⁵ and with all this, it remains unclear who will make up the new political movement.³⁶

19 Response of the Public Institution for Management of Sports Objects owned by City of Vranje to the request for information, 27 March 2023, <https://bit.ly/3M7J2gk>

20 <https://bit.ly/3O6Rj6P>

21 Ibid.

22 Article 50, para. 4 of the Law on Prevention of Corruption.

23 Ibid, para. 2.

24 <https://www.predsednik.rs/pres-centar/najave-obavestenja/najava-za-medije-za-17032023-sremski-okrug-31806>

25 <https://www.predsednik.rs/pres-centar/najave-obavestenja/najava-za-medije-za-31032023-raski-okrug>

26 <https://www.predsednik.rs/pres-centar/najave-obavestenja/najava-za-medije-za-28042023-zajecarski-okrug>

27 <https://www.ozonpress.net/politika/sns-u-kraljevo-dovezla-116-autobusa-na-miting-najmanje-bilo-kraljevcana-video/>

28 <https://bit.ly/3OaBlbS>

29 <https://bit.ly/3BJloRv>

30 Ibid.

31 <https://bit.ly/3OaBlbS>

32 <https://bit.ly/3W3D0lf>

33 <https://www.istinomer.rs/analize/od-izbora-do-izbora-hoce-li-biti-izbora/>

34 <https://www.danas.rs/vesti/politika/vucic-raspisuje-izbore-za-novembar/>

35 <https://bit.ly/3W0JfXb>

36 <https://n1info.rs/vesti/dacic-narodni-pokret-moze-da-bude-nova-visa-faza-saradnje-sns-i-sps/>

RECOMMENDATIONS

- The software should enable the downloading of the entire report of the political entity, while the reporting form should include missing sections (e.g. for the verification of signatures and promotional costs on social networks).
- The Agency should examine situations when large differences in the price of similar activities of different political entities have been observed in order to identify potential unreported discounts or over-pricing aimed to benefit illegally from budget subsidies.
- The Agency should have a clear position regarding the reporting of the costs of activities implemented with the work engagement of members and sympathizers of the parties, regarding the assessment of the value of leased terms in TV advertising.
- The control should determine whether all advertising costs on the social network Facebook are displayed, including promotion through users' private accounts.
- Bearing in mind the numerous omissions and inconsistencies in completing the report on election campaign expenses, the Agency should ask political entities to submit and publish amended reports or to publish reports on campaign expenses after corrections have been made based on the data it obtains or determines during the control.
- The Agency should present the findings of its monitoring and information on how it determined the credibility of the report in terms of all or at least the most valuable costs of the campaign.
- Control of reports and initiation of proceedings for observed cases of violations of the law should be completed by the publication of the control report, and if this is not possible, additional reports should be published.

1.2. The Work of the Parliament

Chair of the Parliament, chairs or vice-chairs of parliamentary committees from the parliamentary majority continued, sometimes contrary to the Constitution and Rules of Procedure, to obstruct the work of the Parliament. The Parliament started its regular sitting on 19 April 2023, i.e. with 50 days delay. In the reporting period, opposition MPs cannot put their proposals on the agenda due to manipulation in scheduling sessions. Similarly, attempts of committee chairs or vice-chairs from opposition to schedule committee sessions were obstructed. Collected signatures for peoples' initiative to the Parliament to discuss one law that would forbid lithium mining remained "lost".

The Parliament adopted conclusions following independent bodies' reports for 2021, but in most of them, it did not commit the Government to act upon the conclusions. The Parliament also elected a new director of the Agency for Prevention of Corruption, re-elected Ombudsman and head of the State Audit Institution, several other public officials and only one (out of eight) members of judicial councils. However, Parliament missed the opportunity to make these procedures more inclusive. The transparency of the Parliament did not improve systemically. The Code of Conduct remained a dead letter, as there has been no activity of the competent committee since October 2021.

1.2.1. Parliamentary procedure manipulated to circumvent the opposition proposals

Although the Constitution provides that "the first regular seating shall start on the first weekday of March", it didn't happen.³⁷ The second extraordinary sitting ended on 27 February 2023³⁸ while the First regular sitting began only on 19 April 2023,³⁹ i.e. 50 days after the constitutional deadline.⁴⁰

The second type of manipulation is related to the scheduling of sessions. The general rule is that the President of the Assembly is obligated to notify members of the parliament one week ahead of the session⁴¹. By convening emergency sessions, which can be convened only 24 hours in advance, it is impossible to submit proposals on agenda items, since all proposals related to the agenda items of the session must be submitted to the President of the National Assembly in writing 24 hours before the start of the session.

During the autumn session of 2022, "all sittings were scheduled in less than a week, and as many as five were scheduled exactly 24 hours before their beginning."⁴² In one such example, MPs from the opposition waited in front of the parliamentary clerks' office in the morning (before 9 o'clock) with their proposals. However, the office was closed. Later that day, they were informed that the proposal for the next session agenda was submitted by the ruling party representatives in another building of the Parliament.⁴³ In April 2023 spring sessions, the opposition proposed adding several new topics on the sessions' agenda proposed by the chair, but they were rejected without further discussion.⁴⁴

Similarly, Parliament continued the old practice of organising a joint discussion on unrelated topics. One such example was the discussion about Budget law for 2023, discussed in December 2022, along with

37 Article 106, para 2.

38 http://www.parlament.gov.rs/Друго_ванредно_заседање_Народне.46610.43.html

39 http://www.parlament.gov.rs/Прва_седница_Првог_редовног.46997.43.html

40 Opposition MPs were convinced that the failure to call for a session within the regular sitting of the Parliament is related to the absence of will of the parliamentary majority to discuss the French – German plan for Kosovo and draft documents proposed by the opposition. <https://www.danas.rs/vesti/politika/zasto-pocetak-prolecnjeg-zasedanja-skupstine-kasni-mesec-dana/>

41 Rules of Procedure of the National Assembly: <https://bit.ly/3VO51NC>

42 Otvoreni parlament and CRTA, Parliamentary Insider, Issue 20, September – January 2023, page 5, <https://bit.ly/42IAuc3>

43 <https://n1info.rs/vesti/opozicija-htela-da-dopuni-dnevni-red-milivojevic-orlic-se-koristi-marifetlukom/>

44 Stenographic notes from the I and II plenary session of the First regular parliamentary sitting in 2023: <https://bit.ly/3nOZXfp>, <https://bit.ly/3ptlpWQ>

34 other items.⁴⁵ Another example is February 2023, where MPs jointly discussed ratification of various bilateral contracts and conclusions related to the reports of independent bodies (26 acts in total).⁴⁶

Even if the opposition holds some chair and vice-chair positions in parliamentary committees, they cannot use it to push their agenda. For instance, the fifth session of the Committee for Environment Protection was scheduled by its chair (Aleksandar Jovanović, from "Zajedno" MP group), in Loznica city premises, for 25 November 2022. However, only five members appeared, so the necessary quorum was not met.⁴⁷ The reason is that the vice-chair of the Committee, Milimir Vujadinović from SNS MP group, "based on the request from nine Committee members," scheduled the sixth session for the very same day in Belgrade. Two ministers and even mayor of Loznica attended that session!⁴⁸

Similar examples occurred with the Committee on Foreign Affairs and the Committee on Culture and Media,⁴⁹ and repeatedly in the Environment Protection Committee, on 1 March 2023⁵⁰ and March 30th 2023.⁵¹ The proposed topic of "status quo in journalism in Serbia" was not discussed on the 17 March 2023 session of Culture and Media Committee, as proposed by its chair, Siniša Kovačević from the Peoples' Party. However, the ruling majority did not want to support discussion on that topic, as "they did not get material in advance". Representatives of journalists' associations and the Committee chair left the session after that.⁵²

The case of the Committee for Kosovo and Metohija is the opposite one. The chair of the Committee (Milovan Drecun from SNS) refused to summon the session four times, based on the request of one-third of Committee members. Thereafter, vice-chair, Milica Đurdjević-Stamenkovski from Zavetnici MP group, convened an urgent session on 6 April 2023 to discuss the French-German proposal for Kosovo.⁵³ Four days later, a session was organised, but with different agenda. It was convened by the Committee chair and closed to the public. According to the news, the report of the Government office for Kosovo and Metohija was discussed there, i.e. the document that was already discussed by the plenary of the Parliament.⁵⁴ The new convocation of the Assembly continued with the trend of extensively mentioning President of the Republic Aleksandar Vučić, whatever the official topic of discussion is. On a randomly selected work day of the Parliament⁵⁵ where it was supposed to discuss conclusions following reports of independent bodies and ratification of several agreements, Vučić was mentioned 109 times, mainly by SNS MPs and several opposition MPs.

There have been no meetings of the Global Organisation of Parliamentarians against Corruption (GOPAC) branch, which is supposed to be dealing with anti-corruption issues.

Important but ignored proposals for establishing inquiry committees and commissions

Opposition continued to submit proposals on various acts that are not included on the agenda. MPs from the "Green-left / Ne davimo Beograd" club asked the Parliament to establish Commission to determine facts related to the lack of Parliament's action following the peoples' initiative submitted on 18 May 2022 (amendments to the Law on Mining and Geological Exploration).⁵⁶ The same political group, along with the Association of Environmental Organizations of Serbia (SEOS), filed on 23 March 2023 criminal charges against the current and former chair of the Parliament, secretary of the Parliament and chair of the Committee on Constitutional and Legislative Issues, because of "disappearance" of citizens' initiative.

45 Third session of Second regular sitting of the Parliament in 2022. http://www.parlament.gov.rs/Треша_седница_Другог_редовног.46023.43.html

46 Second extraordinary sitting of the Parliament in XIII Convocation http://www.parlament.gov.rs/Друго_ванредно_заседање_Народне.46610.43.html

47 http://www.parlament.gov.rs/Peta_sednica_Odbora_za_za%C5%A1titu_%C5%BEivotne_sredine_45925.941.html

48 http://www.parlament.gov.rs/%C5%A0esta_sednica_Odbora_za_za%C5%A1titu_%C5%BEivotne_sredine_45923.941.html

49 Otvoreni parlament and CRTA, Parliamentary Insider, Issue 20, September – January 2023, op. cit, p. 15.

50 http://www.parlament.gov.rs/Deveta_sednica_Odbora_za_za%C5%A1titu_%C5%BEivotne_sredine_46638.941.html

51 http://www.parlament.gov.rs/Deseta_sednica_Odbora_za_za%C5%A1titu_%C5%BEivotne_sredine.46873.941.html

52 <https://bit.ly/3plpzAV>

53 <https://www.danas.rs/vesti/politika/djurdjevic-stamenkovski-zakazala-hitnu-sednicu-skupstinskog-odbora-za-kim/>

54 <https://www.danas.rs/vesti/politika/ko-je-izazvao-incident-na-zatvorenoj-sednici-odbora-za-kim-i-ko-je-to-dosapnuo-tabloidima/>

55 Second extraordinary sitting of the Parliament, second day, 25 February 2023, <https://bit.ly/41lkOES>

56 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/02-366_23.pdf

Inquiry committees were requested to investigate alleged abuses in RTS (People's Party)⁵⁷, auction of "GENEX tower" (DVERI)⁵⁸, the cost-effectiveness of the National stadium project (We Must – Together)⁵⁹, spending of budget funds in Kosovo in the period 2012-2022 (DVERI)⁶⁰, the establishment of the criminal clan of Veljko Belivuk (Democratic party)⁶¹, work of "Telekom Serbia"⁶² and abuses in "Krušik"⁶³ (Peoples' Party) and for several other issues. Unlike the previous period, MPs from the ruling party did not react with "counter proposals".

Code of Ethics – totally disregarded

As regards the Code of Ethics,⁶⁴ the practice of the Assembly has not improved in the slightest. As seen from the Assembly web page dedicated to the Code of Ethics,⁶⁵ the Committee for Administrative-Budgetary and Mandate-Immunity Issues has not discussed reported violations of the Code since September 2021. Apart from information about its composition, there is no other published information about the work of the Ethics Commission. The Parliamentary Committee has met 23 times in the new convocation, but issues related to the Code were not on the agenda at any of the sessions. The report on the implementation of the Code in 2021 has yet to be produced.

1.2.2. Appointments and proposals – pre-agreed or decided based on quality?

Not many appointments marked this period of the Assembly's work, but they were extremely important. In November 2022, the Deputy Secretary General of the National Assembly was appointed.⁶⁶ In February 2023, the permanent composition of the Republic Election Commission was appointed.⁶⁷ The Parliament also elected a new director of the Agency for Prevention of Corruption, re-elected Ombudsman and head of the State Audit Institution, several other public officials and only one (out of eight) prominent lawyer into judicial councils.⁶⁸ However, Parliament missed the opportunity to make these procedures more inclusive.

Vice-director became Director of the Agency for Prevention of Corruption, as expected

For the first time, the Parliament was directly involved in the election of this director of the Agency for the Prevention of Corruption, which was, under the previous legal framework, elected by the Agency's Board. The Parliament received from the Ministry of Justice⁶⁹ a proposal with three candidates that passed the exam in January 2023. In February 2023, a month after the expiration of the term of office of the previous director, the former deputy director of the Agency, Dejan Damjanović was appointed as director.⁷⁰ Such an outcome was expected since Damjanović got maximum points after testing and interview with the evaluation committee.

57 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/02-341_23.pdf

58 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/02-287_23.pdf

59 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/02-277_23.pdf

60 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/02-2639_22.pdf

61 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/02-2623_22.pdf

62 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/2404-22.pdf

63 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/2403-22.pdf

64 http://www.parlament.gov.rs/upload/archive/files/lat/pdf/ostala_akta/2021/RS55-21-kodeks-LAT.pdf

65 <http://www.parlament.gov.rs/aktivnosti/narodna-skupstina/kodeks-ponasanja-narodnih-poslanika.4455.html>

66 Decision on the appointment of the Deputy Secretary General of the National Assembly, available at: http://www.parlament.gov.rs/upload/archive/files/lat/pdf/ostala_akta/13_saziv/RS22-22%20lat.pdf

67 Decision on the appointment of the permanent composition of the Republic Election Commission, available at: http://www.parlament.gov.rs/upload/archive/files/lat/pdf/ostala_akta/13_saziv/RS2-23%20lat.pdf

68 The remaining prominent lawyers in the judicial councils were elected by the five-member commission in early May. Read more in the section on the judiciary in this Report.

69 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/119-35_23.pdf

70 Dejan Damjanović's biography, director of the Agency for Prevention of Corruption, available at: https://www.acas.rs/cyr/page_with_sidebar/organizacija#

Transparency Serbia, a member of prEUgovor, sent an initiative⁷¹ to the Parliament of Serbia to invite candidates for the director of the Agency for the Prevention of Corruption to the session. The law does not provide for a mandatory presentation of candidates before parliamentary committees or at the plenum. MPs were provided only work resumes of the candidates and information about the conducted testing, but not their work programs. Transparency Serbia assessed that this is insufficient for MPs to choose the best candidate for this vital position based on arguments, and provided its own analyses of work programs and the testing procedure.⁷²

The election of the Agency's director was the 24th out of 26 items on the session's agenda.⁷³ The procedure was flawed for another reason as well. Namely, one of the candidates (Damjanović), in the capacity of acting director of the Agency, had opportunity to speak on the same parliamentary session, as Parliament discussed committees' conclusions following the Agency's annual report for year 2021.⁷⁴

Finally, the voting system for selection between multiple candidates in the Parliament is inappropriate. Instead of casting the ballots, where MPs could choose the preferred candidate, they vote for each of them separately. Hypothetically, this could result in all three candidates being elected (i.e. having 126 or more votes)! In practice, MPs vote for pre-agreed candidates and mostly do not vote at all for the rest, which happened this time too.

Ombudsman re-elected: a reward for poor practice?

The five-year term of the current Ombudsman, elected under previous legislation,⁷⁵ expired on 19 July 2022. The chair of the Parliament failed to initiate the election procedure of the new one in due time, i.e. "no later than 180 days before the expiration of the previous Protector Citizens' term of office".⁷⁶ It was done only on 10 February 2023⁷⁷ after several warnings from CSOs⁷⁸ and opposition MPs.⁷⁹ However, the Law (as amended in 2021) provides that in this case, Ombudsman will stay in office till the end of the mandate.⁸⁰

Five candidates applied for the position, including the acting Ombudsman, one of his deputies and two deputies of the former Ombudsman.⁸¹ Out of those five, MP groups proposed three candidates. At the same session, on 13 April 2023, Parliamentary Committee interviewed these candidates and voted by majority to support the proposal made by the ruling coalition MP groups to re-elect Zoran Pašalić as Ombudsman.⁸² Seven days later, this proposal was confirmed in the plenary session.⁸³

The proposal for Pašalić's re-election was criticised in the public for his past performance, but also the fact that his age is close to the one when retirement would be mandatory.⁸⁴ The mandate of the new

71 <https://bit.ly/3nFSVK3>

72 <https://bit.ly/41rW2Tn>

73 Ratifications of international agreements and loans, reports on the work of independent and regulatory bodies for 2021 and the election of members of parliamentary committees were also on the agenda. However, a joint discussion was organised on all these topics. http://www.parlament.gov.rs/Друго_ванредно_заседање_Народне.46610.43.html

74 <https://bit.ly/3MbZQDT>

75 Law on the Protector of Citizens, Official Gazette of the Republic of Serbia, No. 79/2005 and 54/2007, <https://www.osce.org/files/f/documents/8/2/16577.pdf>

76 Law on the Protector of Citizens, Official Gazette of the Republic of Serbia No. 105/2021, Article 6, para 4.

77 National Assembly of the Republic of Serbia, Decision No. 02-284/23 on determining the list of registered persons who meet the conditions for election to the position of Protector of Citizens, 24 March 2023.

78 Insajder, Call for the Selection of Ombudsman, 25.10.2022, <https://insajder.net/prenosimo/poziv-za-izbor-zastitnika-gradana> [accessed 13 April 2023].

79 Daily Danas, Citizens' Protector Zoran Pašalić's mandate has largely expired: Who and why is holding up the election of a new ombudsman?, 13 October 2022, <https://bit.ly/3poHPtp>

80 Law on Protector of Citizens, Article 13, para 2.

81 Ibid.

82 National Assembly of the Republic of Serbia, 21st Session of the Committee for Constitutional and Legislative Issues, 13 April 2023, http://www.parlament.gov.rs/21_sednica_Odbora_za_ustavna_pitanja_i_zakonodavstvo.46988.941.html

83 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS29-23.pdf

84 See, for example: <https://pescanik.net/vodvilj-burleska-farsa/>

Ombudsman will be eight years, but reappointment will not be possible anymore.⁸⁵ Previous legislation envisaged that “the Ombudsperson has four deputies”,⁸⁶ while the amendments changed wording to “up to four”. Currently, there are three deputies.⁸⁷

Republic Commission for Protection of Rights in Public Procurement – open competition, but outcome pre-determined

The Committee for Finance, Budget and Oversight of the Use of Public Funds (aka Finance Committee) organised the selection of new candidates for the Republic Commission for Protection of Rights in Public Procurement. The procedure started on time, as the mandate of four current members will expire in June 2023. Four positions were divided in two clusters. For the first one, where the bar exam was requested, there were four applications for three positions. There were nine applications for one position that does not require a bar exam.

Finance Committee, at the same session, held on 11 April 2023⁸⁸, interviewed candidates, voted and made selection.⁸⁹ Three current members are proposed for re-election, while the fourth one is also a current employee of the Republic Commission. The voting process was controversial, but not opposed during the session. The committee did not vote at all about candidates who did not appear in the interview. However, no provision of the Law on Public Procurement⁹⁰ or Parliamentary Rules of Procedure envisage such a possibility. Voting was organised first for each candidate individually. After the first candidate received a majority of votes, the chair proclaimed that the Committee supports the candidate. However, it would be hypothetically possible for the rest of candidates to get higher number of votes. That is a strong indication that the list of candidates was pre-agreed by the members of Committee from parliamentary majority and not the matter of individual MPs’ opinion.

State Audit Institution – qualified candidates, but on political parties’ proposal only

According to the Law on State Audit Institution, president and members of the SAI Council are nominated to the Parliamentary Committee of Finance. There is no public call for candidates to apply, but political parties can only propose them via parliamentary groups.⁹¹ Such a procedure is inappropriate, as SAI Council members should not be related to political parties, potential subjects of their audits.

The Committee asked MP groups to propose candidates only on 30 March 2023, following announcement from the SAI.⁹² After that, on 12 April 2023, the Finance Committee proposed the re-election of the SAI President, vice-president and the election of three SAI Council members. Two of the three candidates were already Council members, while one worked in the SAI service. The candidate for vice-chair position worked in the National Bank. The ruling parties’ MP groups submitted the proposals. The parliamentary opposition submitted only one proposal, which was rejected due to formal non-compliance.⁹³

85 Law on the Protector of Citizens, 2021, Article 6, para 2.

86 Law on the Protector of Citizens, 2005, Article 6.

87 <https://www.ombudsman.rs/index.php/o-nama/zamenici-zastitnika-gradjana>

88 <https://bit.ly/42HRM3c>

89 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/02-750_23.pdf

90 <https://www.paragraf.rs/propisi/zakon-o-javnim-nabavkama.html>

91 The Law on State Audit Institution, Article 19

92 <https://bit.ly/3phX5le>

93 National Assembly of the Republic of Serbia, 19. Session of the Committee for Finances, State Budget and Control of Public Assets Spending, 12 April 2023, <https://bit.ly/44Y8RYX>

Judges and prosecutors, elected by the Parliament, how far?

Constitutional amendments stripped the Parliament of the power to make judicial appointments. However, until their full implementation, MPs continued to elect court presidents, judges and public prosecutors. Even if this does not contradict the word of the law, it is clearly against its spirit.

According to the list of adopted acts,⁹⁴ this Convocation of the Parliament made five decision on election of judges to their first term (62 judges), following earlier proposals of the High Judicial Council on 9 December 2022. In the same session, Parliament elected 14 presidents of courts (three decisions). In 26 December 2022 session, Parliament elected six court presidents and 26 judges (one decision).

Parliament decided on the expiration of the mandate of 15 heads of public prosecution offices, starting from 15 May 2023.⁹⁵ The list includes the war crime prosecutor and higher prosecutors from Pirot and Pančevo.

In this period, Parliament received new proposals from the High Judicial Council (HJC), for the election of presidents of the Higher Court in Vranje and Basic Court in Prokuplje⁹⁶ and 35 new judges.⁹⁷ There is also a proposal related to the retirement of one Constitutional Court judge (on 16 June 2023). The judge was elected on the basis of a joint proposal of judicial councils.

1.2.3. Reports of independent bodies – inconsistent practice and rare valuable recommendations for the Government

On its February 27th session, Parliament adopted conclusions related to a dozen of annual reports for 2021, i.e. with at least ten months' delay.⁹⁸ According to the Rules of Procedure of the Parliament⁹⁹ the deadline is 30 days following the submission of a report, while the reports were submitted during the February and March 2022.

As explained in the previous Alarm report¹⁰⁰, some conclusions contain no substance, but only statement that the report was accepted (e.g. the report of the Fiscal Council¹⁰¹). Some instructions for the Government are provided in the conclusion following the annual report of State Audit Institution.¹⁰²

There are two conclusions on the Report of Agency for Prevention of Corruption,¹⁰³ adopted by Finance and Judicial Committee. Finance Committee only "accepted" the report, while the Committee for Judiciary identified that Agency "comprehensively presented its activities". The Parliament also "supports the Government" to intensify activities on appropriate normative changes in the field of lobbying (instead of requesting such action from the Government). So, one problem that is related to the Agency's work is explicitly mentioned as a task of the Government, i.e. to improve lobbying legislation. Similarly, such a need exists when it comes to both Law on Prevention of Corruption and Law on Financing Political Activities, based on GRECO and ODIHR recommendations, but this wasn't stated. In this way, the Parliament partly respond to the initiatives submitted by the member of the coalition prEUgovor, *Transparency Serbia*.¹⁰⁴

94 <http://www.parlament.gov.rs/акти/остала-акта/донета-акта/донета-акта.48.html>

95 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS56-22.pdf

96 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/119-465_23.pdf

97 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/akta_procedura/13_saziv/119-445_23.pdf

98 <http://www.parlament.gov.rs/акти/остала-акта/донета-акта/донета-акта.48.html>

99 Articles 237 and 238.

100 Jelena Pejić Nikić (ed). prEUgovor Alarm Report on the Progress of Serbia in Cluster 1 – November 2022, prEUgovor coalition, Belgrade, 2022, p. 28.

101 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS17-23.pdf

102 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/izvestaji/13_saziv/02-581_23.pdf

103 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS10-23.pdf and http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS14-23.pdf

104 <https://bit.ly/3SW9HxO>, <https://bit.ly/3h2Er2S>, <https://bit.ly/3NnCOsZ>, <https://bit.ly/3WoqFrw>

Two conclusions following Ombudsman report¹⁰⁵ also differ. They consider the report comprehensive and invite the Government to continuously report on implementation. The government is recommended, “based on Ombudsman’s assessment”, “to continue” with its various oversight activities. The government is also recommended to provide an adequate number of employees in various public institutions and to strengthen the capacities of local governments related to minority rights. “In order to prevent violence, it is necessary that educational institutions undertake activities for better recognition of violence and protection from violence, abuse and neglect.” Parliament also identified the need to adopt strategic documents (in domestic and partner violence prevention).

Parliament adopted conclusions following the Report of the Commissioner for Information of Public Importance and Personal Data Protection.¹⁰⁶ The assessment of the Commissioners’ report refers to the situation as improved through amendments to the Law on Free Access to Information of Public Importance. After that, Parliament “supports the Government” to intensify activities on normative changes in the field of personal data protection, ensuring conditions for the smooth operation of the Commissioner, improving the mechanism and ensuring the execution of the Commissioner’s decision.

The Government submitted its annual report for the year 2021¹⁰⁷ but it wasn’t discussed in committees or plenary. A large number of reports from the previous period have not been discussed by the committees yet.¹⁰⁸

Conclusion following the EU Progress Report: positive and vague

A group of 11 MPs, including chair of the Committee for EU integration, submitted on 4 November 2022 proposal to the chair of the Parliament related to the EU Commission’s report for Serbia. It was adopted on 28 April 2023 without substantial discussion in the plenary¹⁰⁹. The Conclusion, in its nine points, tends to relativise the EC’s objections and focus on positive remarks from this report. In the first point, the Conclusion claims that assessments of EC related to the fulfilment of criteria for EU membership are “to a great extent conditioned with global social and geopolitical circumstances”. In the second point, the Parliament “praises assessment on important improvements in the rule of law”, in the third, “positive remarks on achievement of economic criteria” and so on. Very few parts of the proposed Conclusion may be used to instigate some progress in the future since most points are vague and commonplace.

1.2.4. Legislative work and non-work: Two sets of laws adopted, opposition proposals on hold

The 13th convocation of the National Assembly adopted 61 regulations till the end of April 2023. Out of all of the adopted regulations till the end of January, 97% have been proposed by the Government¹¹⁰. On the total number of adopted regulation during the regular Autumn session, there have been 640 amendments but not one was passed¹¹¹. Also, many proposals submitted by the opposition remained in the parliamentary procedure and did not appear on the agenda.¹¹² In this period, Parliament adopted a set of judicial reform laws (in February 2023) and a set of laws related to the new budget and fiscal issues (in December 2022). In late April, the Parliament adopted a total of 25 Government’s proposals, that were on hold.

105 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS11-23.pdf, http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS12-23.pdf

106 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS10-23.pdf

107 Government of the Republic of Serbia, Report on the work of the Government for the year 2021, Belgrade, Sept 2022, <https://bit.ly/3WBH7Fg>

108 <http://www.parlament.gov.rs/акти/извештаји-у-сазиву-од-3-августа-2020.4683>

109 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS33-23.pdf

110 Open Parliament, Parliamentary insider number 20 September 2022 – January 2023, Parliament in numbers p. 10, <https://otvoreniparlament.rs/istrazivanje/82>

111 <https://www.danas.rs/vesti/politika/otvoreni-parlament-skupstina-nije-usvojila-nijedan-od-640-poslanickih-amandmana/>

112 Acts in procedure, <http://www.parlament.gov.rs/акти/zakoni-u-proceduri/zakoni-u-proceduri.1037.html>

Budget transparency – insufficient improvements

On 7 November, the discussion on budget rebalancing was on the parliamentary agenda with 17 other items. This discussion's most important outcome is that it brought significant budget accretion to the parties with parliamentary status. In December 2022, a vote was held for the implementation of the new Budget Law for the year 2023¹¹³. A total of 177 amendments were submitted to the budget, and none were accepted¹¹⁴.

In regards to the Budget law and based on the Fiscal Council findings, a member of prEUgovor coalition Transparency Serbia noted repercussions that came from inefficient management of EPS and that are visible in the new Law.¹¹⁵

Budget System Law amendments¹¹⁶ were again adopted along with the new budget and without previous public debate. Some of the changes relate to definitions. In general, the changes should increase transparency and comprehensiveness of budget documents. For example, the annual budget should provide for the percentage of salary increases for all entities in the sector of the state, while the "debt of the state sector" (new term) should include issued guarantees (indirect debt) to domestic and foreign creditors.

The amended Budget system law declares¹¹⁷ that the budget system provides "transparent and publicly available" information on the work of the Government. Similarly, the provision mandates that, when preparing and implementing the budget, they must respect the principles of transparency and public accessibility. However, the norm proclaims only principle without elaborating on the implementation. There has also been a change in fiscal rules in a way that partly reduces risks related to local budgets' deficit (Article 27Ž). However, the rules still allow a large degree of discretion in the decision-making of the Ministry of Finance.

The budget calendar has been changed by moving some deadlines. However, the calendar still does not provide for any form of consultation to the interested public, i.e. anyone other than budget beneficiaries and state bodies, before the draft, proposal or final text of the budget is established. The opportunity was missed to codify certain good practices that exist when it comes to consultations before the adoption of the budget, either at the national level (public hearing before the session at which the budget is decided) or at the level of local self-governments (discussion on the capital part of the budget, prior consultations with citizens).

An opportunity was missed to specify the publication format of budget documents. The budget is one of the documents that would bring the greatest benefits if published in a machine-readable form, which is not done now, despite the obligations under the Law on Electronic Administration.

Minister of Finance would be obliged¹¹⁸ to prepare at least twice-a-year reports on the execution of the budget. However, the content of the report is still not sufficiently precise. The important news is that these reports will be published, which has not been the case so far.

113 Budget Law: <https://otvoreniparlament.rs/aktuelno/499>

114 <https://www.danas.rs/vesti/politika/skupstina-srbije-izglasala-budzet-za-narednu-godinu-u-nacelu/>

115 <https://bit.ly/3pshEID>

116 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/13_saziv/2504-22.pdf

117 In Article 4.

118 Article 76.

✖ **ALARM: Budget for 2023 and Final account for 2021 raise more questions than answers**

Hundreds of pages of budget documents raise far more questions than answers about how the state spent citizens' money in 2021, and how and why it will spend it in 2023.

The proposal of the Final Account for 2021¹¹⁹, accompanied by an opinion (with reservation) given by the State Audit Institution¹²⁰, was submitted after the expiration of the legal deadline (15 July). Although the Government could not submit draft laws in the technical mandate, it could have done so before 18 November because the new Government was formed three weeks earlier.

The final account is incomplete when it comes to achieving certain non-financial indicators. In some situations, the final account does not provide information on whether the spent funds have achieved expected outcomes. For example, the part of the report concerning the Public Investment Office, which has since grown into a ministry, states that the goal was to renovate 100% of public facilities from a group of 234 facilities, as well as 90% from another group of 253 facilities, but did not specify the extent to which this plan was realised, nor any explanation for the absence of this information.

Explanations are often incomplete, even when some data is provided. Thus, it was planned that in 80% of situations, proceedings would be initiated on the basis of the report of the Anti-Corruption Council. The final account states that the percentage of execution was only 10%, with a note that "the Council has no data on the number of cases in which the Government acted". Indeed, it is a fact that the Government does not inform its Council whether it has acted on reports and recommendations, and it has left the public and MPs without this information too.

The Fiscal Council, among other things, indicates that 54.8 billion dinars are not included in the report and that 22 billion dinars were secretly paid from the budget reserve (without publication in the Official Gazette), of which only 3% refers to the Security-Information Agency (BIA), and most to Srbijagas company.¹²¹ "The rationale for the deviation from the plan, although it covers 150 pages, has almost no informational or analytical value."¹²² For instance, comparisons are not made to the original budget, but to what was "ironed out" at the end of the year through rebalancing. Loans from the budget were provided in greater amounts than planned, without explanation. It also remained unknown to whom the state paid fines and penalties (EUR 150 million). There is no information on the origin of the growth of non-tax revenues. The incompleteness of the reasoning, therefore, constitutes one of the main corruptive risks in this legal act.

The State Audit Institution pointed out that the final account did not show some borrowing income (RSD 10.9 billion), that liabilities (RSD 6.9 billion) were underrepresented and that the budget accounting rules were wrong regarding over 3 billion dinars. SAI drew attention to the fact that internal audits are not established in all institutions where it is mandatory. The rationale for the proposal of the final account does not provide the necessary information about these issues.¹²³

The budget of Serbia for 2023 is insufficiently transparent in the part related to the costs incurred due to the poor operation of public companies, primarily Electric Power Industry of Serbia (EPS). In assessing the budget proposal, the Fiscal Council pointed out¹²⁴ that the Government did not clarify how the losses of EPS and Srbijagas occurred and how about one billion euros will be spent, which are assumed to be intended primarily for these companies. Budget expenditures for EPS are a consequence of "primarily catastrophic management of this company in previous years, and not of the global energy crisis", emphasises the analysis of the Fiscal Council¹²⁵. If the explanation in this segment had been complete, it would have to include the problem of non-application of the Law on Public Enterprises, i.e.

119 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/13_saziv/ZAVRSNI_ACCOUNT_2021_merged.pdf

120 <https://www.dri.rs/php/document/download/5021/2>

121 <https://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2022/FS-Ocena%20zavrsnog%20racuna%202021.pdf>, page 2.

122 Ibid.

123 <https://www.dri.rs/php/document/download/5021/2>

124 http://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2022/FS-Ocena_budzeta_2023_v1.pdf

125 https://www.fiskalnisavet.rs/doc/ocene-i-misljenja/2022/FS-Ocena_budzeta_2023_v1.pdf, p. 56

a review of the practice of party appointments, mainly in acting status, to the leading positions in public companies, which has grown into open illegal management.¹²⁶

The Fiscal Council also pointed out that the selection, implementation and monitoring system of infrastructure projects in Serbia should be significantly improved and made more transparent. The European Commission has repeated similar demands in its reports for years. Even on this issue, the explanation of the budget proposal does not provide the necessary information. The proposal shows which projects will be financed, but not on what basis they were selected for funding over the next three years.

Support for the youth again falsely justified

The Law on Temporary Register of Citizens of the Republic of Serbia from 16 to 29 Years of Age to which financial assistance is paid,¹²⁷ was proposed and adopted in one week in November 2022 without a public debate. The reasoning presented with the proposal of this bill ("in order to mitigate the consequences of the crisis caused by disruptions on the world market") was so unfounded that it raises the question of what were the real and hidden reasons why this law was proposed.

From this explanation, the reader should conclude that someone (it is not known who) has "broadly and comprehensively analysed" (it is not known what) in "full coordination with all relevant factors and subjects" (it is not known by which), and that someone (it is not known who) noted the need for the Republic to assume the obligation to make the payment of one-time assistance.

While it is clear that the reasons cited for passing this law are false, it is not easy to conclude which were the real reasons. While at the time of the adoption of previous similar laws with an explanation that was not valid, it was possible to establish a clear link between the time of the allocation of aid and the parliamentary, presidential and Belgrade elections, this is not the case this year. Bearing in mind that on the occasion of the distribution of this aid, a promotional campaign is being organised with the message that the authorities "keep their promise", it can still be concluded that the main motives could be promotional this time as well.

About the adoption of nine judicial laws read in the section on the judiciary in this Report.

RECOMMENDATIONS

- When considering the European Commission's annual report on Serbia, the Assembly should refer in its conclusions to the implementation of the Commission's key recommendations that were not implemented in the previous year and those that were made for the next year, instead of focusing on EC's observations that have a positive undertone;
- The Speaker of the Assembly should respect the procedures for scheduling sessions and refrain from scheduling them only 24 hours in advance, so as to enable MPs to exercise their right to propose amendments and changes to the agenda;
- The Assembly should organise public hearings on the most controversial issues, both in connection with the adoption of new laws and the implementation of existing ones, as well as in connection with the fulfilment of recommendations made by international organisations (ODIHR, GRECO);
- The Assembly should consider the 2021 reports of independent institutions and, based thereon, formulate more relevant conclusions and define clear tasks and deadlines for the Government's actions;

126 <https://bit.ly/42DZueT> and <https://www.preugovor.org/Infografici/1778/Upravljanje-drzavnim-preduzecima-decenija.shtml>

127 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/13_saziv/2337-22.pdf

- The Assembly should discuss bills that were submitted in the form of civic initiatives, as well as proposals to establish inquiry committees on certain important issues for which it may be competent;
- The Assembly should publish a report on the implementation of the Code of Conduct for Members of the National Assembly, review all reported violations of the Code in a timely manner, improve the provisions of the Code and the practice in case of violations, and then promote the Code among citizens;
- The Assembly should stop issuing “authentic interpretations” because they create a great risk for the rule of law and legal certainty, and consider the legal basis for their issuance and the need to make the Law on the National Assembly and the Rules of Procedure more specific.
- Whenever performing electoral function, the Assembly and Committees should organise a consultative process with all qualified candidates and elaborate reasons for their decisions.

1.2.5. Continuous abuse of parliamentary procedures hinders oversight over the security sector

The last months of parliamentary sessions confirmed fears about the continuation of the old practices aimed at obstructing the oversight of the executive, which were observed since the opposition returned to the parliamentary benches. Despite heated debates about issues related to the security sector, and the relevant committees holding regular sessions, it cannot be said that the National Assembly exercised effective oversight of the security sector during the reporting period.

The Speaker of the Assembly, Vladimir Orlić, abused parliamentary procedures through various mechanisms in order to prevent the MPs from exercising their supervisory role, including over the security sector. In this convocation, no session has been organised on the last Thursday of the month, which is the day scheduled for parliamentary questions.¹²⁸ Even though the MPs expressed concern about a number of issues, they had no opportunity to receive answers from the Minister of Defence and the Minister of the Interior. The issues they raised included allegations about the order of President Aleksandar Vučić to raise “MIG 29” planes to destroy enemy drones,¹²⁹ the procurement of smart cameras for biometric surveillance,¹³⁰ and the case of criminal inspector and whistleblower Milan Vukomanović, who was disgraced after he started to investigate malfeasance in the state-owned arms manufacturing company “Zastava Oružje” (Zastava Weapons).¹³¹

Most sessions were scheduled only 24 hours in advance, which made it impossible for MPs to propose changes and additions to the agenda. Therefore, not a single act proposed by the opposition ended upon the agenda of the sessions in the reporting period.¹³² Among the oppositions’ proposals that “got stuck” in the parliamentary procedure, there were also several that related to the establishment of inquiry committees. These committees are an important mechanism of parliamentary oversight that could be used to establish the facts in cases that have attracted much public attention in recent years due to allegations of links between high-ranking officials in the security sector and crime. However, repeated proposals to form inquiry committees for the “Savamala” and “Jovanjica” cases have still not been placed on the agenda. It is possible that they were buried under the pile of similar proposals, since the ruling coalition had submitted more than 20 regarding various alleged affairs of opposition MPs at the beginning of the convocation.¹³³ In the reporting period, the opposition MPs submitted additional requests for the formation of inquiry committees, including those to determine the facts and circumstances of the real

128 “Parlament pod lupom: Bilten broj 20” [Parliament under scrutiny: Bulletin no. 20], Open parliament, 3 March 2023, p. 9, <https://otvoreniiparlament.rs/istrzivanje/82>

129 “Serbian president scrambles fighter jets over ‘hostile drones’”, Euractiv, 2 November 2022, <http://bit.ly/40Xrp9e>

130 “Biometric surveillance of public spaces in Serbia”, Share Foundation, 12 December 2022, <https://bit.ly/3o2FgMS>, p. 5.

131 “Odmazda nad uzbunjivačem iz policije zbog istrage o Slobodanu Tešiću” [Retaliation against a whistleblower from the police because of the investigation into Slobodan Tešić], BIRN, 23 Sept 2022, <http://bit.ly/4020Eix>

132 “Parlament pod lupom: Bilten broj 20”, op. cit, p. 10.

133 N. Todorović Štija (ed.), “Shadow Report – State of Democracy in Serbia 2022”, Centre for Contemporary Policy, Belgrade, October 2022, <https://bit.ly/3UshuVu>, p. 13.

situation in the Serbian Armed Forces, the origin and activities of the Veljko Belivuk criminal clan, and to investigate the "Krušik" case.¹³⁴ The current situation in the National Assembly does not give much hope that some of these proposals will find their way to the agenda in the coming months, although the clarification of the circumstances of the above mentioned affairs should be in the interest of both citizens and authorities.

The general impression from the plenary discussions is that there was little constructive dialogue, but that there were many insults and accusations of the opposition and media critical of the government.¹³⁵ The questionable quality of the debates was certainly influenced by the fact that, for the first time, there was no training on the role of MPs and the work of the Assembly, although this was a common practice in previous convocations.¹³⁶ During the discussion on the 2023 Budget Law in December, there was praise from both sides for the planned 25% increase in salaries in the Serbian Armed Forces. However, there was no reference to the Fiscal Council's alert of "a considerable increase in the budget for the procurement of weapons" and the fact that total allocations for capital equipment of the Ministry of Defence and the Ministry of Interior in 2023 will be approximately 70% higher than the average in the countries of Central and Eastern Europe.¹³⁷ Defence Minister Miloš Vučević was present during part of the discussion on the Budget Law, but he used this opportunity to argue with opposition MPs about topics outside the agenda, instead of explaining the accounts of his Ministry.¹³⁸ To a significant part of the remarks that came from the ranks of the opposition, representatives of the government answered with accusations aimed at the pre-2012 governments, which, according to their statements, left the Serbian Armed Forces in a very bad state. They branded the question on the personnel turnover as spreading defeatism. This kind of narrative culminated during the discussion on the Budget Law, when Minister Mali accused the opposition MPs of insulting the army and said that someone is paying them to do it, for which the interpellation mechanism was launched against the Minister for the first time in 11 years. The competent committee is yet to comment on the initiative.¹³⁹

The work of the Defence and Internal Affairs Committee and the Security Services Control Committee did not significantly improve the image of parliamentary oversight of the security sector. From November to April, the Defence and Internal Affairs Committee had seven meetings, lasting 27,6 minutes on average. Although this Committee is one of the five parliamentary committees in this convocation that has an opposition MP as its president, this did not bring the desired dynamics to the work of the Committee, which spent most of its sessions confirming international agreements and Government decisions. However, there were fewer instances of unanimous voting due to some representatives of the right-wing opposition parties expressing disagreement with participation of the Serbian Armed Forces in military missions under the leadership of the EU.¹⁴⁰ The longest meeting lasted 63 minutes, it was held in April, and the reports of the Ministry of the Interior from July to December 2022 were discussed. The reports were presented by Minister Bratislav Gašić, who answered the questions of the Committee members, with some of them taking the opportunity to call the Minister out for not answering parliamentary questions.¹⁴¹ In the reporting period, there were no quarterly reports from the Ministry of Defence on the Committee's agenda.

When it comes to the Security Services Control Committee, all six sessions that were held in the reporting period were closed to the public, and the reports from the sessions are full of praise for the work of the security agencies. The President of the Committee, Igor Bečić, has repeatedly emphasised the

134 "Acts in procedure", National Assembly of the Republic of Serbia, <https://tinyurl.com/5xhavbaw>, accessed on 6 April 2023

135 "Primatu, primerku, bolesniku: Pršte uvrede u Skupštini, a jedan poslanik je šampion prostakluka" [Primates, specimens and sickos: Insults fly in the Assembly, one MP leads the way in abhorrent behaviour], Nova S, 9 November 2022, <https://bit.ly/41294Yw>

136 "Parlament pod lupom: Bilten broj 20" [Parliament under scrutiny: Bulletin no. 20], op. cit, p. 10.

137 "Assessment of the proposed Budget Law of the Republic of Serbia for 2023", Fiscal Council of the Republic of Serbia, 2 December 2022, <https://bit.ly/3UuxCqQ>

138 "Treća sednica Drugog redovnog zasjedanja" [The third meeting of the Second Regular Session], National Assembly of the Republic of Serbia, 7 December 2022, <http://bit.ly/43q9Hgg>

139 "Parlament pod lupom: Bilten broj 20" [Parliament under scrutiny: Bulletin no. 20], op. cit, p.16.

140 "Sedma sednica Odbora za odbranu i unutrašnje poslove" [Seventh meeting of the Committee on Defence and Internal Affairs], National Assembly of the Republic of Serbia, 23 March 2023, <https://bit.ly/3KtGjNj>

141 „Osma sednica Odbora za odbranu i unutrašnje poslove“, Narodna skupština Republike Srbije, 7. 4. 2023, <http://217.26.67.44/filesnrs/odbor/odbor2023040714.mp4>

importance of providing support to President Aleksandar Vučić regarding the current situation in Kosovo and Metohija.¹⁴² No control visits to security services have been conducted in the reporting period, but in April the Committee adopted a decision on conducting control visits in the upcoming period.¹⁴³

The committees did not discuss the budget proposal, which is a practice that needs to be changed, given the increase in spending on the security sector. In the current convocation, 8 MPs possess the security certificate¹⁴⁴ which allows them to participate in control visits, carefully monitor budget spending and access all relevant information to exercise effective control of the security sector. All of them have access to information classified up to the level of "confidential".¹⁴⁵ Two MPs who are members or deputy members of the Defence and Internal Affairs Committee possess the certificate. Since the beginning of this convocation, The National Assembly has submitted a total of 33 requests for security certificates for MPs.¹⁴⁶ However, nor the Office of the National Security Council, the body responsible for issuing certificates, nor the National Assembly provided information on which MPs have said security certificates or are in the certification procedure.

RECOMMENDATIONS

- The European Union should enhance monitoring of the work of the National Assembly and condemn the abuse of parliamentary procedures which prevent the MPs from effectively exercising oversight of the security sector;
- Training for the MPs, to enable them to better understand their competencies and the functioning of the National Assembly, should be organised in each convocation;
- The Speaker of the Assembly should regularly schedule sessions dedicated to MPs' questions and the MPs should make use of this institute to hold the security sector institutions accountable;
- To ensure meaningful parliamentary oversight of the security sector, the MPs should carefully review and discuss the budget, carry out their legislative duties, and discuss security-related topics at plenary sessions;
- The MPs should refer to the reports of independent state institutions and the civil society to prepare and inform their positions during relevant discussions;
- The Assembly should establish inquiry committees to investigate controversial cases connected to the institutions from the security sector, including on the cases of "Savamala," "Jovanjica" and "Krušik";
- Competent committees (the Defence and Internal Affairs Committee and the Security Services Control Committee) should act proactively, nominate relevant security topics for the agenda of committee meetings, and discuss the budgets and reports of institutions under their jurisdiction;
- To be able to carefully consider reports on the work of security institutions, monitor budget spending and plan control visits; members of the parliamentary committees responsible for the security sector should obtain certificates that will grant them access to confidential information.

142 "Šesta i Sedma sednica odbora za kontrolu službi bezbednosti" [The Sixth and Seventh Sessions of the Security Services Control Committee], National Assembly of the Republic of Serbia, 27 February 2023, <http://bit.ly/414mZxd>

143 „Deveta sednica Odbora za kontrolu službi bezbednosti“, Narodna skupština Republike Srbije, 11. 4. 2023. <https://tinyurl.com/35jyahfd>

144 Office of the Council for National Security, Response to a FoI request submitted by the Belgrade Centre for Security Policy, 10 April 2023.

145 According to Article 14 of the Data Secrecy Law ("Official Gazette of the Republic of Serbia", no. 104/2009), there are four levels of secrecy: "TOP SECRET", "SECRET", "CONFIDENTIAL" and "RESTRICTED".

146 National Assembly of the Republic of Serbia, Response to a FoI request submitted by Belgrade Centre for Security Policy, 5 May 2023.

1.3. Towards Institutionalized Cooperation Between Civil Society and the State amid Continued Attacks on Activists

The Ministry for Human and Minority Rights and Social Dialogue has set up an agenda for consultations to establish the Council for Development and Cooperation with Civil Society, whose legitimacy will largely depend on the number of civil society organisations (CSOs) involved in its creation. Even when CSOs participate in formal procedures, their inputs are rarely accepted. Meanwhile, attacks on human rights defenders have continued. New research revealed vast amounts of public money has been donated to GONGOs and tabloids.

A series of consultative meetings for establishing the Council for Development and Cooperation with Civil Society (the Council) took place in the reporting period.¹⁴⁷ The Minister for Human and Minority Rights and Social Dialogue announced that it is of great importance that the Council be established soon.¹⁴⁸ However, this hasn't happened yet, although the last consultations with civil society organisations were held in early April. The process of establishment of this body began after the adoption of the *Strategy for the creation of an environment in the Republic of Serbia encouraging for the development of civil society 2022-2030*, while the process of its drafting was boycotted by a large number of civil society organisations, including those that are considered most prominent.¹⁴⁹ Until its formation, the National Convention on the European Union remains the main platform for the dialogue between CSOs and the government.

In the reporting period, the line ministries in charge of activities related to chapters 23 and 24 have put effort into improving formal cooperation with relevant CSOs. However, as explained further in the sections on the judiciary, personal data protection and police reform, these efforts were rather reactive and concentrated on matters and procedures where civil society had previously alarmed the public on major controversies. The Government continued to organise public debates on numerous important laws simultaneously and during holidays, thus exhausting CSOs' capacities in formal procedures with poor results, i.e. the percentage of adopted comments and proposals by CSOs remained low and insufficiently elaborated.

Continued Attacks on Human Rights Defenders

The network "Solidarity for the Rights of All"¹⁵⁰ has been registering attacks and pressures against human rights defenders and activists on its Map of Incidents.¹⁵¹ In its report for 2022, the Network registered 43 attacks as compared to 73 in 2021.¹⁵² However, the smaller number of attacks compared with data from 2021 is mainly the consequence of the data collection methodology, since group attacks are recorded as individual cases. The YUCOM's team assessed that 12 thousand lives had been directly or indirectly affected by the attacks recorded in 2022.¹⁵³ The most threatened rights in 2022 were freedom of expression (registered in 31 cases), freedom of association (16 cases) and freedom of assembly (14 cases).¹⁵⁴

147 "Pripreme za formiranje Saveta za razvoj i saradnju s civilnim društvom", RTV, 6 Feb 2023, https://www.rtv.rs/sr_lat/vojvodina/novi-sad/pripreme-za-formiranje-saveta-za-razvoj-i-saradnju-s-civilnim-drustvom_1415379.html

148 Ibid.

149 Jelena Pejić Nikić (ed.), PrEUgovor Alarm: Report on the Progress of Serbia in Cluster 1 – November 2021, prEUgovor, Belgrade, 2021, p. 29, <https://bit.ly/AlarmNov2021EN>

150 An initiative of the Lawyers' Committee for Human Rights – YUCOM, Belgrade Centre for Security Policy and People's Parliament.

151 The Map of Incidents is available on YUCOM website: <https://www.yucom.org.rs/mapa-incidenata/>

152 "Izveštaj o napadima na branitelje ljudskih prava u Srbiji za 2021. godinu", Komitet pravnika za ljudska prava – YUCOM, 2022, <https://www.yucom.org.rs/wp-content/uploads/2022/02/Izvestaj-o-napadima-2021-3-1.pdf>

153 "Report on the Attacks on Human Right Defenders in Serbia for 2022", Lawyers' Committee for Human Rights – YUCOM, 2022, <https://en.yucom.org.rs/wp-content/uploads/2022/12/Izvestaj-o-napadima-ENG-2022-V2.pdf>

154 Ibid.

From January 2023 until the beginning of March 2023, the network "Solidarity with the Rights of All" registered six cases of attacks and pressures against human rights activists.¹⁵⁵ The main targets of the attacks were activists from the Association KROKODIL and Youth Initiative for Human Rights, who were involved in removing nationalistic murals in the very centre of Belgrade.¹⁵⁶ The Communal police fined them, and they have received hundreds of online threats (including death threats) via social media.¹⁵⁷ Unlike earlier cases of similar attacks, the Ministry for Human and Minority Rights and Social Dialogue, the Ministry of European Integration, and the Commissioner for Protection of Equality condemned these attacks.¹⁵⁸

An unprecedented attack occurred against lecturers at the Faculty of Political Sciences, University of Belgrade, who were to participate at an academic event, presenting results of their research with colleagues from the University of Pristina. Although the event was canceled due to security reasons, the morning when the event was supposed to take place saw posters with the faces of three professors around the Faculty of Political Sciences, labelling them as "traitors".¹⁵⁹ This serious incident happened in the context of EU-facilitated dialogue between Belgrade and Pristina, and in light of the adoption of Franco-German proposal for a new dialogue framework.

Vast donations to phantom organisations and GONGOs

Extensive research conducted by BIRN Serbia and Civic Initiatives revealed possible major malversations in 2022 through donations from the Serbia's Ministry of Family Welfare and Demography. After a public call, the money was transferred to a network of connected organisations, which have no work results to present.¹⁶⁰ These donations are worth around 1.3 million euro. According to the research results by the two organisations, only in 2022, the state has donated almost 58 million euro, and this money was not spent for the intended purpose; on the other hand, GONGO organisations were financed on regular basis, as well as tabloids.¹⁶¹ The growing number of GONGO organisations still jeopardise the work of critically oriented civil society.¹⁶² Awarding public grants to unknown organisations not only harms the renowned CSOs and targeted beneficiaries, but also raises suspicion of corruption and state capture (redirecting public resources beyond the public interest).

RECOMMENDATIONS

- The police and the prosecutor's office should effectively and indiscriminately investigate all attacks on human rights activists and defenders so that they can be adequately prosecuted;
- The government must work to improve the protection of the right to freedom of expression and freedom of association;
- Competent authorities, including the State Audit Institution, should scrutinise controversial public calls and insist on transparency of procedures and results of supported entities.

155 Informator #11 o napadima i pritiscima na aktiviste i aktivistkinje, YUCOM, March 2023, <https://www.yucom.org.rs/informator-11-o-napadima-i-pritiscima-na-aktiviste-i-aktivistkinje/#prettyPhoto/4/>

156 "Aktivisti prekrećili grafit na Slaviji "Kad se vojska na Kosovo vrati", pisane im kazne", Insajder, 18 Feb 2023, <https://insajder.net/prenosimo/aktivisti-prekrećili-grafit-na-slaviji-kad-se-vojska-na-kosovo-vrati-pisane-im-kazne>

157 Informator #11 o napadima i pritiscima na aktiviste i aktivistkinje, YUCOM, op. cit.

158 Ibid.

159 "Ispred FPN osvanuli plakati protiv troje predavača sa natpisom „Izdajnik“", Danas, 16 Mar 2023, <https://www.danas.rs/vesti/politika/ispred-fpn-osvanuli-plakati-protiv-troje-predavaca-sa-natpisom-izdajnik/>

160 "Javni konkursi: Podeljene milijarde, transparentnosti nema", BIRN Srbija, 23 Mar 2023, <https://birnsrbija.rs/javni-konkursi-podeljene-milijarde-transparentnosti-nema/>

161 Ibid.

162 Jelena Pejić Nikić (ed), prEUgovor Alarm Report on the Progress of Serbia in Cluster 1 - May 2022, prEUgovor, Belgrade, 2022, p. 49, <https://bit.ly/AlarmMay2022>

2. REGIONAL ISSUES AND GOOD NEIGHBOURLY RELATIONS

Serbia's relations with neighbours were stable during the reporting period. After the severe tensions last fall, Serbia and Kosovo entered a phase of intensive negotiations at the highest political level, which resulted in the acceptance of the EU proposal of the path of normalisation and its Implementation Annex. This opens the door for the implementation in practice, which should be in focus in the coming period. In the multilateral forums, Serbia in principle maintained its constructive role, while Belgrade kept its focus on the Open Balkans initiative. There has been a notable improvement in the bilateral relations with Croatia, while relations with other neighbours remained positive throughout the reporting period.

2.1. Prosecuting War Crimes: Mixed Results

As regards the prosecution of war crimes from the 1990s, in October 2021 the Government of the Republic of Serbia adopted a new National Strategy for Prosecuting War Crimes until the year 2026. The first report on its implementation was completed for the period lasting until March 2022 (and was covered by our previous Alarm report).¹⁶³ At the time of this Report, the second¹⁶⁴ and third¹⁶⁵ implementation reports, for the period lasting until September 2022, have been published by the Working Body for monitoring the National Strategy. The reports noted some of the early steps in the implementation, such as the adoption of the draft Prosecutorial Strategy for the investigation and prosecution of war crimes, which will remain valid until 2026, and some additional staff training (including that on the European Arrest Warrant cooperation). It was noted in the reports that activities regarding cooperation with relevant prosecutor's offices from Bosnia and Herzegovina, Croatia, Montenegro and Kosovo, as well as with EULEX (processing mutual requests) were implemented successfully, stating that only a small percentage of requests are being denied, for procedural reasons.

The trial of Dušan Lončar, Yugoslav People's Army colonel and former commander of the 2nd Guard Brigade, started in March 2023 before the War Crimes Chamber of the Higher Court in Belgrade. He is charged with crimes committed against Croatian civilians in the village of Lovas in October 1991.¹⁶⁶ This is a rare case of a senior officer of the Yugoslav or Serb armed forces being tried in the court.

There has been no change in position of the relevant authorities regarding the case of Vjerica Radeta and Petar Jojić, both functionaries of the Serbian Radical Party and legal advisers to Vojislav Šešelj, party leader, during his trial at the ICTY. They were indicted by the International Residual Mechanism for Criminal Tribunals (IRMCT) for violating the Tribunal's regulations on the protection of the identity of protected witnesses and confidential documentation. Serbian courts have been refusing to extradite them to The Hague since 2016, and this remains an outstanding issue in assessing Serbia's cooperation with the IRMCT. Some international pressure has been applied, such as the US Government's decision of January 2023 to prohibit both Radeta and Jojić from entering the United States, brought about based on the Department of State, Foreign Operations and Related Programs Appropriations Act.¹⁶⁷

Work on resolving the cases of missing persons from the wars of the 1990s is proceeding via established channels and forums. The 8th meeting of the Missing Persons Group was held in Zagreb in late January. The Group's main accomplishment is that the online Database on active missing person cases has begun

163 Jelena Pejić Nikić (ed.), Alarm Report on Progress of Serbia in Cluster 1 – November 2022, prEUgovor Coalition, Belgrade, <https://bit.ly/413BVey>, 4 April 2023.

164 Report No. 2 on the Implementation of the National Strategy for Prosecuting War Crimes, Ministry of Justice of Republic of Serbia, <https://bit.ly/431W5aH>, 4 April 2023.

165 Report No. 2 on the Implementation of the National Strategy for Prosecuting War Crimes, Ministry of Justice of Republic of Serbia, <https://bit.ly/3U7gEyh>, 4 April 2023.

166 "The beginning of the trial of Dušan Lončar, YPA commander, for the crime committed in Lovas", HLC-RDC, 29 March 2023, <https://bit.ly/3K9UMxL>, 4 April 2023.

167 "USA introduces sanctions to radicals Vjerica Radeta and Petar Jojić", RSE, 27 January 2023, <https://bit.ly/3MhNhaU>, 4 April 2023.

to operate.¹⁶⁸ Forensic teams of relevant institutions from Serbia and Kosovo met in Priština in early March. They found that the lack of DNA samples of victims and their living relatives is the key obstacle in the process of identification, and agreed on future steps in their work and mutual cooperation.¹⁶⁹ The meetings were organised in the light of the ongoing negotiation process between the two parties and the most recent meeting of the technical delegations, held on 4 April, had the two sides agreeing on the text of a mutual declaration on missing persons, an important albeit only symbolic gesture that has yet to be put in practice.¹⁷⁰

2.2. Belgrade – Priština Relations: The Interim Agreement Is in Place

The dialogue between Serbia and Kosovo under the EU facilitation got a new impetus after a crisis period in the autumn. In November, most of the local Serbs that held positions in Kosovo institutions left these after the Kosovo Government introduced warnings followed by fines in the amount of EUR 150) for vehicles using licence plates issued in Serbia.¹⁷¹ As noted in our November 2022 Alarm Report, the entire topic and crisis point spilled over from the previous months¹⁷² The impetus for resolving tensions came in the form of a draft proposal which was put forward by French and German diplomats, and which the media named “the Franco-German proposal”. The draft was not made public until February 2023, when it became the object of much attention in the Serbian public. President Vučić, who knew the contents and was/is the main negotiator on the Serbian side, presented himself as the main interpreter of the fragments of the draft. On 8 October 2022, he stated that the proposal asks of Serbia to allow Kosovo’s entry into international organisations, including the UN, in exchange for Serbia’s quicker accession to the EU, and that it does not ask Serbia to explicitly recognise Kosovo’s independence.¹⁷³ This was the introduction to the direct negotiations that took place in February and March 2023.

Meanwhile, the resignation of many local north-Kosovo Serbs under the auspices and influence of Serb List from local and Priština institutions prompted Priština to declare by-elections in four northern municipalities (Severna Mitrovica, Zvečan, Leposavić, Zubin Potok). They were initially scheduled for 18/25 December, but the majority of Serb politicians, parties and organisations refused to register for them. The elections were thus delayed and were set for 23 April 2023. The Serb List and most of the local Serbs have boycotted these elections, and the turnout was under 3.5%. Thus, representatives from two major Albanian parties have officially won the elections and are set to lead four municipalities with Serb majority. Belgrade officials have remained staunchly opposed to these elections and putting its results into practice (takeover of local institutions by Albanian representatives).¹⁷⁴

The above issue highlights the remaining tensions between the Priština authorities and the Serb List and Belgrade. At the Paris Peace Forum on 11 November 2022, Serbian President Vučić met separately with the EU High Representative Josep Borrell and EU mediator Miroslav Lajčák following their meeting with the Prime Minister of Kosovo Albin Kurti. Vučić kept repeating that Kurti was in constant violation of the Brussels agreement (2013) for not forming the Association of Serbian Municipalities, and that his radical approach to the outstanding issues was an example of Kurti’s wish to “*de facto* expel Serbs from their homes”.¹⁷⁵

168 Database of Active Cases of Missing Persons from the Conflicts in Former Yugoslavia, Missing Persons Group, <https://bit.ly/3Gbe70b>, 4 April 2023.

169 “A number of meetings held in Priština on solving the issue of unidentified remains”, KZNL, 3 February 2023, <https://bit.ly/432cKuL>, 4 April 2023.

170 “Petković: The text of the declaration on missing persons has been agreed upon”, KosSev, 4 April 2023, <https://bit.ly/3zvJpLx>, 4 April 2023.

171 “Kosovo and the license plates: What does leaving the institutions change in the lives of Serbs”, BBC in Serbian, 8 November 2022, <https://bbc.in/3zWsQst>, 13 April 2023.

172 Jelena Pejić Nikić (ed.), Alarm Report on Progress of Serbia in Cluster 1 – November 2022, pp. 39–40, prEUgovor Coalition, Belgrade, <https://bit.ly/413BVey>, 12 April 2023.

173 “What we know about the Franco-German proposal for Kosovo and Serbia”, RSE, 20 October 2022, <https://bit.ly/3zOvj8x>, 4 April 2023.

174 “Local by-elections in the north: Serbs have boycotted, Albanians have won”, KosSev, 23 April 2023, <https://bit.ly/42hluvg>, 6 May 2023.

175 Vučić, after meeting Lajčák and Borrell: One man is not the state, Priština refuses to behave rationally”, Danas, 11 November 2022, <https://bit.ly/413I5LX>, 4 April 2023.

In late November, the two sides finally reached an agreement about the license plates. It envisages the phasing out of the "KM" plates (issued by the Serbian side), where the issue of new plates would completely stop, followed by the introduction of the "RKS" plates issued by Priština across northern municipalities. This would be done over a period of time and without penalties for the local population.¹⁷⁶ The Serb List was generally opposed to this agreement and was looking for ways to stall the introduction of "RKS" plates. In January, Priština banned vehicles with "KM" licence plates from Kosovo roads, which angered local Serbs. The introduction of "RKS" plates in the north went extremely slowly – out of some 10,000 vehicles that are in use in these municipalities, by early March 2023 fewer than 100 were registered bearing RKS plates¹⁷⁷. In late March, shortly before the deadline for introducing "RKS" plates expired, a number of vehicles owned by local Serbs and bearing these plates were set on fire in Serb municipalities, and an explosive device was thrown at a police patrol near the registration office. A local Serb was arrested under suspicion of arson, and the Serb List stood up to defend him, demanding that he be released from custody.¹⁷⁸

This standoff occurred at the time when the deal between Serbia and Kosovo was already reached, after months of shuttle diplomacy by the EU (and to a certain extent, the US) representatives. At the meeting on 27 February 2023 in Brussels, Vučić and Kurti agreed that the working document by the EU, based on the earlier "Franco-German proposal", i.e. the Agreement on the path to normalisation between Kosovo and Serbia¹⁷⁹ should be considered the final version. For Vučić, the ambiguity of the form of acceptance was important because he needed to handle the reaction of the public. He was adamant that he had not signed anything, and that his red line was still that Serbia would not recognise Kosovo or agree to it becoming a member of the UN.¹⁸⁰ Serbian officials were extremely ambiguous about the obligations that were undertaken based on the agreement.¹⁸¹ The agreement, namely, has an annex – the Implementation Plan, which was not fully agreed upon in Brussels. It was, rather, agreed upon at a separate meeting held in Ohrid on 18 March. Publicly, Vučić continued with his ambiguous statements: "I have not signed anything today. Both of us made it clear, in different ways, where our red lines are... It was not the D-Day, but I think it was an OK day".¹⁸² Statements from the EU and US facilitators are clear, namely that the agreement and its Implementation Plan are fully agreed upon, and binding on both parties. It calls for the creation of a Joint Monitoring Committee within 30 days to oversee the implementation of the deal. For Serbia, the agreement will be a part of Chapter 35 of the negotiation framework with the EU, with clear political conditionality, for both parties, that failures in implementation will lead to the loss of EU aid and further slowdown of the negotiation process.

176 "Petković: Owners of KM plates will be able to register and extend their validity, we will stop issuing completely new plates", KosSev, 24 November 2022, <https://bit.ly/4350jhE>, 4 April 2023.

177 "Kosovo MIA: 92 vehicles with RKS plates were registered from September 2022 to February", Nova S, 3 March 2023, <https://bit.ly/3MhOzTk>, 4 April 2023.

178 "A week behind us: After the EU agreement, license plates are back in focus", KosSev, 4 April 2023, <https://bit.ly/433oiOh>, 4 April 2023.

179 Belgrade-Priština Dialogue: EU Proposal – Agreement on the path to normalisation between Kosovo and Serbia, EEAS, 27 February 2023, <https://bit.ly/3nQ8iiN>, 5 April 2023.

180 "Vučić: I did not sign anything in Brussels because the EU proposal suggests that we not oppose KiM membership in the UN", Tanjug, 28 February 2023, <https://bit.ly/437XzAc>, 5 April 2023.

181 The agreement does not ask of Serbia to specifically recognise Kosovo in formal terms, though it is clear that parties are treated as equals. In Article 4, the Agreement stipulates that "Serbia will not object to Kosovo's membership in any international organisation".

182 "The Vučić and Kurti deal: An 'OK day' in Ohrid", DW, 19 March 2023, <https://bit.ly/3KekYr3>, 5 April 2023.

2.3. Multilateral Relations: Mixed Preferences regarding Regional Economic Integration

Serbia remained a generally committed and productive member of various multilateral organisations and forums. A large majority of the public generally supports what is perceived as productive regional initiatives and economic liberalisation of relations with neighbours, though the main focus remains on the Open Balkan initiative (OBI), which is still strongly promoted by the ruling coalition.¹⁸³

There has not been much activity regarding the Open Balkans, but the initiative remains the main feature of Serbia's approach to neighbouring Western Balkans states. At the VinItaly wine fair in Verona, President Vučić, along with the Albanian Prime Minister Edi Rama and the North Macedonian Prime Minister Dimitar Kovačevski, led the effort to promote the wine industry of the three countries. It was an extension of the Open Wine Vision by Open Balkan, the event that had first taken place within the OBI in September in Belgrade. On this occasion, three leaders briefly met with the Italian Foreign Minister Antonio Tajani and Prime Minister Giorgia Meloni.¹⁸⁴

In early November 2022, Berlin was the host of another Berlin Process summit meeting, which was attended by six Western Balkan partner countries. A number of agreements were signed during the summit as a boost to the Common Regional Market (CRM). Agreements on the freedom of movement with identity cards within the area of the Western Balkans (no passport needed for citizens to travel from one signatory party to another), on the recognition of higher education qualifications (shortening the period of recognising higher education qualifications of citizens from other signatory parties to only 14 days), and on recognition of professional qualifications for doctors of medicine, dentists and architects (automatic recognition) all serve to ease travel and help the labour market in the region. While the CRM was in strong focus during this summit, there were also some other significant messages – on the readiness of the EU to help with the energy transition through specific funding, and a political message to Serbia to align its foreign policy with regards to sanctions to Russia and with EU visa policies.

2.4. Bilateral Relations: A Turn for the Better, at Least in Words

Relations between **Serbia and Bosnia and Herzegovina** remained stable. No steps were taken by either side to resolve the long-standing border issue. The Minister of Foreign Affairs in the newly formed Government of Bosnia and Herzegovina, Elmedin Konaković, visited Belgrade on 24 February and had a meeting with President Vučić, Prime Minister Ana Brnabić and the Minister of Foreign Affairs Ivica Dačić. President Vučić reiterated the fundamentals of Serbia's policy towards its neighbour: "Serbia respects the integrity of Bosnia and Herzegovina and the Republic of Srpska within Bosnia and Herzegovina, as well as any deal made by the two entities and three constitutive nations within the framework set by the Dayton Peace Agreement".¹⁸⁵ Brnabić talked to Konaković about Serbia's views on the Open Balkan Initiative and why Belgrade believes that Sarajevo should join.¹⁸⁶ Konaković and Dačić talked about the respective paths towards EU integration and the possibility of renewing the talks about the border issue, thus giving them a positive impetus.¹⁸⁷

183 Gorana Pebić, Ivana Ranković and Luka Šterić, War echoes intensify fears: Views of Serbian citizens on relations in the region, WBSB survey in Serbia: Country report 2023, Belgrade Centre for Security Policy, February 2023, p. 13, <https://bezbednost.org/en/publication/war-echoes-intensify-fears-views-of-serbian-citizens-on-relations-in-the-region/>

184 "Open Balkans' is stepping out of the region for the first time – three leaders' summit and the Wine vision in Verona", RTS, 1 April 2023, <https://bit.ly/3zyp7kl>, 5 April 2023.

185 "Vučić and Konaković: Strengthen the bilateral relations of Serbia and B&H", Al Jazeera Balkans, 24 February 2023, <https://bit.ly/414FtNz>, 6 April 2023.

186 Ibid.

187 "Konaković in Belgrade: Strengthening the relations of B&H with Serbia", Al Jazeera Balkans, 24 February 2023, <https://bit.ly/3md5fk5>, 6 April 2023.

Relations between **Serbia and Croatia** took a turn for the better, compared to the public spats and tensions that abounded in the previous reporting period. Tomislav Žigmanov, president of the largest party of the Croatian community in Serbia, the Democratic Alliance of Vojvodina Croats (DSHV), became the Minister of Human and Minority Rights in the new Serbian Government. According to Žigmanov, DSHV's entry into Government coalition will have the "effect of relaxing the Croats and contributing to the de-stigmatisation of the community".¹⁸⁸ Serbian Minister of Foreign Affairs Ivica Dačić, Minister of European integrations Tanja Mišćević, Minister for Human and Minority Rights Tomislav Žigmanov and the Patriarch of the Serbian Orthodox Church, Porfirije, visited Zagreb on 6 January, on Christmas Eve as per the Serbian Orthodox calendar. The primary host was the Serbian National Council in Zagreb, but corresponding Croatian ministers and Prime Minister Andrej Plenković were present as well. Dačić gave credit for the visit to President Vučić, who had initiated it with the idea "of repairing and defrosting the Serbian-Croatian relations".¹⁸⁹ The statements of both parties were full of optimism and the need for better relations, fewer critical and vulgar remarks, and the logic that "while we do not have the same views regarding many issues, we have to talk and make deals".¹⁹⁰ Overall, the meeting itself and the state of the relations during the reporting period represent a positive shift in tone, which might transform, more directly, into specific policy measures.

Serbia's **relations with North Macedonia** remained good. There are no open issues between the two countries, and they continue to collaborate on economic liberalisation which is being pushed through the Open Balkans Initiative. North Macedonian Prime Minister Dimitar Kovačevski officially visited Belgrade on 31 March (one day prior to the multilateral visit to the above mentioned VinItaly fair in Verona), where he and Prime Minister Brnabić had a meeting. Believing that the improvement of bilateral relations was a result of the OBI, Brnabić touted it as beneficial to all the parties, not just Serbia, and claimed that North Macedonia's exports to Serbia increased by more than 50% in the last three years despite the continuing trade deficit with Serbia. The two sides signed new agreements on energy cooperation (an MoU on gas connection between the two countries), border crossing points cooperation, and a joint system for highway toll payments.¹⁹¹

Relations with Montenegro have been steady and without much new development. There was much public interest in Serbia about the presidential elections in Montenegro in April, which ended in the ousting of former President Milo Đukanović and the victory of Jakov Milatović. While some Serbian officials and pro-government media showed clear support for another candidate, the overall atmosphere in bilateral relations was considerably less volatile than during the parliamentary elections in Montenegro in August 2020. After the victory, Milatović showed that he was more open to the idea of joining the OBI, but remained formally non-committed to the idea.¹⁹² There are some unresolved issues between the two states regarding judicial cooperation in high-profile cases, such as Serbia's prolonged refusal to extradite Svetozar Marović (Montenegrin politician and the last President of the State Union of Serbia and Montenegro).¹⁹³

188 "Interview with Tomislav Žigmanov, president of DSHV", DSHV, <https://bit.ly/3nWwEqM>, 6 April 2023.

189 "Dačić with Plenković: I don't think we are all that dear to each other, yet here we are", Jutarnji, 6 January 2023, <https://bit.ly/3ZNgehX>, 6 April 2023.

190 Ibid.

191 The 'Open Balkans' should be credited for better relations between Serbia and North Macedonia, says Brnabić, RSE, 31 March 2023, <https://bit.ly/3Kka4QI>, 6 April 2023.

192 "Milatović: Is there anything more normal than for the Western Balkan states to have the best possible relations?", Euronews Serbia, 4 April 2023, <https://bit.ly/3MrQW5Q>, 6 April 2023.

193 "Montenegrin Minister of Justice in the official visit to Serbia", RTV, 3 March 2023, <https://bit.ly/413gpqZ>, 6 April 2023.

RECOMMENDATIONS

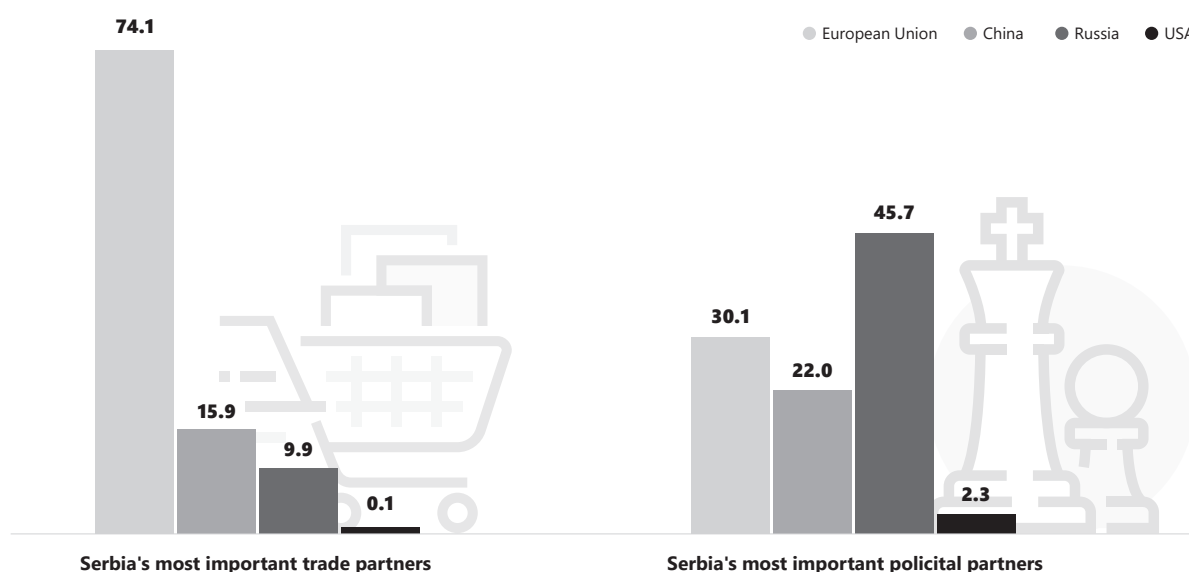
- It is necessary to increase the effectiveness of the War Crimes Prosecutor's Office and strengthen institutional cooperation with partner institutions in the neighbourhood, primarily in Croatia and Bosnia and Herzegovina;
- It is necessary to put solving the remaining border issues with Croatia and Bosnia and Herzegovina on the political agenda, and to use positive overall development in relations to that end;
- Serbia should have the strategic goal of EU accession in mind when working on regional economic liberalisation, and should make the priorities of its efforts clear;
- It is necessary that both sides implement the Belgrade-Priština agreement in good faith and transparent manner.

3. THE PUBLIC DISCOURSE ON THE EUROPEAN UNION

Public criticism of the EU by Serbian officials noticeably dropped in the reporting period. While Serbia did not align itself with any of the restrictive EU measures towards Russia in relation to the Russian war against Ukraine, Serbian officials generally avoided making accusations against the EU the way they did in the previous reporting period. On the anniversary of the Russian attack on Ukraine, Prime Minister Brnabić and several other ministers were present at the opening of the exhibition “A Year of Unbreakability”, about the Ukrainian war resistance, together with the Ukrainian Ambassador, Head of the EU delegation and other diplomats and public figures.¹⁹⁴

A slow and gradual shift in media coverage of the war and the tone of the articles was observed in September and October 2022, as Russia had more negative than positive coverage, and Ukraine more positive than negative.¹⁹⁵ However, overall, since the start of the war the media coverage was clearly geared towards depicting Russia in a more positive light and spreading blame and war consequences across multiple actors.¹⁹⁶ Economic relations between the EU and Serbia were the most dominant topic in media coverage of the EU, leading in both the positive and the negative category. The EU’s role in the Belgrade-Priština negotiations was generally depicted in a negative light, as it was perceived as pushing Serbia towards steps it was/is not willing to take, i.e. to move broadly towards recognising the independence of Kosovo. This was an argument that was often made by President Vučić himself.¹⁹⁷

Figure 1: Citizens’ perceptions on Serbia’s most important trade and political partners (December 2022)



Source: *Novi treći put*¹⁹⁸

194 “Brnabić and ministers at the exposition ‘A Year of Unbreakability’”, *Politika*, 24 February 2023, <https://bit.ly/3nTSThI>, 6 April 2023.

195 International political situation and the public opinion in Serbia, *Novi treći put*, p. 6, <https://bit.ly/400QzGP>, 6 April 2023.

196 War in Ukraine and the public opinion in Serbia: Annual survey, March 2022 – March 2023, *Novi treći put*, p. 5, <https://bit.ly/3Gk4ah1>, 6 April 2023.

197 International political situation and the public opinion in Serbia, *Novi treći put*, p. 9, <https://bit.ly/400QzGP>, 6 April 2023; Vučić: “I was told that the European integration and investments would be stopped”, *RSE*, 23 January 2023, <https://bit.ly/3zF3LIW>, 6 April 2023.

198 International political situation and the public opinion in Serbia, p. 9, <https://bit.ly/400QzGP>, 6 April 2023.

Surveys show that the public has gained some clarity as to the most important economic partner of Serbia (EU at 74.1%, China at 15.9%, Russia at 9.9% and USA at 0.1%). As for the question "Who is the most important political partner?", the public showed continued (but decreasing) preference for Russia (45.7%), followed by the EU (30.1%), China (22%) and the USA (2.3%).

Preference for Russia continues to be rooted in the perception of cultural closeness, positive historical experience and political problems in relations with the West.¹⁹⁹ This perception of the West has its effects on the views on the root causes of the war, as about two thirds of the respondents blame the West for it (in terms of "provoking Russia"), while a quarter blame Russia.²⁰⁰ The trend of rising Euroscepticism since the start of the war, observed in summer and fall, has died down by the end of the year, coupled with the increased number of less pro-Russian and more neutral and pro-Ukrainian media articles about the war and associated topics that appeared since the summer and fall.²⁰¹ Political messaging in general and economic messaging in particular, by most prominent Serbian officials about the EU were predominantly on the positive side. This came hand in hand with the largest EU grant that Serbia has ever received, a sum of EUR 610 million for the fast railway line Belgrade-Niš as part of the EUR 2.775 billion fast rail connections with Greece and Bulgaria. "The EU is now gifting us the money. Largest aid, greatest support, money. That is what you live for!" said Vučić during the announcement ceremony.²⁰² The ceremony took place one day after the verbal acceptance of the agreement with Kosovo during the meeting in Brussels. Several days later, President Vučić spoke on the phone with the President of the EU Commission Ursula von der Leyen. He confirmed that Serbia was committed to negotiations with Kosovo on the normalisation of relations, and that it was determined to continue the reform process to achieve full EU membership and improve the lives of its citizens.²⁰³

The top of Serbia's ruling party remains the most influential and polarising public figure(s) and the most important factor in setting the tone of the discourse on the EU and related issues, including the war in Ukraine. There is a strong correlation, and indeed, causation, between the last 10 years of the current ruling coalition's relation towards and description of the EU, and the gradually declining public support for EU membership. Self-identified supporters of President Vučić generally blame Serbia's prolonged and still unsuccessful integration process on the EU, saying that Serbia is (unjustly) blocked because of the unresolved status of Kosovo and the EU's unwillingness to continue with the enlargement. Those critical of President Vučić will more likely believe that the EU integration is not bearing fruit because of the state of democracy and human rights in Serbia.²⁰⁴ In its December 2022 survey report on the citizens' views of the EU, the Ministry of European Integration stated that "the policy of constant conditioning and blackmailing, perceived by citizens to be applied by the EU towards our country, stands out as the biggest cause of difficulty for our country's entry into the EU", but also that the "European Union is associated primarily with positive things".²⁰⁵

199 Ibid, p. 21.

200 Ibid, p. 22.

201 War in Ukraine and the public opinion in Serbia: Annual survey, March 2022 – March 2023, Novi treći put, p. 22, <https://bit.ly/3Gk4ah1>, 6 April 2023.

202 "Vučić: 'One of the largest projects ever – The EU is giving us EUR 600 million as a gift'", Večernje novosti, 28 February 2023, <https://bit.ly/3Mu0A8h>, 6 April 2023.

203 "Vučić – von der Leyen phone conversation: We decidedly continue our reforms, the future of Serbia is in the EU", Politika, 1 March 2023, <https://bit.ly/40PpAuH>, 6 April 2023.

204 Vuk Vuksanović, Luka Šterić and Maja Bjeloš, Public perception of Serbian foreign policy in the midst of the war in Ukraine, WBSB survey in Serbia: Country report #1 2022, Belgrade Centre for Security Policy, December 2022, <https://bit.ly/43N8vU4>

205 European orientation of Serbian citizens: Public opinion poll (Dec 2022), Ministry of European Integration, Government of Republic of Serbia, p. 3, <https://bit.ly/3UO3h6u>, 15 April 2023.

4. CHAPTER 23 – JUDICIARY AND FUNDAMENTAL RIGHTS

4.1. Judiciary

4.1.1. Nine judicial laws were adopted to harmonise the legislation with the constitutional amendments

The Act on Amending the Constitution was adopted in February 2022, while the Constitutional Law on the Implementation of the Act on Amending the Constitution set a deadline of one year for harmonising the Law on Judges, the Law on the Organisation of Courts, the Law on the Public Prosecutor's Office, the Law on the High Judicial Council and the Law on the State Prosecutorial Council with the constitutional amendments. The Constitutional Law set a longer term, of two years, for the harmonisation of other laws that need to be aligned.

In accordance with the above obligations, after a public debate the Government of Serbia approved the proposed drafts of five judicial laws on 17 January. On the day of the expiry of the constitutional deadline, i.e. on 9 February 2023, the Serbian Parliament passed the new Law on the High Judicial Council, the Law on the Organisation of Courts, the Law on Judges, the Law on the High Prosecutorial Council and the Law on the Public Prosecutor's Office.

On the same day, the MPs adopted amendments and supplements to four more judicial laws whose amendments were not included in the public debate, that is, about which the public did not even offer a formal judgment. These were the amendments and supplements to the Law on the Organisation and Competences of State Authorities Combating Cyber Crime, the Law on the Organisation and Competences of State Authorities in War Crimes Proceedings, the Law on the Organisation and Competences of State Authorities in Combating Organised Crime, Terrorism and Corruption, and the Law on the Constitutional Court.

Adoption of judicial laws – a speedy finale and premature praises

In the previous Alarm report, the procedure of developing a set of judicial laws is described in detail regarding consultation on working versions, their deficiencies and related opinions of the Venice Commission.²⁰⁶ Said Commission issued an opinion related to working versions of prosecutorial laws²⁰⁷ and supplementary opinion related to judicial laws²⁰⁸ on 16-17 December 2022 session.

Following previous consultations, the Ministry of Justice published five draft laws, partially modified from their working versions in early December 2022, and opened official public debate from 12 December 2022, till 15 January 2023.²⁰⁹ Judges Association of Serbia, one of the organizations whose representatives participated in drafting laws, listed dozens of improvements in this draft compared to the previous "working version";²¹⁰ but also asked for improvements in the salaries, "political activities", selection of "prominent lawyers" and their previous political affiliation and regulation of transparency of the High Judicial Council's work. Similarly, many other organizations used this opportunity to repeat their earlier concerns, not addressed in the drafts.

206 PrEUgovor Alarm: Report on the Progress of Serbia in Cluster 1 – November 2022, pp. 47-53, <https://www.preugovor.org/Alarm-Reports/1773/Alarm-Report-on-Progress-of-Serbia-in-Cluster-1.shtml>

207 [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)042-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)042-e)

208 [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)043-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)043-e)

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

210 <https://www.cepris.org/reakcije/cepris-nece-ucestvovati-u-javnom-slanju-o-pravosudnim-zakonima/>

During the public debate, the Ministry of Justice organized four public discussions in the seats of Appeal Courts in December 2022. The CSOs, either within or outside of the NCEU, were not officially invited to participate but were invited to a specially organized 5th round table,²¹¹ organized in Belgrade on 10 January 2023.

This debate²¹² showed high discrepancies in general views both on the overall judicial reform process and its outcomes among the representatives of various CSOs.²¹³ Also, the introductory speeches of government and international organizations' representatives contained a lot of praise for the process of adoption of the laws²¹⁴, even though, at that moment, there were still five days left for the submission of comments, not to mention the time needed to address them.

In addition to the public debate organized by the Executive, the Parliamentary Committee for Constitutional and Legislative Issues organized a public hearing on 16 January 2023.²¹⁵ Representatives of academia, judiciary and some CSOs (some boycotted)²¹⁶ took part in the discussion, but their speeches have not been published, although the minutes of the event claim otherwise.²¹⁷ Representatives of the Ministry of Justice commented on the spot on some proposals submitted during the debate that they accepted, while the audience expected the rest of the proposals to be fully considered in the following period.

It was, therefore, an immense surprise when, only a day after this public hearing and only 36 hours after the end of the public debate, the Government of the Republic of Serbia adopted five judicial laws proposals²¹⁸ that had entered the parliamentary procedure on 17 January, 2023. As stated by the Working Group for Chapter 23 of the National Convent on EU, "it has raised the question of the meaning of the public debate, the purpose of 5 meetings held with the expert public, as well as more than 50 contributions with comments submitted to the Ministry of Justice, that were practically impossible to consider within that short period."²¹⁹

PrEUgovor coalition published its Brief Alert and pointed to the failure of the Ministry and Government already on 19 January 2023,²²⁰ along with comments on key deficiencies in the proposed legislation. The report on the conducted public debate, published a day after, with an overview of proposals,²²¹ showed that the Ministry had rejected 87% of the comments of CSOs,²²² while 8% were partly accepted and only 5% were accepted.²²³ The even greater problem is the lack of adequate explanation for rejection. For example, out of 47 proposals of Transparency Serbia, 4 were partially accepted. However, only in three cases, the explanation for rejection is fully adequate.²²⁴

In addition to the set of laws that was discussed before (5), Government proposed four supplements to existing judicial legislation that were not part of public consultation (more below).

Parliamentary debate started on 4 February and was finalized five days later, with the adoption of laws by the ruling coalition votes. MPs from the various opposition groups submitted more than a thousand amendments to the set of judicial laws.²²⁵ Majority of substantial amendments were inspired by the

211 Report on activities of NCEU WG for Chapter 23, April 2023, unpublished.

212 <https://www.mpravde.gov.rs/sr/vest/38475/odrzan-okrugli-sto-o-nacrtima-novih-pravosudnih-zakona.php>

213 <https://www.youtube.com/watch?v=pCmXGkbOWDM>

214 Ibid, first 32 minutes of recording.

215 <https://bit.ly/3W18bxN>

216 <https://www.cepris.org/reakcije/cepris-nece-ucestvovati-u-javnom-slusanju-o-pravosudnim-zakonima/>

217 "Information on public hearing" states that "an integral part of this information is verbatim, prepared on the basis of audio recording."
<https://bit.ly/3BmTbAR>

218 <https://bit.ly/3O5otni>

219 <https://en.yucom.org.rs/judicial-laws-entered-the-parliamentary-procedure-only-36-hours-after-closing-the-public-debate/>

220 <https://preugovor.org/Brief-Alert/1782/The-Government-Is-Making-Public-Debate.shtml>

221 <https://bit.ly/3BmaiT5>

222 <https://www.yucom.org.rs/dopunjeni-zbirni-komentar-radne-grupe-nacionalnog-konventa-o-evropskoj-uniji-za-poglavlje-23-na-nacrtu-5-pravosudnih-zakona/>

223 Interview with Jovana Spremo, coordinator of NCEU WG for Chapter 23, 18 April 2023.

224 In most the cases, it is only partial (e.g. refers to one paragraph and not to the whole article of draft law) or does not address the problem raised in a due manner, while the explanation for one-quarter of proposals (12 articles) it doesn't seem that they were considered at all (e.g. referencing to other organizations' comments to the same article, whose content was different).

225 <https://bit.ly/3o1JOMY>

inputs of non-governmental organizations, including prEUgovor members, Autonomous Women's Center and Transparency Serbia.²²⁶ Parliamentary committee and the Government accepted five (out of 284) amendments to the Law on Judges, 10 (out of 314) amendments to the Law on public prosecution, eight (out of 180) to the Law on High Judicial Council, eight (out of 198) to the Law on High Prosecutorial Council.²²⁷ Committee also proposed two amendments of its own to correct imprecise formulations. Amendments the government accepted became part of the laws, and the parliamentary majority rejected all the remaining amendments in the plenary.²²⁸

An interesting episode of that process was the assessment of corruption risks by the Agency for Prevention of Corruption, which was mandatory but omitted in official documents. Transparency Serbia later discovered²²⁹ the MoJ had asked the Agency for such an opinion only on 16 January 2023; Agency provided it already on 17 January, the very same day when the Government sent the proposals to the Parliament! MPs were informed that such opinion exists on the third day of the debate, again, not by the Ministry or the Agency, but by Transparency Serbia. As expected, identified risks²³⁰ were not properly addressed, and Agency published its analyses only after the laws were already adopted.

Ceremonial marking of the judicial reform and the legal vacuum in implementation

Shortly after the adoption of the laws, on 21 February, the Ministry of Justice organised a ceremonial Conference on judicial reform entitled "Constitutional Amendments, New Laws, Application in Practice", with the support of the European Union and the Council of Europe.²³¹ With this conference, the Ministry of Justice showed that it was putting an end to years of involvement in the preparation and adoption of judicial laws and was now marking the beginning of their application.

The adopted laws entered into force the very next day, on 10 February, despite the constitutional rule²³² that laws and other general acts are to enter into force no earlier than on the eighth day following their publication. Earlier entry into force is possible only if there are particularly justified reasons for it, established in the process of adoption of the law. Particularly justified reasons for the earlier entry into force of the judicial laws have not been established. At the same time, the application of all 9 Laws, although they were formally in force, was postponed by transitional provisions until the constitution of new convocations of the High Judicial Council and the High Prosecutorial Council.

✖ ALARM: Transfer of two deputy public prosecutors from the Special Department for Suppression of Corruption – Unclear epilogue

In February 2023, based on changes to the annual assignment schedule of the public prosecutor's office, two deputy higher public prosecutors in Belgrade, Bojana Savović and Jasmina Paunović, were assigned, i.e. transferred from the Special Department for Suppression of Corruption to the Department of the Higher Public Prosecutor's Office (HPPO) that deals with general criminal matters. The change in the annual assignment schedule was ordered by a Belgrade higher public prosecutor Nenad Stefanović. At the time of the transfer, the two public prosecutors were working on cases related to the abuse of official position in the public company Elektroprivreda Srbije (EPS). Just one day before she was verbally informed that she was being assigned to another department, Bojana Savović had ordered the arrest of 6 persons suspected of damaging EPS for USD 7.5 million while works were being performed at the Kostolac B thermal power plant (the suspects were later ordered detention).

226 <https://bit.ly/3lcYpCR>

227 <https://bit.ly/3LWGTny>

228 Minutes of the session of First extraordinary sitting of the Parliament in XIII Convocation, pages 47-70, <https://bit.ly/3BoDsku>

229 <https://transparentnost.org.rs/sr/aktivnosti-2/pod-lupom/12433-zanemareni-rizici-od-korupcije>

230 <https://bit.ly/44YsSOU>

231 <https://www.mpravde.gov.rs/sr/vest/38998/ustavni-amandmani-novi-prvosudni-zakoni-i-njihova-efikasna-implementacija-u-fokusu-razgovora-na-konferenciji-o-reformi-pravosudja.php>

232 Article 196 of the Constitution of the Republic of Serbia.

Since the news about the arrest of the suspects was making headlines in almost all the media,²³³ and the questioning of the defendants was being prepared at the time of the prosecutors' transfer, prosecutor Savović publicly expressed her doubt that the transfer was caused by real and organisational issues, believing that it rather occurred to remove her from the case she was working on. Savović addressed the public after the HPPO's statement claiming that it was she herself that requested the transfer, but also that she was delaying taking actions in the case, which Savović vehemently denied.²³⁴ Jasmina Paunović, who told the public that she was transferred because she opposed the oral order of the higher public prosecutor according to which deputy public prosecutors would – in the future – have to consult their superiors about every single action and communication with the police, also believed that the transfer was caused for other, not organisational, reasons.²³⁵

After the news about the transfer was announced, the public and citizens expressed concern and stood up in support of the prosecutors. The support culminated in civil protests that were held in Belgrade on 2 and 10 March, in front of the buildings of the Government of Serbia and the Republic Public Prosecutor's Office. The protesters asked that higher public prosecutor Nenad Stefanović, his deputy Brankica Marić and the Republic Public Prosecutor Zagorka Dolovac be dismissed for their unlawful influence on public prosecutors. A group of attorneys later submitted initiatives for dismissal to the competent State Prosecutorial Council (SPC).²³⁶

At the same time, the Commissioner for the Autonomy and member of the State Prosecutorial Council, Milan Tkalac, initiated proceedings to protect two prosecutors from undue influence. A month after he discussed the transfer procedure with Bojana Savović and Jasmina Paunović, the Commissioner issued a statement in which he concluded that in this particular case there was no external influence, that it rather involved an organisational issue of the HPPO in Belgrade, and that, according to the current regulations, it is the Higher Public Prosecutor who decides thereon. At the same time, the Commissioner said that it is not advisable to change the deputy public prosecutor mid-case, especially in the course of actions that are of a repressive nature.

The State Prosecutorial Council did not – in accordance with the Constitution, the Law on the Public Prosecutor's Office and the Rules of Procedure of the SPC – make a clear decision on the (non)existence of impermissible influence; instead, it ended its actions in this case by publishing a statement by the Commissioner for the Autonomy of the SPC, which contained contradictory conclusions as to whether the change in the annual assignment schedule was intended to have an impermissible influence on proceeding in specific cases.²³⁷ The minutes of the session of the SPC at which this issue was decided are still not available, and neither is the Report of the Commissioner for the Autonomy of the SPC, which was adopted by the SPC and on the basis of which he addressed the public in a statement.

By doing this, the State Prosecutorial Council avoided responding to its basic constitutional and statutory obligation to protect and, first of all, examine any possible unlawful influence on the actions of public prosecutors. At the time of the conclusion of this Report, the State Prosecutorial Council had not yet considered the initiatives for the dismissal of Nenad Stefanović, Brankica Marić and Zagorka Dolovac.

233 <https://www.danas.rs/vesti/ekonomija/mup-uhapseno-sest-osoba-za-koje-se-sumnja-da-su-ostetile-eps-za-75-miliona-dolara/>

234 <https://beta.rs/vesti/politika-vesti-srbija/176760-tuziteljka-nisam-trazila-premestaj-i-odugovlacila-predmet-za-eps-oduzet-mi-je>

235 <https://www.danas.rs/vesti/drustvo/tuziteljka-paunovic-premestena-sam-je-sam-se-usprotivila-stefanovicu/>

236 <https://insajder.net/prenosimo/predmeta-incijativa-za-razresenje-dolovac-stefanovica-i-njegove-zamenice>

237 <https://www.danas.rs/vesti/drustvo/tuziteljka-bojana-savovic-iz-saopštenja-poverenika-se-ne-moze-zakljuciti-sta-je-predlozio-dvt/>

The real scope of the solutions contained in the Law on the High Judicial Council (HJC) and the Law on the High Prosecutorial Council (HPC)

In the previous Alarm report,²³⁸ it was emphasised that a high level of agreement was established in the domestic and international public regarding the fact that constitutional changes represent a good chance, yet not a solid guarantee, of improving the situation in the judiciary. In other words, that the constitutional changes have opened up the possibility of improving the independence of the judiciary by adopting new legal solutions. The hope that a significant change in the system would in fact occur came when the competence for the election of judges and public prosecutors was transferred from the National Assembly to the judicial councils.

The legislative process has progressed since November 2022; consequently, legislative solutions changed from working version and drafts to proposals, and then to solutions whose final versions were adopted by the National Assembly in February 2023. Despite certain changes in the normative solutions that were noticeable in each of the above phases, it turned out that the main concerns of the professional public, highlighted in the public debate, remained without reaction and that there was no will to discuss them openly. One of the key concerns related to the fact that the legislative branch of power, i.e. the ruling majority, will retain enough political influence - through the composition, decision-making and certain competences of the High Judicial Council and the High Prosecutorial Council - to prevent the essential independence of the judiciary and the autonomy of the prosecution.

The method of the HJC's decision-making, which was envisaged in the previous stages of drafting the law, was not abandoned in the adopted text of the Law on the High Judicial Council. Once it is constituted, the HJC will be able to take decisions only if 8 of its 11 members are present, which will enable prominent lawyers, elected by the National Assembly, to block its work by their absence, or to make attendance at sessions conditional on the adoption of politically desirable proposals or decisions. We can also see the decisive influence of the position and vote of a prominent lawyer in the most important electoral competences of the HJC, where a qualified majority, which includes at least one vote of a prominent lawyer (8 in total) will be necessary for the election of the President and Vice-President of the Council, the election of the President of the Supreme Court and presidents of other courts, the dismissal of the President of the Supreme Court and presidents of other courts, and the dismissal of judges.

In response to this criticism about the possible political influence of prominent lawyers in the Councils, especially when it comes to not providing a quorum required for work, the Ministry of Justice and the Government of Serbia publicly emphasised that the mechanism for the termination of office of a member of the HJC and the HPC who often fails to participate in the work of the Council without proper justification²³⁹ would make a political blockade or political influence on decision-making without justifiable reason impossible. Although this solution was praised by the Venice Commission as well, it seems that the problem of a high and politically conditioned quorum required for work cannot be solved in this way. Namely, the decision on the termination of office of an elective member of the HJC and HPC is made by the Councils themselves.²⁴⁰ In the case of the HJC, in order to adopt such a decision, it is first necessary to secure a quorum of 8 members of the HJC, while in the case of the HPC, the possibility of political influence on such a decision is ensured by a greater political influence of the members of this body (in addition to four prominent lawyers, there is also the Minister of Justice, as well as the Supreme Public Prosecutor who is elected by the National Assembly). Apart from the need to ensure the presence of prominent lawyers in the case of the HPC to make it possible to take a decision to terminate the office of a prominent lawyer, it is necessary for the Council to establish without a doubt that a member of the HJC or HPC was frequently and unjustifiably absent from sessions, which also makes this mechanism an insufficiently reliable remedy against political blockade. What exactly is to be considered frequent absenteeism has yet to be determined in practice, while the concept of justified absence also remains insufficiently clarified and leaves numerous dilemmas regarding the effectiveness of the above mechanism of termination of office of a member of the Council from the ranks of prominent lawyers.

238 Jelena Pejić Nikić (ed.), *PrEUgovor Alarm Report on the Progress of Serbia in Cluster 1 – Nov 2022*, prEUgovor Coalition, Belgrade, 2022, p. 46

239 Article 54, paragraph 3 of the Law on the High Judicial Council and Article 54, paragraph 3 of the Law on the High Prosecutorial Council.

240 Article 56 of the Law on the High Judicial Council and Article 56, paragraph 3 of the Law on the High Prosecutorial Council.

As regards the composition and decision-making of the High Prosecutorial Council, the proponents of the law did not give up their original intention to have one less prosecutor in this body than it was previously the case (five, instead of the previous 6) and to retain the membership of the Minister of Justice. The Venice Commission criticised this solution on several occasions.²⁴¹

The Law on HJC and the Law on HPC still contain problematic provisions on the transparency of the work of these bodies - the publicity of the sessions of the HJC and HPC is reduced to a general principle, which may be subject to exceptions, that is, exclusion of the public. However, the reasons for the exclusion of the public are not determined by law, and their determination has been left to the Councils themselves. Other envisaged aspects of transparency are reduced to the publication of the annual work report and regular notification of the public about the work of Council, which the Council itself is to regulate in the Rules of Procedure. During the public debate, criticism was heard about the inadequacy of such solutions, especially if we bear in mind that the HJC and the HPC are to fully take over the electoral function from the National Assembly, whose work, although politically colored, was completely transparent, both in the plenum and in the Committees. The adopted legal solutions have made it possible for the Council to regulate the presence at its sessions, as well as at those of its bodies, in the same or even more restrictive way than before. Unjustified exclusion of the public, as well as the impossibility of recording the sessions or publishing shorthand notes from the sessions of either Council, will reduce the level of transparency in the election of holders of judicial office.

It is positive that the proponent abandoned the secrecy of voting in the HJC in certain cases. In the previous Alarm report, we criticised the proposal to vote by secret ballot in the election of the President of the Supreme Court and the President and Vice-President of the Council. According to the adopted legal solution, all votes will be transparent, but the actual scope of this change is closely related to the still uncertain access of the public to the sessions of the HJC.

From the point of view of numerous participants in the public debate,²⁴² the criteria for the selection of prominent lawyers elected to both Councils by the National Assembly remained inadequate despite numerous proposals for their change. The biggest flaws of the legal requirements for election are: discrimination based on the age of the candidate, that is, the impossibility for a lawyer older than 65 to discharge the office of a prominent lawyer, and the imprecise criteria related to other characteristics of the candidates. Namely, it will be extremely difficult for the National Assembly to reach a consensus on the meaning of terms such as "does not strongly influence the making of political decisions" or "has experience and knowledge relevant to the work of the judiciary". In addition, the procedure stipulated by the law regulates only the moment when the formal (exact) aspects of the candidate's application are being decided upon, while the moment of deciding on the descriptive, in some cases negatively defined requirements for election is not specified. The criticism that the competent committee of the National Assembly does not decide on all the candidates who applied for the competition, but only on those proposed by individual members of the Committee, is completely justified, painting the decision on the candidates the National Assembly will be deciding on in political colours, rather than those of an open competition.

In the Law on the High Judicial Council (Articles 25-42) and the Law on the High Prosecutorial Council (Articles 25-42), the provisions that were practically unanimously criticised by the professional public and the Venice Commission remained unchanged. They concern the rules for choosing elective members from among judges and prosecutors. In both cases, the rules on the representation of courts, i.e. prosecutor's offices in the HJC and HPC remained such that hierarchically higher bodies are represented by a larger number of members (who need a smaller number of votes to be elected to office), which means that the votes of judges and prosecutors are not valued equally (according to the principle of 'one person - one vote'). At the same time, small electoral units in courts and prosecutor's offices enable relatively easy threats to the freedom of election of judges and prosecutors, i.e. unlawful control of the electoral process.

241 Paragraph 17 CDL-AD(2022)042-e Serbia - Opinion on two draft laws implementing the constitutional amendments on the prosecution service.

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

The real scope of the Law on the Organisation of Courts, the Law on Judges and the Law on the Public Prosecutor's Office

The most significant systemic changes in the area of the judiciary were made by the adoption of the Law on the High Judicial Council. The Law on the Organisation of Courts and the Law on Judges contain generally acceptable solutions, with certain exceptions which the proponent of the Law was not ready to review. The adopted solution retained the restrictive definition of the judges' right to association as the right to professional association aimed at protecting one's interests and preserving independence in work. International standards and recommendations in this area include a judge's right to act publicly in the protection of the rule of law, but this standard has been omitted in domestic legislation. There is a danger that the adopted solution will further discourage judges from speaking publicly in any way to protect the separation of powers, especially if we consider the unspecified prohibition of judges acting politically 'in other ways'.²⁴³

The poorly worded provision on the incompatibility of a judge's work with other offices or private interests²⁴⁴ was adopted as well. According to that provision, a judge cannot discharge another office, or engage in another job or private interest that is contrary to dignity, i.e. damages the reputation and independence of a judge. The Ethics Committee will be the one deciding which jobs are contrary to judicial dignity, that is, which jobs damage the reputation and independence of a judge, which makes this type of incompatibility uncertain, undeterminable and, therefore, unfavourable for judges who should know in advance which jobs are considered incompatible with their office. To all this, we should also add the vagueness of the criteria based on which the High Judicial Council can propose an extraordinary performance evaluation of a judge, in addition to the regular one.²⁴⁵

It is positive that the Law on the Organisation of the Courts amended the provision prohibiting undue influence on a judge discharging judicial office, which was defined too broadly in earlier proposals and included also the prohibition of commenting on proceedings that were not yet concluded by a legally binding decision. According to the adopted legal solution, using the legal rights of participants in court proceedings, reporting on the work of the court and commenting on ongoing court proceedings or court decisions in accordance with the regulations governing public information, or professionally analysing court proceedings and decisions cannot be considered undue influence.²⁴⁶

As regards the Law on the Public Prosecutor's Office, provisions that are the most unfavourable for the autonomy of the public prosecution are already determined by the strict hierarchical structure of the prosecutor's office prescribed by the Constitution. Among them is the provision according to which no one outside the Public Prosecutor's Office can influence the public prosecutor's office and the prosecutors while they are acting and deciding in a particular case,²⁴⁷ and the provision which makes it possible for higher public prosecutors to issue general mandatory instructions to hierarchically lower public prosecutors so as to achieve legality, effectiveness and uniformity in acting.²⁴⁸ Just like with the laws on judges, the opportunity was missed to have the Law on the Public Prosecutor's Office allow for a completely free association of prosecutors. Instead, it introduced a broad and extensive prohibition of political activity. That prohibition, together with the ban on membership in a political party, obliges the holder of the office of public prosecutor to refrain from public expression of political views and participation in public debates of a political nature unless they involve issues concerning public prosecution, constitutionality and legality, human rights and fundamental freedoms. Ensuring the random distribution of cases in the prosecutor's office (based on the model used in courts) was missed as well, while the objection against hierarchical powers was entrusted to the Commission²⁴⁹ formed by the High Prosecutorial Council, in which prosecutors - as already mentioned - are in the minority.

243 Article 31 of the Law on Judges.

244 Ibid.

245 Article 39 of the Law on Judges.

246 Article 8 of the Law on the Organisation of Courts.

247 Article 155 of the Law on the Public Prosecutor's Office.

248 Article 157 of the Constitution of the RS.

249 Article 22 Law on the Public Prosecutor's Office.

Inadequate solutions hidden by technical changes to other judicial laws on the suppression of special forms of crime

The four judicial laws that were adopted on 9 February, and which did not pass public debate, include the Law on the Organisation and Competences of State Authorities Combating Cyber Crime, the Law on the Organisation of the Competences of State Authorities in War Crimes Proceedings, the Law on the Organisation and Competences of State Authorities in Combating Organised Crime, Terrorism and Corruption, and the Law on the Constitutional Court. There are two key groups of changes to these laws. One refers to technical changes. Changes of a technical nature are conditioned by changes in the names of certain bodies (e.g., introduction of new terms such as Chief Public Prosecutor and Supreme Public Prosecutor, changes in the names of certain prosecutor's offices, and so on). However, amending certain provisions also implied essential changes.

Amendments to the law allow judges of specialised departments of the Higher and Appellate Courts, as well as specialised prosecutor's offices in charge of prosecution in special areas, to be assigned or appointed to these positions until the constitution of a new convocation of the High Judicial Council and the High Prosecutorial Council, with a guarantee of completion of their mandate. Some changes, apart from the possible appointment of judges and prosecutors in the current transitional period, include extending prosecutorial mandate, as is the case with the prosecutor for cybercrime, whose mandate was extended from four to six years.

It is particularly interesting that the proposed amendments to the Law on the Constitutional Court envisage the possibility for a sitting judge or holder of the office of public prosecutor to be elected as a judge of the Constitutional Court. The earlier legal solution was more restrictive, excluding the election of heads of prosecutor's offices to the Constitutional Court. The amendments made it possible even for the Supreme Public Prosecutor to be elected as a judge of the Constitutional Court, which is particularly controversial if we bear in mind that the Constitution and the law define this prosecutor as a participant in the proceedings before the Constitutional Court.

Also, the amendments to the Law on the Suppression of Organised Crime, Terrorism and Corruption deleted the requirement that, when assigning or referring public prosecutors to the special department for the suppression of corruption, care be taken to ensure that they possess the necessary expert knowledge and experience in the field of fight against economic crime and in suppressing criminal acts against official duty and corruption. This requirement was retained only with regard to the appointment of the head of that department.

Opinions of the Venice Commission on judicial laws

In the observed period, the Venice Commission adopted no less than three opinions related to the judicial reform in Serbia. The Opinions on three revised judicial laws²⁵⁰ and two prosecutorial laws²⁵¹ were adopted in December, while the Information on the implementation of previous opinions of the Commission on judicial laws in Serbia was adopted in March 2023.²⁵²

In the above Opinions, the Venice Commission mostly adhered to previously issued recommendations and guidelines and expressed its satisfaction with the fact that the proponent of the laws had adopted certain suggestions. Somewhat new findings of the Commission were those that concerned the adoption of laws only as a good basis for longer-term changes in the judicial system, and noticing the hierarchical spirit of judicial laws, whose true and best implementation will require a change in legal culture.

As the judicial reform was reaching its completion, the Venice Commission increasingly labelled certain legislative choices as legitimate, even though it had previously criticised them to a greater or lesser extent. For example, in the Opinion on the prosecutorial laws, it concluded that "the Serbian prosecutorial

250 CDL-AD(2022)043-e Serbia - Follow-up Opinion on three revised draft Laws implementing the constitutional amendments on the Judiciary of Serbia.

251 CDL-AD(2022)042-e Serbia - Opinion on two draft laws implementing the constitutional amendments on the prosecution service.

252 CDL-PI(2023)005-bil Serbia- Information to the Follow-up on three previous opinions on Judiciary.

system was and will remain hierarchically organised, which is a legitimate choice”,²⁵³ although in previous opinions it had emphasised the need to reduce said hierarchy. The criticism regarding which the Venice Commission remained harsh until the very end refers to the presence of two ex officio members in the High Prosecutorial Council of Prosecution, namely the Supreme Public Prosecutor and the Minister of Justice. In its Opinion from December 2022, the Commission stated that it “remains concerned” about their membership in the HPC, especially because of the possibility of their influence on other members of the Council.²⁵⁴

4.1.2. Election of prominent lawyers – from poor competition to results mirroring preferences of the parliamentary majority

The implementation of new laws started with the election of lay members of judicial councils (“prominent lawyers”). Despite some efforts to make this process less politically influenced in a way that results in an inter-party consensus, the lack of such consensus has triggered the anti-deadlock mechanism, an alternative procedure for the election of prominent lawyers via a five-member commission. Thus, the exceptional procedure, which was criticised by the expert community and the Venice Commission, was applied from the very start of the implementation of constitutional amendments. In the end, the Commission’s decision mirrored the preferences of the parliamentary majority.

The public call for prominent lawyers was published already on 10 February 2023, the very next day after the laws were passed.²⁵⁵ The application deadline of 15 days also included national statehood day. In addition to the lack of any promotional campaign to attract the best candidates²⁵⁶, rather a low number of those who applied may also be attributed to other factors – age limitations (less than 65 years), need to abandon other employment except for law professors, but above all, lack of confidence in the process where decision-making is arbitrary and politically based.²⁵⁷ Not only that, the number of applications was relatively small, but only a few candidates were known even to the expert public, derogating to a certain extent the whole idea of selecting “prominent lawyers”.

The composition of each judicial council includes four prominent lawyers. The Committee for Justice, State Administration and Local Self-Government (hereinafter: the Committee) adopted a list of 18 candidates for prominent lawyers in the High Judicial Council and 11 candidates for the High Prosecutorial Council at the session on 3 March.²⁵⁸ The Committee published their CVs and invited them for an interview organised on 11 March.²⁵⁹

Opposition MPs opposed several candidates based on various grounds. Some of them highlighted the political background of the election and the lack of transparency in the entire process, claiming that many candidates are in close relations with people in ruling positions and few candidates directly supported Aleksandar Vučić’s candidacy for the 2017 presidential election,²⁶⁰ or that one candidate had rigged local election results in 1996²⁶¹.

Despite legal provisions that provide for the broadcasting of debate in committees, the Committee decided not to broadcast via television but only on the website of the National Assembly. Another violation of procedural rules was that the Committee decided who would be invited to attend the interview session, regardless of the provision of Article 48, para 8 of the Law on HJC, i.e. Law on HPC, that assumes participation of “general and expert public”. Furthermore, the Committee rejected the

253 Paragraph 141 of the Opinion.

254 Paragraph 142 of the Opinion.

255 <https://bit.ly/44WTJuB>, <https://bit.ly/3W5yEKI>

256 <https://bit.ly/41CtLcQ>

257 <https://preugovor.org/Brief-Alert/1782/The-Government-Is-Making-Public-Debate.shtml>, p.4.

258 Seven candidates applied for both councils. One application for HJC and three for HPC were rejected due to late submission. <https://bit.ly/44XHX3c>

259 <https://bit.ly/3Bp88IJ>

260 <https://bit.ly/3o932Hc>

261 <https://bit.ly/3W17TXG>

proposal to invite representatives of CEPRIS and Transparency Serbia, organisations that provided MPs with amendments to the draft laws, because of the alleged “lack of space” for organisations other than those belonging to the judicial profession.²⁶²

The Committee agreed on eight candidates for each council and organised a public hearing on 1 April.²⁶³ In contravention of Article 50, para 3 of relevant laws, the Committee repeatedly arbitrarily decided whom to invite to the public hearing. Among others, the proposal to invite NCEU representatives was rejected. “This was also a disruption of the agreed relatively inclusive and transparent reform process, where the NCEU was presented as a relevant partner and provided inputs in every phase.”²⁶⁴

During their presentations, the candidates mostly avoided any value position, including mentioning the principles of the Constitution on the rule of law, the separation of powers and an independent judiciary.²⁶⁵ At the beginning of the public hearing, the Chairman of the Committee, Vladimir Đukanović from the ruling party, asked those present to refrain from political comments, and then he himself constantly violated this rule.²⁶⁶ Opposition MPs asked the candidates about possible solutions to the known problems of the judiciary, but most avoided an explicit answer.²⁶⁷

On its 20 April plenary session, the Parliament elected only one prominent lawyer (out of a total of 8 for both councils) as a member of the High Judicial Council with the required 2/3 majority of votes (Aleksandar Popovic).²⁶⁸ Voting results clearly showed which candidates enjoyed the support of the parliamentary majority. Moreover, almost none of them got support from the opposition MPs. Some of them explained their position.²⁶⁹

In the absence of parliamentary support, the election of seven remaining prominent lawyers was delegated to a five-member Commission composed of the Speaker of the National Assembly, the President of the Constitutional Court, the President of the Supreme Court, the Supreme Public Prosecutor and the Protector of Citizens. The Commission convened²⁷⁰ first on 28 April to adopt its Rules of procedure²⁷¹. The second session was convened on 8 May 2023.²⁷² The whole session lasted only 49 minutes, out of which the most was spent on the presentation of individual candidates, whereas members of the Commission did not bother to ask them anything.²⁷³ Speaker of the Parliament “reminded” the rest of the Commission members which candidates received more than a half votes of MPs in the plenary.²⁷⁴ Exactly those candidates received all five votes (5 candidates) or four votes 2 candidates from the Commission members.

RECOMMENDATIONS

- Open the procedure for the adoption of by-laws on the application of judicial laws to the public, bearing in mind the importance of the new competences of the HJC and the HPC;
- Open the work of the High Judicial Council and the High Prosecutorial Council to the public, to the same extent to which transparency was provided when deciding on the judiciary in the National Assembly (open sessions, recorded sessions, etc.).

262 <https://bit.ly/452rLxu>, video recording, starting from 1.06.00.

263 <https://bit.ly/3BovPe0>

264 Interview with Jovana Spremo, coordinator of NCEU WG for Chapter 23, 20 April 2023.

265 <https://pescanik.net/istaknuti/>

266 Ibid.

267 Ibid, such as: “Given this stage of the proceedings, it is essential for me that I do not give that kind of response. It’s a political issue.”

268 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS27-23.pdf

269 <https://twitter.com/MishoGavrilovic/status/1643705470996078593>

270 <http://www.parlament.gov.rs/upload/documents/dokumenta/saziv%201%20sednice%20komisije.pdf>

271 <http://www.parlament.gov.rs/upload/documents/dokumenta/Poslovnik%20komisije.pdf>

272 <http://www.parlament.gov.rs/upload/documents/dokumenta/saziv%202%20sednice.pdf>

273 <http://217.26.67.44/filesnrs/predsednik/preds2023050813.mp4>

274 Ibid, 45.28 minutes.

4.2. Fight against Corruption

According to several reports, the Republic of Serbia's fight against corruption has declined, including Transparency International's Corruption Perception Index.²⁷⁵ The 2022 rating for Serbia is the lowest in the past 11 years since the current methodology has been in use. In fact, Serbia's position in the table is currently at its lowest in the entire period since the number of ranked countries equals the current one (since CPI 2007).²⁷⁶

In the reporting period, the Government did not even start preparing amendments to anti-corruption regulations (except in the judiciary and internal affairs) concerning the recommendations of relevant international bodies. Within the fifth round of the GRECO evaluation and in reports of ODIHR and Venice Commission, Serbia received some highly significant recommendations for improving several laws; however, the state authorities have yet to take any action regarding these. It would be, therefore, almost impossible to implement GRECO recommendations before the reporting time (September 2023).

The parliament did not adopt any other law or amendment to the law that could have a significant impact on anti-corruption, nor did it invite the Agency for Prevention of Corruption to provide an opinion on corruption risks in legislation.

Work on the new Anti-corruption Strategy started in March 2023, with a significant delay compared to plans and without comprehensive analysis and commitment of government institutions. The results of the implementation of Operational Plan for the Prevention of Corruption in Areas of Special Risk are not visible yet.

All the negative trends that had been noted in previous reports have continued or intensified, especially when it comes to the management of state-owned enterprises and public administration and in public procurement. Furthermore, the transformation process of the largest state-owned enterprise (EPS) was performed in a way that would significantly reduce or exclude the application of anti-corruption rules to this company and their officials.

The decision-making process in the Government remained unclear in other matters of high public interest, while corruption risk analyses of draft laws and lobbying legislation are poorly implemented.

This period was also marked by the absence of reaction of the competent authorities in some potential cases of high-level corruption revealed by the media or arising from mutual accusations by politicians, including those from the ruling party. In addition, statistics for 2022 show a trend of a decrease in the number of criminal charges, indictments and verdicts compared to the previous year. The removal of two deputy prosecutors in Belgrade HPO from the corruption case revealed avenues of potential improper influence that are not sufficiently addressed by the judicial reform

The new director of the Agency for Prevention of Corruption has been elected. Some improvements in Agency's communication with the media are noticeable.

4.2.1. New anti-corruption strategy – the work has finally begun

The national strategy for the fight against corruption has not been in place for the past four years. Although there was a plan to establish the Working Group for the development of this strategy in the first quarter of 2022,²⁷⁷ this happened only in March 2023. Consequently, it is quite obvious that the adoption of this act – highlighted in the European Commission's latest report as one of the key priorities²⁷⁸ – will be delayed.

²⁷⁵ https://images.transparencycdn.org/images/Report_CPI2022_English.pdf

²⁷⁶ <https://www.transparentnost.org.rs/en/ts-and-media/press-issues/12426-serbia-fell-below-the-hundredth-place-in-the-world-list-of-transparency-international-s-index-of-corruption-perceptions>

²⁷⁷ <https://bit.ly/3E2YQOI>

²⁷⁸ European Commission, Republic of Serbia – Report for 2022, 12 October 2022, <https://bit.ly/3WA347F>

The working group for the new Strategy, established by the Ministry of Justice (MoJ) on 21 February 2023, includes 41 members, with the state secretary in the MoJ as a chairperson.²⁷⁹ Ten members come from the judiciary, nine are from NGOs or the private sector, while other members represent other line-ministries, the government of Serbia and independent state bodies. Unlike ten years ago, when the previous Strategy was drafted, the Agency for Prevention of Corruption is not part of the working group but only an observer. The observers of international organisations and several donor projects also attend sessions. The observer role of GIZ and EU Delegation is even officially recognised in the Rules of Procedure of the Working Group.

The Working Group will take decisions by the majority of votes of its members. Five sub-groups supported by external consultants will draft the main part in parallel. Foreign experts that prepared analyses considered a limited number of sources,²⁸⁰ leaving out many other relevant reports for this matter, including at least five TS publications and a number of prEUgovor Alarm reports and policy papers.²⁸¹ The drafting process from the beginning relies on support from international projects.

According to analysis results, the sectors particularly vulnerable to corruption are health care, education, taxation, customs, police, local self-government, public sector affairs management, infrastructure and spatial planning, political financing, privatisation, public procurement, lobbying, and whistleblowers protection.

The Working Group accepted the experts' proposal to group sectors, using corruption risk assessment methodology and considering "cross-cutting issues common to abovementioned sectors, i.e. whistleblowers protection, lobbying, public procurement, privatisation, etc."²⁸² Based on proposals of the TS representative in the Working Group (no other member had proposals), "state-owned enterprises" are accepted as a separate sector of risk, and transparency in work was included as a cross-cutting issue. It was also agreed to include risks coming from the distribution of public funds to the media and CSOs as a topic in relevant sectors.²⁸³

The work of the Working Group is hampered by the fact that the information on the status quo and implementation of previous anti-corruption measures are not fully available, even though it was planned to have them prepared in advance.²⁸⁴ Another challenge would be commitment, in particular of other line ministries. The Ministry of Justice has limited influence on other ministries, while a comprehensive anti-corruption strategy could require significant interventions in legislation and practice in other sectors. A notable example is that representatives of the Ministry of Economy did not participate in the first two meetings of the sub-group tasked to discuss anti-corruption measures in state-owned enterprises during April 2023.

Program of the Government – where is anti-corruption?

Unlike previous governments, the current Serbian Government, which came into power in October 2022, does not prioritise the fight against corruption in its plan. The Prime Minister's exposee,²⁸⁵ when it comes to the fight against corruption, only highlights the law enforcement's results from the previous period and does not provide any information about planned future measures.

279 <https://mpravde.gov.rs/files/re%C5%A1enje%20Radna%20grupa.pdf>

280 European Commission's Serbia 2022 Report, Report on Anti-Corruption strategic document impact assessment (Belgrade, June 2022), Revised Action plan for Chapter 23, The rule of law as the basis of the fight against systemic corruption, Transparency Serbia – Risks of corruption in regulations, Geopolitics, State Capture and Peak Corruption, What is Next for Anti-corruption in the Western Balkans.

281 <https://bit.ly/3Bizr0X>

282 Ministry of Justice, Minutes from the first session of the Working group, 20 March 2023.

283 Ministry of Justice, Minutes from the second session of the Working group, 31 March 2023.

284 This issue is discussed in detail in the previous Alarm report.

285 Program of Republic of Serbia Government, presented to the Parliament on 25 October 2022, page 60, accessible at: https://rsjp.gov.rs/wp-content/uploads/ana-Brnabić-ekspoze-1022_cyr.pdf

However, the Action Plan for implementing the Government's programme,²⁸⁶ adopted on 23 February 2023, outlines some specific activities. It is envisaged that the number of detected criminal offences with the element of corruption will steadily increase over this period to reach 820 in 2026 (compared to 702 as a 2022 baseline).²⁸⁷ However, it is worth noting that in the last available report on the implementation of (previous) government plans²⁸⁸ from 2021 indicates a much higher number of such criminal offences detected (1,336). This could serve as a good illustration of the need to be very cautious when judging about the implementation of this and similar plans. While the plan might be fully implemented, the impact level could be minimal due to the selection of rather a low target value for the indicator of success.

Action Plan for Chapter 23 – doubtful impact and duality of reporting

In this period, no changes were made to the system for monitoring and controlling the implementation of AP 23; thus, when it comes to the fight against corruption, monitoring and control are performed by the Coordinating Body for Monitoring the Implementation of the Action Plan for Chapter 23 (quarterly reporting) and the Agency for the Prevention of Corruption – sub-chapter "Fight against corruption" (annual reporting), which apply different methodologies.

The Ministry of Justice published the report of the Coordinating Body (CB) for the implementation of the Revised AP 23 for the last quarter of 2022 at the beginning of March 2023 (hereinafter: Report AP23 IV/2022).²⁸⁹ The National Assembly considered the annual report of the Agency for the Prevention of Corruption but did not discuss the implementation of the Action Plan in 2021, even though the adopted conclusion includes (in the title) that segment of the Agency's reporting.²⁹⁰ Moreover, the National Assembly did not even publish this report on its website.²⁹¹

According to the assessment of the Agency for Prevention of Corruption,²⁹² there is a significant delay in implementation. Out of a total of 130 activities, Agency assessed 87, which includes continuous activities (i.e. those implemented during the whole period), those envisaged for the year 2022 and those envisaged for an earlier period but not fully implemented. Quantitatively, Agency considers that 61% of activities were implemented, and 33% were not, while for five activities (6%) Agency could not provide an assessment.

The agency provided a total of 25 recommendations, starting from the need to conduct another revision of the Action Plan. Among others, Agency suggested revision related to the deadlines of inter-connected activities and the need to align deadlines in cases where some impact assessment analyses are envisaged in the Law on the planning system. Agency also suggested that the institution in charge of the collection of information should not be treated as responsible for the implementation of the activity. The Agency should recommend different types of reporting for all activities related to training and capacity building, i.e. to include a comparison of those trained with the number of those who needed such training. Similarly, when the activity is related to conducting some procedures, the number of initiated and the number and outcome of finalised cases should be reported. The agency noted that "report of institution" cannot be considered an appropriate sole indicator of the result, since additional information is needed (e.g. what the report should contain).

Some of the recommendations seem to be manageable in the current system. For example, Agency noted that if the activity assumed the participation of CSOs in the drafting process, the responsible institution should also report such participation. However, Agency already may ask for such additional information.

286 Republic of Serbia, Secretariat for Public Policies: Action plan for implementation of the Program of the Government of Serbia for the period 2023-2026. <https://rsjp.gov.rs/wp-content/uploads/APSPV-2023-2026-1.pdf>

287 *ibid*, page 12, point 4.3.3.

288 The Republic of Serbia, Secretariat for Public Policies, Report on results in the implementation of the Action Plan for the implementation of the Program of the Government 2020-2022, <https://bit.ly/42Ptftb>

289 The report on the third quarter was not available at the time of preparation of this Alarm report, <https://bit.ly/3NKqbZa>, 20 October 2022.

290 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/ostala_akta/13_saziv/RS9-23.pdf

291 <http://www.parlament.gov.rs/akti/izvestaji/-u-sazivu-od-3-avgusta-2020.4690.html>

292 Agency for Prevention of Corruption, Report on implementation of the revised Action plan for Chapter 23 – subchapter Fight against corruption, for 2022, March 2023, <https://bit.ly/3nLK5KQ>

Similarly, Agency recommended that responsible institutions should provide comprehensive information and include indicators of the results.

During the reporting period, the Government and the Assembly did not pass the acts that were envisaged in the Revised Action Plan for Chapter 23. Some activities from that Plan were implemented by other parties, but the goal for which they were planned was not achieved.

For certain activities, the two bodies evaluate success differently. In all such cases, CB, in its Report AP23 IV/2022, evaluates activity as implemented or partially implemented, while Agency identifies the lower level of implementation. For example, Agency considers that Anti-corruption Council is still not included in working groups, while Report AP23 IV/2022 evaluate that activity as “partially implemented”. Similarly, Agency considers activity related to the workshops with Parliamentary committees as not implemented, while Report AP23 IV/2022 again considers that there was partial implementation.

The major difference is related to the activity 2.2.6.2 – recruitment in public administration. The Agency considers that evaluating success is impossible, as there are no annual targets, while CB identifies activity as being successfully implemented.

There are also differences in remarks about the capacities of the Central Harmonization Unit, implementation of training of whistleblowers, internal control in public enterprises, communication between the police and prosecutors, capacities of prosecutor’s offices and changes in the Criminal Procedure Code.

Professionalisation of public administration: A drastic gap between reports and reality

The assessment that the activity “Complete all started competitions for filling job positions and start competition procedures for all vacant positions (including the positions currently occupied by acting officials).”²⁹³ was “successfully implemented”, speaks volumes of the drastic gap between the reports and reality. As reported in the period October-December 2022, there was only one advertised competition procedure for filling appointed positions that has not been finalised, and four competition procedures were completed that had been announced in the previous period. A total number of vacancies for appointed positions in the State administration is 412, while the number of employees who are currently in appointed positions appointed by the Government after public or internal competition procedure conducted, is only 160, or 39%.

What the Report IV/2022 does not mention is the fact that the “new” Government of Ana Brnabić continued with illegal the practice of illegal appointments of “acting civil servants on positions”, which is described in detail in prEUgovor’s Brief Alert.²⁹⁴

According to Transparency Serbia’s (unpublished) analysis, from 3 November 2022 till 16 March 2023, the Government conducted 219 appointments of acting civil servants. Among them, 33, or 15%, were retroactive, i.e. issued between 1 and 22 days later than the alleged appointment starting date. More than half of the appointments were made for three months period (123 out of 219), which is allowed only once. However, in many instances, the same people were already appointed to the same positions during the mandate of the previous government. The share of six months appointments is higher than before (44%), solely due to the fact that there was a reorganisation in several ministries and some positions are considered “new”.

Protection of whistleblowers: no improvements

The report on implementation of the Law on the Protection of Whistleblowers is not available yet. Without ground, CB considers that “monitoring of the effects of the Law on Protection of Whistleblowers in terms of acting of state authorities upon whistleblowers disclosures” was conducted, even though this was not the case.

²⁹³ Report on AP23 IV/2022, p. 92.

²⁹⁴ PrEUgovor, Things should be made legal in the state administration, Belgrade, October 2022, <http://bit.ly/3fTar9E>

In its recently published analysis,²⁹⁵ member of prEUgovor coalition Transparency Serbia, reminded the EC position that “the legal framework for the protection of whistleblowers has yet to be aligned with the new EU acquis”.²⁹⁶

On the other hand, amendments to the Law on the Protection of Whistleblowers are still not part of any planning document of the Republic of Serbia, even in the context of European integration. Although the Law on Protection of Whistleblowers in many of its parts prescribes higher standards than the relevant EU Directive, the said harmonisation could be useful, according to TS opinion, especially in terms of the actions of authorities responsible for external whistleblowing and monitoring the follow-up actions on what the whistleblowers reported. The Directive expressly stipulates that its application will in no case constitute a basis for reducing the level of protection already provided by the member states, and thus not even for Serbia, if it is harmonised. However, this work should be approached with extreme caution because there is an inherent danger that once the procedure for amending the Law is initiated, the decision-makers will remove from the Law some provisions that are positive under the guise of “harmonisation”.

Internal audits are conducted in only half of the state enterprises

According to the data available from the Central Harmonisation Unit (CHU) and reported by the Coordinating Body, out of a total of 41 state-owned enterprises that perform activities that are of general interest, only 22 of them, i.e. 54%, have a functional internal audit unit. Seven of the 14 taxpayers have a full internal audit unit with a minimum of three auditors. This is one of the strongest illustrations of the absence of awareness and will to establish the system as it was planned and provided for by the regulations.

Local anti-corruption plans

During the last six years, a total of 38 cities and municipalities (out of 145) adopted LAP and established the body in charge of the monitoring of LAP implementation, mainly in accordance with the Model promoted by the Agency for Prevention of Corruption, five of them during 2022.

Investigations

According to the report of the Coordinating Body, several prosecutor’s offices asked for additional staff during the 2022 for their anti-corruption departments. Prosecutor’s Office for Organized Crime points out that its current accommodation capacity is insufficient to fill all planned jobs. In the last quarter of 2022, two more deputy public prosecutors were assigned to the Special Department for Combating Corruption in Belgrade, and 1 more deputy public prosecutor was assigned to the Special Department for Combating Corruption in Niš. In addition to this, one prosecutorial assistant was assigned to the Special Department for Combating Corruption of the Higher Public Prosecution Office in Belgrade and 2 assistants in Niš Department. In the Special Department for the Suppression of Corruption in Novi Sad, all positions are filled in accordance with the current Rulebook on Internal Organization and Systematization of Positions, except for the position of financial forensic officer.

There is no new information about the Working Group for the Analysis of Criminal Procedure, which was established in order to identify and eliminate shortcomings of the Criminal Procedure Code and draft amendments based on the results of the analysis, nor about Working Group for the Analysis of the Effectiveness of the Criminal Justice System, aimed to identify and eliminate shortcomings of the Criminal Code and draft amendments based on the results of the analysis.

295 Transparency Serbia, 2023, Whistleblowing in Serbia and EU Directive, https://www.transparentnost.org.rs/images/publikacije/Uzbunjivanje_EN_e-copy.pdf

296 Namely, it is Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law. European Commission, Republic of Serbia – Report for 2022, 12 October 2022, <https://bit.ly/3WA347F>.

Changes to the strategic framework with anti-corruption elements

During the reporting period, the Government adopted several strategic acts that might prove relevant for the fight against corruption.²⁹⁷

Governments' Program for Suppression of Grey Economy in 2023-2025, adopted in March 2023, does not explicitly target corruption but contains measures related to the strengthening of the capacity of inspections and improvement of tax administration oversight.²⁹⁸

When it comes to the relationship between the Government and the Anti-Corruption Council, no progress was identified. The Government did not change the decision on the establishment of the Council in this period, nor did it strengthen the Council's budgetary and staffing capacities.

Cable Car on Kalemegdan: Fraudulent behaviour and actions beyond the public interest

On 30 September, 2022, the Anti-Corruption Council submitted a report²⁹⁹ on Construction of the Cabin Cable Car on the Route Kalemegdan – Park Ušće in Belgrade to the Government, the General Secretariat of the Government and the Republic Public Prosecutor's Office. The Council states numerous instances of fraudulent behaviour throughout the project, from its very beginning.

The Council states that from the beginning of the project, there hasn't been proper and active involvement of the institutions that have authority over the matter. The report states that the fulfilment of this project without the supervision of these institutions is a direct violation of the law.

The Council demands from the Government to put out of force the Conclusion by which the text of the agreement on cooperation on the realisation of the project Construction of a Cabin cable car in Belgrade was adopted. It also requests for the Government to instruct the Ministry of Trade, Tourism and Telecommunications to cancel and invalidate the Agreement on Cooperation on the Implementation of the Project and to initiate proceedings to cancel the Contract on the Construction of the Cabin cable car. The Council asks for more active participation of the institutions in these matters, as well as for the investigation by those institutions to determine how much damage has already been done.

From the very beginning of the implementation of the project, there was unlawful activity. Firstly, both plots of land in between which a cable car is to be installed are under protection of laws and ratified international agreements. During the development of the project, 155 trees were illegally cut down in the Ušće Park. This was carried out after a request was sent to the Public Utility Company "Zelenilo Beograd" for urgent felling of 155 trees. The felling of trees marked the beginning of the preparatory works, which began without a permit and without reporting the work to the relevant ministry. As far as Kalemegdan Park and the Belgrade Fortress are concerned, they represent the greatest historical and cultural treasure of Belgrade. The system of preservation and protection is regulated in the Law on Cultural Heritage. By issuing a permit without an environmental impact assessment study related to a plot of land on which an immovable cultural property of exceptional importance is located, the Ministry acted completely contrary to the law.

All work related to this project carried out so far has been outside the scope of public interest. The project was met with indignation from both the public and experts. Despite all the protests and court proceedings against the institutions involved in this project, it was not stopped, which was also shown in the proposals for the city budget in 2022 and 2023.

297 <https://www.srbija.gov.rs/dokument/45678/strategije.php>.

298 https://www.srbija.gov.rs/extfile/sr/690162/prog_zs_suzbijanje_sive_ekonomije_2023-2025_38_cyr.zip

299 <https://bit.ly/3BkFLVO>

Corruption risks of non-transparent and unclear ownership of agricultural land

On 21 November 2022, The Anti-Corruption Council submitted a Report on Non-transparency of Agricultural Land Ownership in the Republic of Serbia to the Government of the Republic of Serbia and the Public Prosecutor's Office.³⁰⁰ This is not the first report on this topic the Council has submitted to the Government. Previous reports from 2012 and 2017 analysed the ownership structure of agricultural land before and after privatisation, as well as the method of privatisation itself.

Responsible institutions, the Ministry of Agriculture, Forestry and Water Management and the Republic Geodetic Institute, do not have up-to-date and available data on the ownership structure, thus preventing the legal disposal and management of land. They also cannot provide data on the total amount of agricultural land available to the Republic of Serbia.

The Council requested the Government to order the Ministry of Construction, Transport and Infrastructure to supervise the work of the Republic Geodetic Institute due to non-compliance with the Law on Free Access to Information of Public Importance. It also ordered the Ministry of Agriculture, Forestry and Water Management to, in accordance with the Law on Agricultural Land, establish and manage an information system on agricultural land that will be transparent and accessible to every interested entity.

For ten years, the Council has been trying to present problems in the ownership structure, disposal and management of agricultural land with recommendations to the Government of the Republic of Serbia. With that in mind, three reports have been submitted by the Council pointing out the unavailability of the documentation that the institutions have at their disposal but would not provide it to the public with full transparency.

The problem of alienation of agricultural land without any compensation, which was the social property of privatised agricultural enterprises and combines, was never solved. In the earlier data submitted to the Council in real estate cadastres, thousands of hectares of agricultural land are in the status of "mixed and other forms of ownership" that are not in accordance with the legal regulations of the Republic of Serbia. In its report, the Council points to the unknown circumstances under which and on what legal grounds this land can be used with such a form of ownership. There are a large number of cases in which agricultural land is leased to individuals without them paying rent. However, abuse is also reflected through the provision of state subsidies with minimal control over their intended use.

4.2.2. Preventive anti-corruption laws

Even when there are reports, lobbying is invisible to the public

As regards the implementation of the Law on Lobbying, which came into force on 14 August 2019, progress is visible in the field of training and licensing of interested lobbyists and lobbying firms. During the 2022, the Agency for the Prevention of Corruption held three trainings for 16 candidates for lobbyists. A total of 44 individual lobbyists and three lobbying companies are currently registered in Serbia. However, the Law has in no way improved the transparency of the legislative process. The number of reported cases of lobbying is negligible, although it can reasonably be assumed that meetings of this sort take place on a daily basis.

In its annual report, the Agency reported that it had received three notifications from lobbyists about first lobbying contacts and five Work reports. The Agency recommended that the Law be changed in accordance with the recommendations of the Group of States against Corruption of the Council of Europe (GRECO) in the Fifth Round of Evaluation.³⁰¹ The Agency did not recommend any other changes beyond the recommendations of GRECO. The Agency hasn't increased the transparency of the lobbyists' activities by publishing information it already possesses.

300 <https://bit.ly/3MnxxCU>

301 <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a7216d>

In 2022, prEUgovor member Transparency Serbia (TS) researched the application of laws in institutions that can be expected to be most often exposed to lobbying – the Government of Serbia and its ministries, the National Assembly and the President of the Republic. In a request for access to information of public importance, TS asked to be provided with copies of the records envisaged by the Law on Lobbying.³⁰² Out of 25 submitted requests, 13 institutions responded, 12 providing an identical answer: there have been no lobbying contacts in terms of the provisions of the Law on Lobbying. The only exception is the Ministry of Economy. It provided information on lobbying for the April and August 2022 amendments to the Bankruptcy Law.

Risks of corruption in draft laws: an obligation ignored or creatively interpreted

Since 1 September 2020, the ministries are obliged, whenever they prepare a draft law, to ask the Agency for the Prevention of Corruption for an opinion on whether said draft contains a risk of corruption. However, this obligation only applies to laws that govern certain areas,³⁰³ despite the fact that any regulation can contain risks of corruption. According to the Annual report for 2022, the Agency prepared two opinions on draft laws in areas of particular risk for the emergence of corruption.³⁰⁴

Of the opinions given, in one case, the Agency informed the applicant that there were no objections to the text of the draft law, and in the other case, it pointed out the risk factors and gave recommendations for their elimination. In accordance with the Operational Plan for the Prevention of Corruption in Areas of Special Risk, the Agency prepared an analysis that includes opinions on the assessment of the risk of corruption in nine by-laws.

In the course of 2022, the Agency gave an opinion only on proposed draft amendments to the Law on National Framework of Qualification and the Law on Prevention of Corruption. Concerning the first one, Agency made several useful proposals, but the amendments have not yet been adopted. Regarding the Amendments to the Law on Prevention of Corruption, which established the duty of the President of the Republic to clearly explain to the interlocutors and the public whether he is acting in that capacity or in the capacity of a party leader, the Agency had no objections. However, as Transparency Serbia pointed out, when this Law was in the parliamentary procedure, the explanation of the proposed changes was incomplete, and numerous dilemmas that arose in practice have not been resolved.

Transparency Serbia, as part of the research on corruption risks in regulations,³⁰⁵ found that during 2022 (as well as a year before), the competent ministries in most cases did not respect even their basic obligation to submit to the Agency draft laws for opinion. This relates mostly to the Ministry of Finance, which consistently fails to seek opinion in regard to tax and custom regulation.

Transparency Serbia conducted analyses of several draft laws, where the opinion of the Agency was not requested. In the draft of the Law on Internal Affairs, controversial are the provisions on biometric surveillance, discretion in granting approval for the use of the term “police” in ensuring the publicity of work as well as significantly increased discretionary powers in employment, including opportunities for nepotism.

In order to illustrate the allegation that the risks of corruption should be identified and eliminated in all laws, and not only those concerning some previously identified “risk areas”, TS have also analysed other regulations. Such risks were found (insufficient transparency) in the amended Law on the Budget System, although some changes were made precisely to improve transparency.

Similarly, TS noticed shortcomings in the Law on the Budget for 2023 and the Law on the Final Account of the Budget for 2021, primarily in the form of the absence of explanations for many important items.

302 Transparency Serbia, Corruption Risks in Regulations and Lobbying, December 2022, <https://bit.ly/3O0eFej>

303 They are health, education, privatisation, public procurement, police, customs, taxes and local self-government. The areas were identified in the Action Plan for Chapter 23.

304 They are: Draft Law on Amendments to the Law on the National Framework of Qualifications of the Republic of Serbia – according to the request for the opinion of the Ministry of Education, Science and Technological Development and Draft Law on Amendments to the Law on Prevention of Corruption – according to the request for the opinion of the Ministry of Justice.

305 Transparency Serbia, Corruption Risks in Regulations and Lobbying, op. cit.

When it comes to public finances, TS analysis also included the law regulating the allocation of new state aid to young people, whose unsubstantiated explanation indicates that the real reasons for passing the law differed from the proclaimed ones.³⁰⁶

Amendments to the Law on Ministries from October 2022 have also been the subject of analysis. This act has never had the form of a draft, but was proposed directly by the members of parliament. Here, too, the five most controversial issues were the absence of an adequate explanation for the proposed reorganisation, as well as the insufficiently clear division of responsibilities between the newly established Ministry for Public Investment Management and other ministries.

In December 2022 Agency finally started publishing its opinions on the draft laws, following Transparency Serbia's recommendations.³⁰⁷

In the Annual Report for 2022, the Agency recommended establishing cooperation with the Government with the aim of informing about the draft laws from particularly risky areas that have not been submitted to the Agency for evaluation and limiting further discussions on the draft/ proposal of such laws. It also recommended to increase the number of employees in the Agency who work on assessing the risk of corruption regulations.³⁰⁸

4.2.3. Suppression of corruption – similar number of indictments, some information on damage available

According to the data presented on 16 January 2023 press conference, Police submitted 635 criminal charges against 1109 persons in 2022.³⁰⁹ Again, it is clear that the figures also include some other types of crime (like money laundering) that are not necessarily related to corruption. This is probably the consequence of assigning special anti-corruption departments as those in charge of numerous other criminal offences. Criminal offences related to these charges involved total damage of RSD 9.45 billion (app. EUR 805 million) and illicit gain of RSD 6.87 billion (EUR 585 million). Transparency Serbia requested and obtained additional information from the Ministry of Interior.³¹⁰ As may be seen from the table, figures are significantly lower when corruption is distinguished from the rest of the crime dealt by the same Police department.

Table 1: Police investigations of corruption and identified damage and illicit income in 2022

Criminal offence	Number of criminal charges	Identified damage in RSD	Identified illicit income in RSD
Trading in influence	25	266,000	189,001
Abuse of office	252	712,588,060	563,102,548
Private sector bribery	19	251,807,882	251,807,882
Abuse of the position of the responsible person (private sector)	113	2,341,819,582	2,572,636,317
Abuse related to public procurement	23	121,854,323	8,635,153
Total	452	1,320,698,223	1,080,998,215

Source: Ministry of Interior³¹¹

³⁰⁶ Read more in the section on the work of the parliament.

³⁰⁷ Transparency Serbia, Corruption Risks in Regulations and Lobbying, op. cit.

³⁰⁸ <https://bit.ly/3I2JNpH>

³⁰⁹ <http://www.mup.gov.rs/wps/poc/lut/p/wcm/oid:6bb66d00-0233-4600-9542-e5629dd0980e?locale=sr-Latn-RS>

³¹⁰ Written response to the request for information, Directorate of Criminal Police, 27 February 2023.

³¹¹ Ibid.

The Higher Courts, namely the Special Departments for the Suppression of Corruption, are responsible for deciding cases related to corrupt criminal acts.³¹² Among others, these include abuse of official position, receiving and giving bribes, money laundering, abuse related to public procurement, etc. The Special Departments for the Suppression of Corruption in the Higher Public Prosecutor's Offices and the Prosecutor's Office for Organized Crime are responsible for the prosecution of corrupt crimes, and separate statistics are kept for them.

According to the annual report of the Republic Public Prosecutor's Office for 2022,³¹³ the Special Departments had an 11% drop in newly received criminal reports for corruption offences compared to 2021. Similarly, the number of investigations, indictments and verdicts decreased.

Table 2: Annual statistics of anti-corruption departments of Higher Prosecutor's Offices 2021-2022

Category	2021	2022	Ratio 2022/2021
Investigations	266	203	0.76
Pro-active investigations	96	66	0.69
Indicted persons	579	431	0.74
Indicted after investigation	232	161	0.69
Pending criminal charges	6760	6336	0.94
Verdicts	502	486	0.97
Convictions	391	375	0.96
Prison	178	195	1.1
Suspended prison	202	179	0.89
Confiscation of benefits	81	63	0.78

Source: Republic Public Prosecutor's Office³¹⁴

Statistics for this and previous years are also similar when it comes to certain criminal acts. For example, there were 54 convictions for the criminal offence of abuse of position in business entities (62 in 2021); for abuse in public procurement, there were 12 convictions (9 in 2021); for abuse of official position, 114 convictions were handed down (121 in 2021), and 24 for accepting bribes (39 in 2021).

The statistics of the Prosecutor's Office for Organized Crime are different because they are based on persons, which means that even if one person is accused of several criminal acts, only the one for whom the most severe punishment is threatened is shown. That is why the frequency of committing certain criminal acts remains hidden behind the main punishment.

312 The Law on the Organization and Competence of State Bodies in Combating Organized Crime, Terrorism and Corruption determined the list of criminal offences which the Special Departments for Combating Corruption in the Higher Public Prosecutor's Offices Act; therefore these offences are called corrupt criminal offences. There are a total of 19 such criminal acts.

313 Republic Public Prosecutor's Office, Annual Report on the work of public prosecutors on the combat of crime and the protection of constitutionality and legality in 2022, <http://www.rjt.gov.rs/docs/rad-javnih-tuzilastava-na-suzbijanju-kriminaliteta-i-zastiti-ustavnosti-2022.pdf>

314 Ibid.

Table 3: Prosecutor's Office for Organized Crime statistics for corruption offences

Category	2021	2022	Ratio 2022/2021
New charges	109	90	0.83
Total charges in work	117	122	1.04
Proactive investigations	28	30	1.07
Charged after investigation	18	17	0.94
Convictions	27	30	1.11
Prison sentence	21	25	1.19
Conditional sentence	6	5	0.83

Source: Republic Public Prosecutor Office³¹⁵

On the official website of the Government of the Republic of Serbia, as a part of the subsection titled Stop Corruption, a significantly lower number of news have been published when compared to previous reporting periods. The majority of the news are about acts of accepting bribery and abuse of office. One of the most prominent cases from this reporting period in the area of suppression of corruption was the affair connected to the public enterprise Electric Power Industry of Serbia (EPS) and arrests made inside the company. On the government's website, an article states that in connection to the affair, 6 arrests have been made; however, without a word about what happened afterwards. After the court proceedings had already begun, public prosecutors who were assigned to the cases were reassigned to other sectors of the public prosecutor's office under the pretext of advancing efficiency.³¹⁶

315 *ibid*

316 Read more about this affair in the section on judiciary in this report.

Investigative story 2:

The mayor of Belgrade did not report the house worth 820,000 euros

In 2018, The Mayor of Belgrade, Aleksandar Sapić, bought a luxury villa in Trieste of almost 400 square meters but did not report it to the Agency for Prevention of Corruption, which, as a public official, he was obliged to do. This information was obtained by journalists from BIRN and the weekly Vreme by examining an extract from the Italian cadastre.³¹⁷ In the sales contract published by BIRN, the price of the real estate that Šapić bought is 820,000 euros, of which 735,000 is for the house and 85,000 euros for the garage (of 127 square meters) and he made the payment in several tranches, the first of which was paid in November 2017. This raised the question of the origin of this money since Šapić did not report to the Agency that he possessed any savings. The problem is that when buying a house, Šapić used the possibility of tax reduction in Italy, which is allowed for first buyers who do not own another real estate in the same municipality but do have residence. At the time of the purchase of the house, Šapić had residence in Trieste, although he was the president of the municipality of New Belgrade, so he lived and worked in Belgrade. This opened the possibility that, in addition to breaking the law in Serbia by not reporting the property, he also violated Italian laws.

Sapić did not respond to BIRN's questions. Later, visiting TV Prva, he said that within the legal deadline, he "reported 300 square meters and published 150" because it was an "effective living space" and stated that the Anti-Corruption Agency bears the blame because it did not warn him about this omission for four years. In the Report on Property and Income submitted to the Agency in January 2019, the Agency reported that he had bought an apartment in Trieste during the previous year. At the end of March 2023, Šapić filed two lawsuits against BIRN for two texts – about a villa in Trieste and the legalisation of the building in Belgrade district Bežanijska kosa – demanding that BIRN pay him a total of 12 million dinars for his mental anguish.³¹⁸

The investigative portal stated at the time that a little more than a month after he became mayor of Belgrade (20 June, 2022), Šapić received a decision from the Municipality of New Belgrade legalising the building on Bežanijska kosa – a seven-bedroom apartment of 340 square meters of usable area (i.e. 403 square meters of gross developed building area). The Statute of the City of Belgrade allows municipalities to legalise buildings up to 400 square meters of construction area.³¹⁹

4.2.4. Public procurement: Announcement of the amendments to the Law

Amendments to the Public Procurement Law (PPL) were planned for the end of 2021 in order to implement the measures from the Media Strategy and its accompanying Action Plan. Although announced, those amendments were never drafted. However, in the draft Action Plan of PPO³²⁰ for 2023, it is envisaged that PPL will be amended in the fourth quarter of 2023. According to some unofficial sources, the reason for changing the Law is primarily the prescription of green, ecological criteria as binding for certain types of public procurement.

This opportunity should also be used to eliminate other shortcomings in the current application of the Law, such as insufficient monitoring of the execution of concluded contracts, publication of tender documents and opinions on the justification of negotiation procedures without announcing a public call for bids, and the like. Because of these shortcomings, the public remains deprived of crucial transparency and competition information regarding these proceedings. The Law on Public-Private Partnerships and Concessions has still not been amended, although amendments have been planned for years.³²¹

317 <https://birn.rs/aleksandar-sapic-vila-u-trstu/>

318 <https://www.danas.rs/vesti/drustvo/aleksandar-sapic-podneo-dve-tuzbe-protiv-birn-a-trazi-12-miliona-dinara-za-dusevni-bol/>

319 <https://birn.rs/gradonacelnik-aleksandar-sapic-ozakonio-nelegalnu-gradnju/>

320 <https://www.ujn.gov.rs/vesti/izvestaj-o-rezultatima-sprovedenih-konsultacija-o-nacrtu-akcionog-plana-za-2023-godinu-za-sprovođenje-programa-razvoja-javnih-nabavki-u-republici-srbiji-za-period-2019-2023-godine/>

321 <https://jnportal.ujn.gov.rs/annual-reports-ppo-public>

Investigative story 3: **Secret Contract – How Serbia Bought Medical Equipment During the Pandemic**

CINS has uncovered a contract worth 64 million EUR, which shows how the deals were concluded and how the Government disregarded the Law on Public Procurement during the COVID-19 pandemic.³²² The state then decided to buy all medical equipment in secret, away from the public eye. Now, after three years, people still do not know what happened on 16 March, how the government spent their money, what was purchased at the time and from whom.

At a press conference on 15 March 2020, Serbian President Aleksandar Vučić announced that a state of emergency had been declared in the country. While people's lives were being radically changed, the state was in a hurry to acquire as much medical equipment as possible. *The National Health Insurance Fund* (RFZO) had already announced two public procurements for the purchase of masks, gloves and disinfectants worth more than 1.4 billion RSD. However, as early as 16 March, RFZO suspended these procurements.

On the same day when the state of emergency was declared, the *Government* made a strictly confidential decision, after which the public procurements announced by RFZO were suspended. The contract between RFZO and *Sinofarm*, obtained by CINS, reveals that the decision suspended the Law on Public Procurement for the purchase of medical devices and equipment pertaining to the pandemic.

In the midst of the pandemic, RFZO decided at meetings within that institution what it would be acquiring and from whom. CINS learned from several unofficial sources that companies that have acquired or can acquire some of the much-needed equipment were invited to the meetings. The state promised them advance payments and transportation assistance. CINS's sources claim that representatives of the *Security Information Agency* (BIA) were also present at the meetings.

A representative of *Sinofarm* was also present at one of those meetings. Although it shares its name with the Chinese company that produces vaccines, it is actually a family business from Belgrade that has been in existence for thirty years. Just one day after the introduction of the state of emergency, *Sinofarm* concluded a contract with RFZO worth 7.6 billion RSD, that is, more than 64 million EUR (including VAT). For this amount, they sold over 700,000 masks, almost 1.5 million hazmat suits, about 2 million coats and 13 million medical aprons to the state.

A higher number of contracts a low level of competition remains

In the field of public procurement, there were some changes in 2022 compared to the previous year. In its annual report for 2022, Public Procurement Office³²³ (PPO) reported an increased number of concluded contracts (almost 252 thousand in comparison to approximately 183 thousand in 2021, or app. 37%) and an increase of RSD 103 billion in the total value of contracts (app. 18%). However, total number of conducted procedures has decreased (app. for one thousand) and reported average value of individual contracts decreased (app. 16%). These changes are in part related to the note that the previous report also included procurements conducted under the previous Public Procurement Law which envisaged lower thresholds. In 2022, there were 3399 contracts, and their value was RSD 11.4 billion. The share of public procurement contracts in GDP increased to 9.34% from 8.93%. The PPO also registered 21 public-private partnership agreements with an overall value of RSD 12.1 billion.

The PPO reported that the average timeframe for the open tender procedure was 47 days and that the average number of bids was 2.5, which is the same as last year. The average number of bids is the smallest for service procurements and the biggest in procurement of works (slightly bigger than 3). The highest competition level identified was 4.04. However, in more than half of procurement contracts, there was only one bid (51.6%), an insignificantly better result than a year before (52.62%). The share of successful foreign bidders was only 1%. In 13% of procurement procedures, the signing of the contract didn't follow.

322 <https://www.cins.rs/en/secret-contract-how-serbia-bought-medical-equipment-during-the-pandemic/>

323 Annual Report on Public Procurement in the Republic of Serbia for the period 1 January 2022 – 31 December 2022, accessible on <https://jnportal.ujn.gov.rs/annual-reports-ppo-public>

The biggest single purchasing bodies were Republican Fund for Health Insurance (RSD 91 billion) and public enterprise EPS (RSD 64.5 billion). Among government bodies, it was the centralised procurement service of the City of Belgrade (RSD 12.7 billion) and Office for Information Technologies and E-Government (RSD 11.2 billion).

Over half of procurement value (RSD 355 billion) is related to goods, 167 billion RSD to services and 129 billion RSD to works. The overall value of contracts signed after the negotiation procedure without the announcement of procurement was 8.3 billion RSD or only 1.29% of all public procurement contracts.

In 2022 the number and value of framework agreements significantly increased. There were 15,182 such agreements in 2022, compared to 11,506 in 2021. The value of contracts that followed such agreements increased by 29.7%. Similarly, the number of contracts related to centralised procurements more than doubled, but their value only slightly increased. Three-quarters of centralised procurements relate to medical equipment, pharmaceutical products and personal care products. The price was single criteria for selection of bidders in as much as 96% of cases.

PPO report registered a total value of RSD 747.6 billion of procurement contracts, where the application of PPL was excluded. Among them, there are only RSD 10.1 billion values of procurements implemented under the umbrella of state-to-state agreements. When it comes to other exclusion grounds, PPO provided an explanation for those related to the energy crisis that caused the procurement of a greater amount of electric power and gas.

PPO cooperated with Public Prosecutor Offices related to 58 procurement procedures, based on previous notification by the PPO on potential wrongdoing. Agency for Prevention of Corruption addressed PPO in relation to 34 procurement procedures. PPO conducted monitoring in 34 cases based on requests of business entities or other state bodies. Based on its monitoring, PPO initiated 429 misdemeanour procedures, significantly more than in the previous year.

The report of the Public Procurement Office on monitoring³²⁴ is published on the website of the National Assembly and not on PPO's website.³²⁵ It is published in the form of a searchable document, which is a positive change. In the report, PPO presented individual cases it dealt with in cooperation with other institutions. It also listed 15 purchasing entities selected for regular monitoring, their public procurement procedures and identified wrongdoings (found for all such entities). In the report, PPO claims that the number of conducted monitoring was 630 in 2022, which is an increase of almost 400 monitored procedures compared to 2021. Six civil servants in the PPO were tasked with monitoring in 2022. Even though the number of monitored procurements more than doubled in comparison to 2021, still only one in 400 procedures is being checked by the relevant authorities. Having in mind a very high share of identified irregularities even when procedures are checked randomly, it is of extreme importance to significantly increase the number of checks, and the capacity of PPO, but also to improve the way applicants are informed about the outcome of their submitted monitoring initiatives.

The Ministry of Interior dealt with 23 criminal investigations of abuses related to public procurement in 2022, where total damage of RSD 121 million is suspected and an illegal gain of RSD 8.6 million.³²⁶ In its Annual Report for 2022,³²⁷ the State Audit Institution stated that the value of procurements where irregularities were found amounts to 19.15% of the total value of public procurement covered by the audit (RSD 28.22 billion). Irregularities mostly related to the procedure of conducting public procurement, but also to irregularities during the conclusion and execution of contracts.

There is no data on the monitoring of contract execution in 2022, which the Ministry of Finance should carry out. Based on the Law on Budget Inspection, such monitoring is to be carried out by the Budget Inspection that operates within this Ministry, starting from 1 January 2023. In its annual plan for 2023, the Budget Inspection planned a total of 55 inspections, including in 29 central government bodies,

324 http://www.parlament.gov.rs/upload/archive/files/cir/pdf/izvestaji/13_saziv/02-594_23.pdf

325 <https://www.ujn.gov.rs/izvestaji/izvestaji-uprave-za-javne-nabavke/>, last checked on 12 May 2023.

326 Written response to the request for information, Directorate of Criminal Police, 27 February 2023.

327 <https://www.dri.rs/godisnji-izvestaji-o-radu>

12 on the level of Autonomous Province of Vojvodina and LSG, five public enterprises and nine health care institutions. As explained in the previous Alarm Report, potentially significant is news that the Ministry of Finance procured software for monitoring contracts³²⁸ outside the Public Procurement Portal (contracted on 20 September 2022), as well as a platform for viewing and analysing public procurement data (contracted on 9 September 2022).³²⁹ The establishment of this type of monitoring is significant because it would make it possible to establish supervision over procurements that are carried out outside the Public Procurement Portal (those below the thresholds defined by law, those that are exempted from the law, etc.), as well as their implementation. In addition, the platform for viewing and analysing data should enable the monitoring of contract execution, as well as provide more opportunities for the analysis of public procurement procedures. The development of this software should have been completed by the end of 2022, and in 2023 it should be ready for use. However, there is no information from the Ministry of Finance on whether they started using these two software.

RECOMMENDATIONS

- In addition to sector specific measures, the new Anti-Corruption Strategy should address problems relevant for the whole system. It should be adopted in the Parliament;
- The Coordinating Body and the Agency for the Prevention of Corruption should ensure uniformity of the assessment of progress in the implementation of the Action Plan for Chapter 23 – subchapter “Fight against Corruption”, and their reports should be considered by both the Government and the National Assembly;
- The Government should ensure full implementation of the existing rules, in particular by legally appointing managers of public enterprises, public administration and public services. It should also organise meaningful public debates and conduct corruption risk assessments for all regulations, and ensure compliance with final decisions of the Commissioner for Information of Public Importance and Personal Data Protection;
- Improve the Criminal Code to provide a more effective legislative framework for combating corruption, by amending the criminal offences involving bribery, giving and receiving a bribe in connection with voting, criminal offences related to non-reporting of property of public officials, abuse of public procurement and unlawful funding of political parties, and by criminalising retaliation against whistle-blowers and “illicit enrichment” within the meaning of Article 20 of the United Nations Convention against Corruption.
- The Tax Administration should inform the public about the enforcement of the Law on Determining the Origin of Property and the Special Tax, and whether the control of public officials and civil servants was carried out and whether this capacity has been taken into account while drafting plans. The Constitutional Court should review the provisions of said Law, while government officials should refrain from making statements that could affect its application;
- Special anti-corruption prosecution units must be provided with the necessary resources and staff. The list of crimes they are dealing with should be revised and the transparency of their work should be increased. The State Prosecutorial Council (High Prosecutorial Council) should ensure that prosecutors who fail to investigate corruption crimes or act proactively are held accountable;
- The government should regularly consider reports and recommendations of its Anti-Corruption Council and take steps to address the issues identified therein. The Government should inform the public about actions taken to address systemic and individual problems or to verify facts. The Government should also provide other conditions necessary for the work of the Council (appointment of new members, inclusion in working groups);

328 <https://jnportal.ujn.gov.rs/tender-eo/104048>

329 <https://jnportal.ujn.gov.rs/tender-eo/98296>

- Constitution has to be amended to reduce the current broad immunity from prosecution; define the status of independent state bodies; prevent violation of the rules on the use of public funds by excessive borrowing and concluding international agreements; better organise the resolution of conflicts of interest; and provide better guarantees when it comes to the transparency of the work of state authorities;
- The Government should consider recommendations of independent bodies (especially the Agency for the Prevention of Corruption, the Commissioner for Information of Public Importance and Personal Data Protection, the Protector of Citizens and the Fiscal Council) and submit a report to the Assembly on their fulfilment;
- The Government should increase the transparency of its work by regularly publishing explanations of bylaws, non-confidential conclusions, signed contracts, information on advisors and lobbying, as well as findings obtained by controlling the work of other state authorities;
- The National Assembly, the Government, and the Anti-Corruption Agency should ensure transparent lobbying and consideration of corruption risks in legislation;
- The Government and the National Assembly should stop using international agreements and "special laws" for preventing transparency and competition in public procurement and public-private partnerships;
- The Ministry of Justice should open the process of amending the Law on Lobbying, the Law on Prevention of Corruption and other regulations without delay, in order to fulfill the recommendations from the fifth round of the GRECO evaluation.

4.3. Fundamental Rights

4.3.1. Freedom of Expression and Media

Despite the legal framework for freedom of expression and freedom of the media that is largely established and harmonised with European standards, 9 years after the beginning of the implementation of media regulations Serbia is still plagued by major problems in this area. Poor implementation of other systemic laws has negatively affected the implementation of media regulations. In some areas, problems that affect journalists, among others, remain completely unregulated, such as the internet, intimidation and milder forms of hate speech, heavy pressures and SLAPP lawsuits. Progress is again limited by the establishment of certain frameworks or new working groups, failing or relativised attempts to change procedures and parts of regulations, and the introduction of new legal institutes to replace good solutions which are not being applied. What is missing is political will to allow implementation, adequate control and responsibility of institutions.

Freedom of expression, especially the part that concerns media freedom, has been on the list of particularly threatened human rights in Serbia for years. The situation has not changed much.³³⁰ According to the latest European Commission Report for 2022, it is estimated that Serbia is somewhat prepared regarding freedom of expression, but that there has been no progress in terms of the last year's recommendations. Cases of threats and violence against journalists remain a concern, and verbal attacks and smear campaigns against journalists continue. It is underlined that statements by high-ranking state officials on the daily and investigative work of journalists are preventing the creation of an environment where freedom of expression can be exercised without hindrance. The priority for Serbia in the following period should be to strengthen the protection and safety of journalists, in particular by ensuring that high-level officials refrain from labelling or verbally attacking them, and to have threats and cases of physical and verbal violence publicly condemned, investigated or prosecuted.³³¹ Reporters without Borders Index showed progress, as Serbia moved from the 93rd to the 79th place using new indicative methodology.³³² Despite the efforts to improve safety and fight against impunity, journalists in Serbia do not feel protected.³³³ According to the Freedom House report, Serbia is still treated as a "partly free" country, where freedom of expression and media freedom and independence received only two out of four possible points.

Independent investigative groups have been increasingly subjected to harassment, intimidation and violence by authorities and pro-government groups. In general, journalists are facing physical attacks and smear campaigns.³³⁴ In addition to negative trends, public broadcasters are still recognised as a group of captured media outlets under the specific control of the state or in its ownership.³³⁵

The general treatment of journalists, among others, is one of the main indicators of the real life situation. The lack of political will to condemn brutal attacks and threats against them reveals that the fight for their better position is missing true intent. Journalists are afraid of losing their jobs for reporting attacks or raising issues in public, especially when it comes to government officials who target and intimidate them.³³⁶ Reporting threats they have received is not always good for local media that are co-financed or receive funds through different types of advertising (from the budget or from private local companies). If the person exerting pressure and making threats is a local political strongman, alarming the public and reporting him creates possible danger that the media outlet will no longer receive local funds. The attitude towards journalists is a reflection of the attitude towards citizens and civil society organisations.

330 BCHR, Report for 2022, <https://www.bgcentar.org.rs/wp-content/uploads/2023/03/2023-04-24-Ljudska-prava-u-Srbiji-2022-web.pdf>

331 EU Commission Report for Serbia 2022, https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/ec-report-2022.pdf

332 Reporters without Borders methodology for 2022, https://rsf.org/en/index-methodologie-2013-21?year=2021&data_type=general

333 Reporters without Borders Report for Serbia 2022, <https://rsf.org/en/country/serbia>

334 Safe journalists network, "Western Balkans Journalists' Safety Index, Report for Serbia 2021", Belgrade, 2022.

335 The State of State Media – A Global Analysis of the Editorial Independence of State Media Based on the State Media Matrix (2022 Edition), accessed on 14 February 2023, <http://journalismresearch.org/wp-content/uploads/2022/10/State-Media-2022.pdf>

336 Indicators of Media Freedom and Journalists Safety Serbia 2022.

Serbia is still in the category of countries where basic freedoms are obstructed, the space for the activities of civil society organisations is drastically narrowed, and individuals and organisations that have a critical attitude towards the authorities are often exposed to attacks.³³⁷

Media regulations and Media strategy: Poor implementation

The implementation of media regulations has many shortcomings, such as legal gaps and solutions that require improvement. Also, institutes should be introduced that match the capabilities and needs of the system in which they are implemented. The biggest gaps of that sort are: low level of responsibility of the REM's Council for failure to act, co-financing of media competitions and other forms of spending funds on the media, journalists' safety, SLAPP lawsuits, editorial independence and political influence on the media. The Strategy for the Development of the Public Information System in the Republic of Serbia for the period 2020-2025 (the Media Strategy), adopted by the Government of the Republic of Serbia, indicates numerous problems in implementation, as well as activities to overcome them and changes to media laws.³³⁸ However, even the very good Action Plan that accompanies the Media Strategy is not implemented due to various obstructions. Another problem is that other levels and actors disregard the Action Plan or the Media Strategy, as well as draft provisions in other laws that undermine the rights acquired through media regulations. Such is the case with attempts to introduce unauthorised collection and processing of biometric data through the Draft Law on Internal Affairs, which jeopardises the position of journalistic sources, whistleblowers and investigative journalists.³³⁹

The Law on Electronic Communications was drafted at the end of 2022 in order to implement the activities from the Media Strategy. The Working Group charged with drafting the Law on Electronic Media presented the Draft Law at the beginning of April. The Action Plan for the implementation of the Media Strategy, which provided for three key media laws to be amended and adopted by now, has expired in 2022. However, the process that continued in order to preserve already acquired rights is encountering numerous obstructions by organisations and institutions³⁴⁰ that do not want to regulate the responsibility for media co-financing, the competences of the Press Council and adequate media ownership.

The regulatory body and media financing: Favouring violators of media regulations

The Regulatory Authority for Electronic Media (REM) still does not perform its functions independently, does not implement the law, and continuously exercises its competences by placing certain entities in a more favourable position compared to others. Insufficient transparency and susceptibility to political influence are still cited as the biggest problems, as well as insufficient response in cases of violations of regulations. The work of the REM Council, the most important decision-making body, generates the most criticism.³⁴¹ The independence of REM, and especially of the Council, is recognised as the key factor for its effective operation and application of the law. REM has not yet published the report for 2022,³⁴² and according to the available data, has issued only two warnings to relevant media entities. Compared to the number of reported cases and observed violations, especially in reality programmes, this is a very small number of measures, especially considering the almost daily incidents in reality shows and hate speech that is constantly present on television stations with national coverage.

337 CIVICUS Monitor 2022 Report, <https://findings2021.monitor.civicus.org/europe-central-asia.html>

338 Strategy for the Development of the Public Information System in the Republic of Serbia for the period 2020-2025, <https://www.srbija.gov.rs/dokument/441801/medijska-strategija.php>

339 <https://www.paragraf.rs/dnevne-vesti/121222/121222-vest13.html>

340 Out of 34 representatives of journalistic and media associations, state bodies and institutions, 14 are from state institutions, 8 from unrepresentative associations or associations that are very close to the government (Association of Local and Regional Broadcasters Nova Mreža, Association of Media and Media Workers, Association of Journalists of Vojvodina and Association of Journalists of Niš, ProUns, Association of Electronic Media ComNet and Association of Radio and Television of Serbia), <https://www.cenzolovka.rs/drzava-i-mediji/izmene-medijskih-zakona-kao-predstava-za-javnost-dve-trecine-clanova-radne-grupe-predstavnici-drzave-i-organizacija-koje-podrzavaju-vlast/>

341 Indicators for Media Freedom and Journalists' Safety, Serbia 2022, IJAS.

342 Last verified on 28 April 2023.

One of REM's most criticised decisions in 2022 was the competition for the issuance of four licenses for the provision of television broadcasting services with national coverage, and its failure to assign the fifth frequency within the deadline. Despite numerous indications of irregularities, REM completed the competition and decided to issue licenses for electronic media with national coverage to Pink, Happy, B92 and Prva televisions. REM issued the licenses despite the fact that its own yearly reports keep showing that none of these television stations have fulfilled the obligations prescribed by the Rulebook,³⁴³ and despite the fact that elaborations on which basis those televisions previously received permits were not adhered to. As for the fifth frequency, REM unduly singled out its selection, which has not yet been completed. In December of last year, Televisions N1 and Nova S suspended their broadcasting in protest of the fact that the REM Council did not make a decision regarding the fifth national frequency within the statutory deadline. The deadline for making this decision expired on 2 December, as the competition stipulated that REM would grant the permit 30 days after the publication of the approved list of candidates. Television Nova S sued REM because it had not yet assigned the fifth frequency, but the court decision has not been reached to date.³⁴⁴ Due to these suspensions of broadcasting, the REM Council suspended its own work. The decision to go on full strike was highly questionable considering the status of persons appointed to the REM Council and the general right to strike as such. In its explanation, REM stated that "for years it has been exposed to pressure from opposition political parties, independent media and civil sector organisations", accusing them of "directly threatening its independence of work".³⁴⁵ Two weeks later, REM decided to resume operating.³⁴⁶

Media co-financing is characterised by abuses in the selection of committee members who make unjustified decisions and award projects to media outlets that in reality do not implement them, or implement them highly unprofessionally. The practically unusable, cumbersome and long appeal procedure before the competent Administrative Court is almost never used by those who are dissatisfied. Most of the funds are still distributed to the pro-Government media, which almost regularly violate the Code of Journalists of Serbia.³⁴⁷ In addition to co-financing, funds are also allocated in other ways, using legal loopholes in regulations, deficiencies in procedures and weak control of these procedures by inspections. Negative examples are: the allocation of funds using procurement of media services that are not visible to the public (due to the fact that they are mostly unjustifiably below the limit for the implementation of public procurement, so pursuant to the Law on Public Procurement there is no legal obligation to make these procedures public), and direct contracting with different media and production companies without any legal basis.³⁴⁸

Journalists' safety remains the key problem

Although Serbia is still the country with by far the largest number of pressures, threats and attacks on journalists in the region,³⁴⁹ the number of reported cases is decreasing each year. This, of course, does not imply automatic improvement, as the recorded cases are brutal and seem even more serious than in previous years. Of particular concern is the substantial impunity for serious verbal threats. In 2022, the threats to the editorial office of the newspaper Danas, journalist Jelena Obućina and journalist Dragojlo Blagojević were particularly severe. In some of these cases, members of the police even tried to conceal information from the public prosecutor.³⁵⁰

343 Rulebook on the minimum conditions for the provision of media services and criteria for decision-making in the process of issuing a license for the provision of media services.

344 Mila Djurdjević, "REM is hiding behind a strike", 8 December 2022, Radio Free Europe, <https://www.slobodnaevropa.org/a/srbija-rem-obustava-rada/32169751.html>

345 REM, "The REM Council decides to suspend work", 8 December 2022, accessed on 20 February 2023, <http://www.rem.rs/sr/arhiva/vesti/2022/12/savet-rem-doneo-odluku-o-obustavi-rada>

346 REM, "The REM has decides to proceed with work", 22 December 2022, <http://www.rem.rs/sr/arhiva/vesti/2022/12/rem-je-doneo-odluku-o-nastavku-procesa-rada>

347 The newspaper with the most allocated funds is the tabloid Informer, which, according to the Press Council, committed the most violations of the Journalists' Code of Ethics.

348 BIRN report 2023.

349 Safe Journalists Database of attacks on journalists, <https://safejournalists.net/>

350 The case of Dragojlo Blagojević, <https://www.cenzolovka.rs/tag/dragojlo-blagojevic/>

According to the records of the Republic Public Prosecutor's Office, 81 criminal reports were filed with the public prosecutor's offices in 2022.³⁵¹ In 26 cases a decision was made to dismiss the criminal report, or an official note was issued stating that there is no basis for initiating criminal proceedings. A guilty verdict was handed down in three cases, while in one case the court decided to acquit. There are also 6 still-pending cases. In five cases the perpetrators are unknown, while 40 cases are at a stage that precedes prosecution. In the period from November 2022 to April 2023, the prosecutor's office initiated and recorded 40 procedures.

The largest number of procedures ends in the pre-investigation and investigation phase due to the lack of evidence of an objective threat of endangering the safety of journalists. Unfortunately, the practice of understanding the crime of endangering safety is one of the biggest problems and gaps in criminal law protection. Public prosecutors persistently require a direct threat, expressed orally or in writing, without looking at the complete context. Any variation, including almost *a play on words* that would put what was said outside the context of a direct threat, usually implies dismissal of a criminal investigation. And this still happens in more than 60% of the cases. Attempts to introduce a new criminal offence and strengthen the existing criminal offences did not succeed because it would have jeopardised the freedom of opinion.³⁵² Legal practice has returned to repeated attempts to change and review the way in which the crime of endangering security provides greater guarantees, and the responsibility for this is slowly being transferred to judges.

On the other hand, the IJAS Database³⁵³ recorded 137 cases in 2022, including 34 verbal threats, 9 physical attacks, four attacks on property, 6 threats to property and 84 different forms of pressure.³⁵⁴ A large number of these attacks (52) occurred online. The most problematic are various types of pressures and targeting of journalists and media by public officials, following which said journalists and media tend to become targets of harassment and serious threats by ordinary citizens, primarily through social networks.

Government representatives fail to condemn threats to journalists, reacting mainly in the cases of more serious physical attacks. On the other hand, representatives of the Standing Working Group for Journalists' Safety and the reports of journalists' associations point to insurmountable obstacles that do not allow substantial progress. A large portion of the pressures and threats comes precisely from high level state officials, who present critically oriented media as traitors, collaborators of foreign embassies, foreign mercenaries or enemies of Serbia who work against their country by criticising the government. Journalists are openly criticised by government representatives at all levels at press conferences and in special shows on television stations with national coverage. Negative statements are transmitted to citizens also by use of tabloid media. Citizens, in turn, adopt this model of behaviour and the attitude of targeting journalists, which often results in brutal insults, threats and attacks. Journalists are frequently denied entry to gatherings and local self-government buildings, invitations to press conferences are not delivered to them, and their right to information is denied.³⁵⁵

The absence of condemnation is accompanied by a lack of sensitivity to the problems of journalists, regardless of the levels of state authorities. This is noticeable in the police, as well as in the judicial system. The Ministry of Interior did partially recognise the need to protect those injured by criminal acts; however, they still do not adequately recognise the consequences of secondary victimisation.³⁵⁶ The police do not even recognise the term 'victim' yet. Although the Criminal Code recognises journalists engaged in public information affairs, making them equal in matters of protection with the President, judges or public officials, in practice this is not the case.

351 Annual report of the Republic Public Prosecutor's Office on attacks on journalists.

352 Safety of journalists: What to expect from the announced changes to the Criminal Code, <https://nuns.rs/bezbednost-novinara-sta-ocekivati-od-najavljenih-izmena-krivcnog-zakonika/>

353 IJAS Database of attacks and pressures on journalists, <https://www.bazenuns.rs/srpski/napadi-na-novinare>

354 The pressures include various forms of threats that do not have the elements of direct threats, harassment, persecution, distraction at work during reporting, not being invited to events of public importance and other forms of discrimination against media and journalists, technical attacks, SLAPP lawsuits etc.

355 Indicators for Media Freedom and Journalists' Safety, Serbia 2022, IJAS.

356 Improving the position of victims and witnesses in the criminal justice system in Serbia, <https://mc.rs/dogadjaji/evropski-dan-zrtava-krivcnih-dela-22-februar/940>

So far, the system of contact points has proven to be the best mechanism, enabling quick reporting of threats and attacks and an immediate reaction of competent authorities in public prosecutor's offices and the police.³⁵⁷ The mechanism was developed within the framework of the Standing Working Group for Journalists' Safety (SWG). Attempts to resolve the issues at various levels by introducing new safety working groups have proven to be unsuccessful.³⁵⁸ The groups served to show a certain effort to resolve the burning problem of journalists' safety, but did not have any real effect. The Government's working group was headed by the Prime Minister, who targets certain media and journalists almost every week. On the other hand, the Protector of Citizens (Ombudsman) refused to act in the case of pressuring and targeting of the KRIK research portal and other investigative journalists. Unsuccessful experiments of the state involving the introduction of other working groups at other levels only strengthened this mechanism, which is now viewed as the only special tool that is slowly being incorporated into the safety system. The Government's working group had several successful but selective responses to attacks on journalists, but has been inactive since June 2022. On the other hand, the Protector of Citizens found a model for solving problems of pressure using his own competence, by preparing model platforms and classifying pressures, threats and attacks; however, he refused to act in some important cases, pronouncing himself incompetent.³⁵⁹ As for the mechanism of SWG, what causes concern is the frequent activation of protection mechanisms by high representatives and contact points in the police and the Republic Public Prosecutors Office; also, the mechanism is still vulnerable if there is no form of internal reaction and control within the institutions, especially the police.

Despite shortcomings in practice, Serbia is achieving a more effective protection of journalists against threats of violence through the improvement of the system of preventive measures taken to protect journalists and the introduction of priority action in investigations of threats and violence against journalists so as to effectively sanction committed attacks. The Public Prosecutor's Office and the police apply internal instructions that oblige them to act urgently, and they take into account 27 criminal acts that can be committed against journalists.³⁶⁰ For omissions, they can be subjected to disciplinary proceedings.³⁶¹ The established mechanism *has* contributed to certain positive developments such as easier reporting of cases, immediate initial action by the authorities and progress in individual cases, but it cannot be concluded that it has generally contributed to improving the safety of journalists in Serbia.

RECOMMENDATIONS

- Amendments to relevant laws related to media freedoms must be in line with the rights acquired and guaranteed by the current regulations and the Media Strategy. Amendments to the Law on Public Information and Media and the Law on Electronic Media must strictly adhere to the predictions from the Strategy.
- The work of the Regulatory Authority for Electronic Media should be improved by selecting truly independent and unbiased professionals and through stability and independence of work of this body, by the following means:
 - » The authorised proposers for the appointment of REM members should be changed, to ensure members' greater independence and reduce political influence and pressure from the authorities;
 - » Ensure greater stability of REM by safeguarding its financial independence, enlarging the revenue from the resources realised by penalising broadcasters, and increasing transparency when setting up the financial plan;
 - » Establish appropriate responsibility of the REM Council and responsible persons in professional services regarding identified failures in application of regulations.

357 Agreement on cooperation and measures to raise the level of safety of journalists, <https://bezbedninovinari.rs/>

358 The Government Working Group for Journalists' Safety and the Working Group for the Development of a Platform for Recording Attacks on Journalists under the auspices of the Republic Ombudsman.

359 Annual Report of Protector of Citizens of Serbia for 2022, <https://bit.ly/3LDHV96>

360 Conclusion of the working sub-group for the analysis of the Criminal Code, <http://www.rjt.gov.rs/assets/Zaklju%C4%8Dak%20radne%20podgrupe%20za%20analizu%20Krivi%C4%8Dnog%20zakonika.pdf>

361 Republic Public Prosecutor's, journalists' safety page, <http://www.rjt.gov.rs/sr/bezbednost-novinara>

- Amend laws and by-laws for improving the process of project co-financing of media content that is of public interest:
 - » Stipulate the obligation of launching competitions for co-financing of media content, and liability and sanctions for responsible persons;
 - » Introduce mandatory needs analyses for media content in order to establish public interest for each individual local self-government;
 - » Define clear criteria for the selection of members of expert selection commissions and responsibility in the event of abuse, by prescribing sanctions for violations;
 - » Oblige expert commissions to consider the decisions of the Regulatory body for Electronic Media and the Press Council when deciding on the distribution of funds;
 - » Improve the control mechanism for the co-financing procedures and introduce a more efficient legal instrument in this field, raise awareness of the efficiency of the inspection, administrative inspection for the purpose of implementing regulations, and budget inspection for controlling the purpose and appropriate purpose of projects;
 - » Introduce mandatory evaluation of realised projects for all institutions and the implementation of external financial audit of media outlets that received funds above a certain threshold;
 - » Ensure better and more efficient control of implemented competitions, realisation of the assigned topics and contracts through obligatory programmes of auditing the allocation and spending of the funds.
- Ensure greater safety of journalists and other media professionals:
 - » Disclose and solve all cases of attacks on journalists and endangerment of their safety as soon as possible;
 - » Ensure urgent and quick reaction in practice without exceptions in all cases of attacks and threats with elements of criminal and misdemeanour offences;
 - » Ensure clear, unambiguous and non-selective condemnation of any violence against journalists by high public officials, in order to convey a message on inadmissible conduct;
 - » Achieve continuity of training intended for police and prosecutor's office members to improve reaction and problems of secondary victimisation;
 - » Ensure clear and non-selective internal accountability with bodies responsible for prosecuting perpetrators of criminal offences against journalists;
 - » Amend the criminal legislation to better understand in practice how threats are made or written in relation to specific criminal offences that protect journalists, such as endangering safety from Article 138, paragraph 3 of the Criminal Code, more precisely the interpretation of the special criminal offence related to endangering safety from Article 138a;
 - » Raise the level of sensibility and awareness among judges regarding journalistic work and the consequences of threats and attacks. Actively involve judges in finding solutions to change and improve the practice of understanding criminal acts, especially threats to safety, in favour of the victimised journalists;
 - » Ensure the acquired level and additionally improve protection for journalistic sources in relation to potential adverse effects of other regulations that could deteriorate their position (such as the Draft Law on Internal Affairs);
 - » Raise the level of journalists' protection regarding secondary victimisation issues.

4.3.2. The Right to Information

Legislative changes brought no tangible progress

Amendments to the Free Access to Information Law in late 2021 were aimed in particular to ensure more effective enforcement of the Commissioner's decisions. In particular, it was expected that the "administrative silence", the most frequent type of denial of citizens' right to access information, would be addressed by the newly introduced power of the Commissioner (misdemeanour fees). The effects of these measures have yet to be seen. The amendments also increased the number of public authorities and a number of those obliged to publish information directories and submit annual reports to the Commissioner. In that regard, progress is visible, even if many authorities still need to comply with the Law.

The amendments did not tackle problems in obtaining information from institutions where the requestor may not appeal to the Commissioner but only run procedure before the Administrative Court. Most of the other problems in the implementation of the Law that existed before legislative amendments persist.

Commissioner's report shows that "abuse of right", recognized in using free access to information to achieve some financial benefits from such procedure, significantly hampered the work of that institution and consequently the possibility of genuine information seekers to obtain legal protection of their right.³⁶² The problem largely arises from the sudden and unexplained change of opinion and practice of the Administrative Court,³⁶³ related to the possibility of the appellant asking for its attorney's costs (more below).

One of the opportunities introduced in the amendments to resolve widespread "administrative silence" was not sufficiently used. As visible from Commissioner's report, the number of misdemeanour warrants issued by the Commissioner in 2022 was significantly smaller than the number of appeals submitted due to the failure of public authorities to respond to the request in a timely manner.

The high number of appeals, less than half well-grounded

According to its Annual Report for 2022, the Commissioner for Information of Public Importance and Personal Data Protection,³⁶⁴ dealt with 9,219 new appeals, and with 2,475 received earlier. In the same period, it resolved 8,702. Overall number of complaints increased by 43.8% compared to last year. More than half of complaints were caused by "administrative silence", followed by 34.1% due to submitting a negative or incomplete response without justification for rejecting the application or instruction on the legal remedy, as required by law. Only one-tenth of appeals (10.6%) were submitted against elaborated decisions to deny access.

Commissioner considered only 42.9% of resolved appeals well-grounded. In half of those cases, the process was suspended because the authorities provided information before the Commissioner's decision or due to the withdrawal of the appeal. The share of well-grounded appeals significantly decreased in comparison to earlier years. The sole cause of it is related to the fact that the Commissioner rejected more than five thousand appeals submitted by the "group of malicious appellants from Vranje."³⁶⁵

362 Commissioner for Information of Public Importance and Personal Data Protection, Annual report for 2022, March 2023, p. 34, [shorturl.at/aMTY3](#)

363 105. Session of all judges of 21 June 2022, published on 3 November 2022, *ibid* 34-35.

364 Commissioner's annual report for 2022, *op. cit.*, p. 12-20, 25-40.

365 *Ibid*, p. 15.

Table 4: Structure of appeals the Commissioner resolved in 2022

Category of public authority	Number of appeals resolved	Percentage
Central government bodies (out of which ministries)	4,521 (800)	51.96% (9,2%)
Public enterprises	1,389	15,96%
Local level authorities	2,042	23.47%
Judicial bodies	670	7.7%
Total	8,702	100%

Out of 547 decisions issued by the Commissioner instructing the authorities to make information available, the authorities did not act in 148 cases or in 27.06%, which means that the degree of enforcement of the Commissioner's decisions averages 72.94%. When challenged, the court confirmed Commissioner's decisions in 91.5% of cases. Based on his new powers, the Commissioner issued 126 misdemeanour warrants and submitted eight requests for initiating misdemeanour proceedings.

In twelve instances Commissioner requested, based on its legal powers, an inspection of documents of public authorities during the appeal procedure. In two cases, the public authorities did not act on the Commissioner's request (Military Security Agency and the Higher Court in Belgrade). In two cases, Higher Public Prosecutor's Office in Belgrade invited the Commissioner to inspect the requested files and information in the premises of the authorities, and in eight cases, the authorities submitted the requested files to the Commissioner.

Massive "abuse of right" influenced by sudden change in the Administrative Court's position

Commissioner identified as the main obstacles abuse of the right of access to information, inability to administratively execute the decisions of the Commissioner adopted under provisions of the law that was in force until 16 February 2022 and inadequate liability in case of violation of the rules.

In 2022, 118 proposals for administrative execution of the Commissioner's decision were submitted to the Commissioner. The Commissioner submitted 53 requests to the Government to ensure enforcement without any feedback.

According to the Report, "Amendments to the Law on Free Access to Information of Public Importance have completely changed the way of drafting, publishing and updating information on the work of public authorities."³⁶⁶ Undoubtedly, one of such changes is that the number of bodies obliged to prepare an Information directory about their work has increased. Directories are now also published on the platform maintained by the Commissioner,³⁶⁷ A total of 6,675 directories have been published, according to the Report, while the number of obliged institutions was not clearly stated. Annual reports were submitted by 5,129 authorities, while Commissioner estimates that such obligation exists for 12,287 of them.

The Administrative Inspectorate of the Ministry of Public Administration and Local Self-Government,³⁶⁸ responsible for supervising the implementation of the Law did not provide for administrative inspectors to carry out regular inspections over the implementation of regulations on free access to information of public importance in its annual work program for 2022, while such inspections are planned for 2023.

³⁶⁶ Ibid, page 17.

³⁶⁷ <https://informator.poverenik.rs/naslovna>

³⁶⁸ Letter from the Administrative Inspectorate No. 021-02-18/2022-01 of 30 January 2023.

What particularly hampered and burdened the work of the Commissioner's Service in 2022 was the severe and unprecedented abuse of rights by five related complainants from Vranje, who, in a very short period, filed 5027 complaints. Several law firms have engaged with their associates to send requests for access to information to many public authorities of the same or similar content, which have nothing to do with their affairs and activities. What is also particularly worrying is that those authorities that are otherwise in the most challenging material situation and have the least human and material capacities and resources (primary schools, health centres, preschool institutions, social work centres, and local communities are "under attack", all mostly in smaller and poorer places).³⁶⁹

The situation was made more difficult "by the sudden change of position of the Administrative Court, determined on 21 June 2022, regarding the merits of reimbursement of costs for representation of information seekers by lawyers in the appeal proceedings before the Commissioner."³⁷⁰ Namely, without any legal arguments and explanations, the Administrative Court has changed its position after more than 13 years finding that public authorities are now obliged to reimburse the costs of representation by lawyers to appellants when the Commissioner determines that the appeal is well-founded. Following this change, there has been a significant increase in abuse of the right to access information. This position, although adopted on 21 June 2022, was published only on 3 November 2022, whereby the Administrative Court did not in any other way inform the Commissioner about the change of position, which led to additional damage to the Commissioner's budget.

This example indicates, according to Commissioner, that a significant problem in the Serbian legal system is that in the area of access to information, it is not allowed to submit a request for review of a court decision to the Supreme Court of Cassation, except when the Administrative Court decides in a dispute of full jurisdiction, which is not the case here, so the Commissioner does not have the legal ability to request a review of the position of the Administrative Court.³⁷¹

The Commissioner managed to resolve all complaints of malicious complainants from Vranje and thus prevent them from damaging the Republic of Serbia's budget for at least RSD 124,443,000 (EUR 1,060,895.14). "The problem resulted in the fact that other cases were not solved, making access to information difficult for journalists, media, NGOs, citizens and all other complainants. Therefore, it is important to understand that the abuse of rights significantly complicates the exercise of this right, and the institute of abuse of rights protects only the right."³⁷²

The "abuse of right" previously existed as one of the grounds to deny access to information (erased Article 13 of FOI Law). For years, it was arbitrarily implemented by public authorities, claiming such abuse in instances where "too much" information was requested, where information was requested "frequently", or simply where public authority was unable to deal with requests due to other duties. However, it is highly doubtful whether re-introducing of the "abuse of right" concept in the Law, as suggested by the Commissioner, may be the solution to these problems. It seems to be more logical to set rules in the Law that would deal with the motivation of "abusers", i.e. to exclude the possibility of requesting reimbursement for the costs of attorney's work in the procedure before the Commissioner and the Court at least in cases of "administrative silence".

RECOMMENDATIONS

- Following GRECO recommendations, the Law on Free Access to Information should be amended to enable appeals to the Commissioner against all public authorities, including seven currently exempted (President of Republic Government, Parliament, Republic Prosecutor, Supreme Court, Constitutional Court, National Bank).
- The best solution for the problem of "abuse of rights" should be through consultation of all relevant stakeholders (Commissioner, Administrative court, Supreme Cassation court, Ministry of State

369 Commissioner's annual report for 2022, op. cit, p. 34.

370 Ibid, p. 31.

371 Ibid, p. 32

372 Ibid, p. 34

administration and local government, Bar association, CSO and media associations), preferably through public hearing organized by the Judicial Committee.

- Government should regulate a mechanism to ensure the execution of the Commissioner's decisions, where needed and start responding to all requests for information it receives.
- Administrative inspection should oversee the implementation of the Law on free access to information more frequently.
- Commissioner should issue misdemeanour warrants in all instances of identified "administrative silence".

4.3.3. The Principle of Non-Discrimination between Official Reports and Practice

The Coordinating Body for the Implementation of the Action Plan for Chapter 23 is preparing implementation reports in accordance with the expected dynamics. As shown in Report 4/2022, the number of unrealised and partially realised activities is relatively small in the areas of protection from discrimination and gender equality and protection of women from violence, but the actual situation is much worse. The protection of persons with mental disorders, and especially the protection of children's rights, is still a serious concern, because planned activities (many of which are amendments to laws and by-laws) have not been implemented for years, despite indicators of an alarming situation.

The reality of everyday life is different. The public space abounds with examples of discriminatory speech and behaviour, including attacks against national, racial and other minorities, as well as all kinds of dissenters. Younger and younger actors participate in such incidents. There is no serious condemnation from the highest state level, precisely because in many cases this either originates or is inspired from that very level. On the other hand, the state believes that it has fulfilled its obligations in the area of non-discrimination by adopting the strategy and the AP, and by forming the Council to monitor them. Domestic and international organisations are unanimous in their assessment that Serbia is experiencing a steady decline in freedoms and democratic processes, and that socio-political conditions are unfavourable for the realisation of human rights in many areas and towards many minority groups.

The Coordinating Body for the Implementation of the Chapter 23 Action Plan produced the Report 4/2022 on the Implementation of the Revised AP for Chapter 23, and the Ministry of Justice made it available to the public.³⁷³ When it comes to the implementation of activities in the part that deals Basic Rights – Principle of Non-Discrimination and Social Position of Vulnerable Groups (activity 3.4), it could be concluded that things are going very well, with the exception of children's rights, where half of the activities unrealised for quite a while now.

According to the Report, only three out of 17 planned activities (17.7%) were not implemented in the field of **protection against discrimination and gender equality**. They have to do with the supervision of the implementation of the Strategy for the Prevention and Protection against Discrimination and the accompanying Action Plan (3.4.1.2), but it is stated that the Ministry for Human and Minority Rights and Social Dialogue has started (in December 2022) the procedure of establishing an Office for Human and Minority Rights, which will perform that activity. Whether the Office will manage to prepare a report depends on whether snap parliamentary elections will be held in 2023. The building of the capacities of this Ministry, which is competent to effectively implement activities envisaged in the Action Plan for the Implementation of the Strategy for Prevention and Protection against Discrimination through the engagement of additional executive parties (3.4.1.5) in order to effectively implement activities from AP for Chapter 23 also remained unrealised. In other words, only one person was employed ("Head of Department"), probably as part of a political personnel intervention after the extraordinary elections and the change of Minister. Also, there has been no training for police officers on the work of the police in the

³⁷³ Ministry of Justice, Report on the implementation of AP23 4-2022 <https://www.mpravde.gov.rs/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php> (7 April 2023).

community, which was supposed to include conflict management and mediation in local communities (3.4.1.17). Although the situation in the country requires urgent training on this topic, including the obligation for police officers and their protective equipment to be properly tagged (name and number), this was not the case in police interventions at numerous citizens' protests, as confirmed by the Minister of Internal Affairs.³⁷⁴

In the field of **protection of women from violence**, according to the report, one activity was not implemented (10%) and one was implemented only partially (10%). The AP for the National Strategy and the Action Plan for preventing domestic violence against women and in intimate partner relations for the period 2021-2025 has not yet been adopted (3.4.2.6). It is now the third year since the adoption of the strategic document, so the explanation of the Minister in charge of social protection – that the reason for this is “the inconsistency of financial effects and the possibility of budget planning”³⁷⁵ – seems incredible. Equally astonishing is the proposal to overcome that problem, i.e. to “form a new working group and prepare a new AP with donor expert support” or to “entrust the development of the AP to the Ministry for Human and Minority Rights and Social Dialogue, which is responsible for issues of gender equality” (pp. 168 and 169).³⁷⁶ Logically, monitoring the implementation of this Strategy and its AP (3.4.2.7), which is entrusted to the Coordinating Body for Gender Equality, remains an unrealised activity, but the problem of ineffective protection of women from violence in Serbia cannot be reduced to these reasons alone.

In connection with the **protection of persons with mental disorders**, two out of 7 activities (28.6%) were not implemented. The first such activity (3.4.3.5) refers to the adoption of the Law on Amendments to the Family Law aimed at abolishing the existing system of complete deprivation of legal capacity, because the public debate on the draft was not conducted for procedural reasons (whatever that means), so the process will continue after the formation of the new Government (we assume – until the new extraordinary elections, when it will probably be stopped again). The second activity refers to the absence of adoption of the Law on Amendments to the Law on Non-Contentious Proceedings (3.4.3.6).

In relation to the **rights of the child**, the situation with the implementation of activities from the AP has not improved in years. Consequently, as many as 40.9% of the planned activities are still unrealised, while another 13.6% were implemented only partially. It is worth mentioning all the unrealised and partially realised activities so one could see the seriousness of this issue. It is unrealistic to expect the establishment of centres for children, young people and families (to specifically target the population from multiple deprived areas), which implies supporting a parent who suffers from domestic violence, families at risk of separation (children and parents), children at risk of dropping out of school, children who are victims of crime, and children with disabilities from vulnerable families and at risk of placement in institutions (3.4.4.3). The reason for this is that the legal basis has not yet been established (the Law on Social Protection has not been amended), all because there is allegedly no financing. There was not a single word in the report about how much money from the budget was spent on projects of non-existent and incompetent organisations. The system of cash benefits for vulnerable families of children with disabilities (3.4.4.4) has not been improved either, because the Law on Social Protection has not been amended and the working group in charge of the development of a new Social Protection Strategy has yet to be formed (if its work does not get pre-empted by new extraordinary elections). The activity referring to the improvement of existing resources in large and small residential institutions for children (3.4.4.7) has not been implemented either, despite the fact that the Strategy of the de-institutionalisation and development of community-based services for the period 2022-2026 was adopted in 2022 and that they are working on its accompanying AP. The analysis of the effects of the applied organisational model in centres for social work has not been conducted (3.4.3.9), although it was supposed to serve as the basis for necessary changes to the normative framework governing the organisation of professional work in this important state body.

374 Novi magazin (27 March 2023), “Green-Left Front: Gašić admitted that police officers at Šodros did not have visibly displayed badges”, <https://novimagazin.rs/vesti/292624-zeleno-levi-front-gasic-priznao-da-policijci-na-sodrosu-nisu-imali-vidno-istaknute-oznake> (7 April 2023).

375 Report on the implementation of AP23 4-2022 <https://www.mpravde.gov.rs/tekst/33945/izvestaji-o-sprovodjenju-revidiranog-akcionog-plana-za-poglavlje-23.php> (7 April 2023).

376 Ibid.

In this area, the amendments and supplements to the Law on Juvenile Criminal Offenders (3.4.4.10) have not been completed because the opinion of the European Commission on the draft is still awaited, and it is also necessary to harmonise this Law with the Criminal Code and the Criminal Procedure Code. No by-laws have been adopted to regulate the application of educational orders (3.3.3.14) because amendments to the Law on Juvenile Criminal Offenders have not been made. The activity referring to the introduction of post-traumatic counselling and support for child victims/witnesses in criminal proceedings in the context of family support services (3.4.4.17) was not implemented either because the Law on Social Protection was not amended. Monitoring of the implementation of the new multiannual Strategy for the prevention and protection of children from violence and its Action Plan (3.4.4.19) was not established because the Ministry of Family Care and Demography did not form a working group. The drafting of new special protocols for the protection of children from abuse and neglect and the establishment of conditions for their mandatory implementation, particularly in the areas of acting of the judiciary and police in institutions of social care and in educational institutions, was not realised (3.4.4.21), but it must be said that the Ministry of Education and the Ministry of Internal Affairs have started implementing the activities from this plan.

Activities related to strengthening the capacity of providers of social services in accordance with the processes of deinstitutionalisation and system decentralisation (3.4.4.8) were implemented in part; namely, the Republic Institute for Social Welfare (RZSZ) identified the needs, but in the catalogue of accredited trainings there are only three that are relevant to this topic. The activity related to increasing the use of diversionary schemes and prioritising the restorative approach to juvenile offenders to ensure their social reintegration and reduce recidivism rates was partially realised (3 April 2012), and it is stated that RZSZ is implementing the project in three local areas (Subotica, Kraljevo and Užice). The report does not specify when this dynamic will achieve a real change. The activity of improving regulations and practices for managing data in the courts by keeping records in line with the principle of 'best interests of the child' in civil proceedings (3.4.4.18) was also partially realised, that is, it is expected that this issue will be considered through the creation of a new unified case management system. The above has been expected since 2016 and is in sharp contrast to pre-election promises ("For our children") and alarming indicators of the state and the needs for protection of children and their families.

The mayor of Belgrade: Roma men and women "are choosing" to live in substandard conditions

In March 2023, the Mayor of Belgrade stated that "a part of the Roma community refuses to integrate into society" and that "they themselves are responsible for the conditions in which they live"³⁷⁷, which caused outrage and condemnation by the association of the Roma national minority. Without a minimal understanding of the circumstances and factors that affect the situation in which the Roma community in Serbia find themselves, and despite the protests, the Mayor continued by arguing that "they have to decide for themselves whether they want to live according to the standards of the civilised world or in conditions in which tomorrow, God forbid, someone will run over their child again", and that "they abandoned most of the apartments in New Belgrade, took everything they could, cut the electricity, tore the cables and threatened the safety of people who lived with them, their neighbours". In one of the rare reactions of the Ministry for Human and Minority Rights and Social Dialogue, it was concluded "... with regret that such a statement does not contribute to the realisation of efforts made by numerous government institutions to integrate Roma men and women".³⁷⁸

377 There are at least 122 sub-standard Roma settlements in Belgrade with approximately 44,000 Roma men and women living in them; N1, Mladen Savatović (12 March 2023), "Anger and condemnation of Šapić after his statement about Roma people, Roma associations demand that SPP punish him", <https://n1info.rs/vesti/bes-i-osude-sapica-posle-izjave-o-romima-romska-udruzenja-traze-da-ga-sns-kazni/> (7 April 2023).

378 Reaction of the Ministry to the statement of the Mayor of Belgrade, 13 March 2023, <https://www.minlmpdd.gov.rs/aktuelnosti-saopstenja.php> (7 April 2023).

Increasingly flagrant clericalisation and nationalism in education

The church has long been present in schools in Serbia, yet only one principal of an elementary school recognises that "... according to Article 11 of the Constitution of Serbia, we have to separate school and church because Catholics, Muslims and pupils of all other religions can go to school, as well as atheists. And that's why we must not force anyone at school to attend other people's religious ceremonies".³⁷⁹ The liturgy for the celebration of the "school Patron Saint's day" was scheduled in the church. However, in the opinion of the Minister of Education, "... marking the school Patron Saint's day, St. Sava, with a priest and the cutting of the traditional wheat cake is a 'fundamental right' believers are entitled to exercise in accordance with the Constitution of Serbia", "regardless of the fact that church and state are separate".³⁸⁰ Thus, the role of the Serbian Orthodox Church has become "daily and unquestionable",³⁸¹ as confirmed also by the initiative to modify a part of the biology textbook (as mentioned later in the text).

At the same time, a teacher in an elementary school had to send a message to parents that "Singing the song 'Kill, slaughter the Shiptars so they disappear' is strictly prohibited in school".³⁸² Research shows that Albanians and Croats are the minorities towards whom young people have the most negative attitudes. Migrants started to appear as a novelty, while Roma people and members of the LGBTQ+ population³⁸³ are already negatively characterised. It should be noted that the coach and fans of the Serbian national football team are role models for young people.³⁸⁴

Culture is also under attack from right-wing and nationalist movements

In Belgrade, the concert of Belarusian Sergey Mikhalek-led band "Lyapis Trubetskoy", whose ban was requested by the Serbian Radical Party and the Dveri movement, was cancelled because they "sing about hatred towards Russia"³⁸⁵ (the organiser said that the concert was cancelled due to poor health of the band's frontman). The Dveri movement is bothered also by paintings at the exhibition of academic artists at the Cultural Centre in Čačak, because, in their opinion, the exhibited paintings³⁸⁶ offend the religious feelings of citizens, containing some paintings that are "blasphemous" and "have anti-Christian content".

These trends are associated with the advancement of the extreme right (public manifestations in support of Nazism and anti-Semitism, anti-immigrant actions, demonstration of connection with Russian paramilitary structures, numerous graffiti celebrating war criminals, etc.), without an appropriate, or any, reaction from the state (see more about this in other sections of this Report). Threats to organisations and defenders of human rights are constantly present.

379 Nova.rs, Sanja Radovanović (27 January 2023), "The principal who forbade the priest from entering the school on St. Sava Day has a message for all those who are threatening and insulting her these days", <https://bit.ly/3NmyfRM> (7 April 2023).

380 Nova.rs, author: Beta (30 January 2023), "Ružić rebuffed the move of the school principal who forbade the visit of the priest on St. Sava day", <https://nova.rs/vesti/drustvo/ruzic-ostro-o-potezu-direktorke-skole-koja-je-zabranila-dolazak-popa-za-svetog-savu/> (7 April 2023).

381 N1 (30 January 2023), "TV N1 Guests: Creeping clericalisation of the society without an adequate response from the state", <https://n1info.rs/vesti/gosti-n1-puzajuca-klerikalizacija-drustva-bez-adekvatne-reakcije-drzave/> (7 April 2023).

382 N1, Marina Fratucan (6 December 2022), "Elementary school pupils sing 'Kill, slaughter...', teacher seeks counselling for the children <https://n1info.rs/vesti/osnovci-pevali-ubij-zakolji-nastavnica-trazila-da-se-razgovara-s-decom/>

383 Research by CEPORA – Centre for Positive Development of Children and Youth; N1, Marina Fratucan (6 December 2022), "Elementary school pupils sing 'Kill, slaughter...', teacher seeks counselling for the children", <https://n1info.rs/vesti/osnovci-pevali-ubij-zakolji-nastavnica-trazila-da-se-razgovara-s-decom/> (7 April 2023).

384 Ibid; the author of the text points to similar chants at the match in Vienna, the recordings of which appeared on social networks. However, while the police in Austria announced that they would take action under their jurisdiction, the police in Serbia do not respond to such and similar chants.

385 N1, Author: FoNet (12 February 2023), "Concert of Belarusian band in Belgrade cancelled at the request of SPP and Dveri", <https://n1info.rs/vesti/otkazan-koncert-beloruskog-benda-u-beogradu-ciju-su-zabranu-trazili-srs-i-dveri/> (7 April 2023).

386 N1, Author: Beta (12 February 2023), "Dveri are now also bothered by the pictures at the exhibition", <https://n1info.rs/vesti/dverima-sad-smetaju-i-slike-na-izlozbi/> (7 April 2023).

Hate speech against dissenters – Role models from the highest level

The President insults all dissenters, such as Rada Trajković,³⁸⁷ using the words “Serbian scum from the bottom of the barrel”, and calls the Prime Minister of Kosovo “terrorist scum”.³⁸⁸ Similarly, regarding the negative reactions to the appointment of their leader as head of the Security and Information Agency, the Movement of Socialists stated that “he [was] attacked by scum, vermin and a foreign agency”.³⁸⁹ Lawsuits are filed against journalists³⁹⁰ because their reporting and commentaries allegedly causes “severe mental pain and suffering”. At the same time, the lives of journalists are endangered by threats on social networks and attacks (due to an atmosphere where such attacks come from the highest level, without apologies or serious consequences). In the past five years, the Prosecutor’s Office for High-Tech Crime has filed as many as 11 cases involving threats against publicists Marko Vidojković and Nenad Kulačin,³⁹¹ while journalist Jelena Obućina received threats that she would be impaled and burned at the stake. Her comment was that “there are no ‘random attacks’ in this country. The chase was orchestrated”.³⁹²

The ubiquitous practice of hate speech towards dissidents also extends to representatives of the academic community. The latest example involves posters (with the inscription “Traitors” and the coat of arms of the Kosovo Liberation Army) against three teachers of the Faculty of Political Sciences, which plastered in front of the building of said Faculty because of the announced professional cooperation with colleagues from Priština (we are talking about young teachers and the action of a probably extremist group of students).³⁹³

None of the above caused any reaction (announcement of condemnation) from the competent Ministry for Human and Minority Rights and Social Dialogue. On the contrary, while the (extreme) right benefits from the tolerance of the state and the inaction of the police, activists and citizens are exposed to excessive use of force by the police at protests, whose identification marks are not visible “because of the protective equipment that was placed over the intervention uniforms”, as the Minister explained.³⁹⁴

National and international organisations and experts are unanimous in their assessment that there has been a steady decline in freedom and democracy in Serbia.³⁹⁵ Also, the latest Report on Human Rights in Serbia for 2022 by the Belgrade Centre for Human Rights lists a handful of events that influenced socio-political conditions that are unfavourable for the exercise of human rights.³⁹⁶ Citizens of Serbia also believe that the state of democracy is bad, but they do find the current form of state organisation the best and most desirable.³⁹⁷

387 Rada Trajković is the president of the non-governmental organisation European Movement of Serbs, a member of the “Sloboda” coalition and an adviser to Nenad Rašić, who was appointed by the Prime Minister of Kosovo as Minister for Communities and Return.

388 N1 (2 December 2022), “Gligorijević: Rada Trajković as Oliver Ivanović, Vučić to undergo a good manners course”, <https://n1info.rs/vesti/gligorijevic-rada-trajkovic-cao-oliver-ivanovic-vucica-na-kurs-vaspitanja/> (7 April 2023).

389 N1, author: FoNet (1 December 2022), “The socialist movement is strongly defending Vulin: He is attacked by scum, vermin and foreign agents”, <https://n1info.rs/vesti/pokret-socijalista-ostro-brani-vulina-napadaju-ga-olos-slam-i-strana-agentura/> (7 April 2023).

390 Like the one that was recently filed by the President against female journalists over two shows from the series “The Ruler” (broadcast in February 2020 on television N1) because they caused him “severe mental pain and suffering”, hurt his “good reputation and honour”, and “[made him] feel fear of high intensity”, but was withdrawn soon after (because he allegedly did not authorise his lawyer to file it). N1, author: FoNet (17 March 2023), “Vučić sues female journalists over TV series ‘The Ruler’, broadcast on N1”, <https://n1info.rs/vesti/Vucic-tuzio-novinarke-zbog-serijala-vladalac-emitovanog-na-n1/> (7 April 2023).

391 N1, author: Beta, Politika (16 March 2023), “Prosecutor: 11 cases in five years due to threats against Vidojković and Kulačin”, <https://n1info.rs/vesti/tuzilac-za-pet-godina-11-predmeta-zbog-pretnji-vidojkovicu-i-kulacinu/> (7 April 2023).

392 N1, author: Danas (1 December 2022), “Obućina: I’m being threatened by ‘the President’s people’”, <https://n1info.rs/vesti/obucina-prete-mi-predsednikovi-ljudi/> (7 April 2023).

393 Danas, S. Čongradin (16 March 2023), “In this case, there is an additional worrying dimension”: Professor of FPN on the posters of his colleagues with the inscription ‘traitors’”, <https://bit.ly/44bWebZ> (7 April 2023).

394 This was the response of the Minister of Police to the parliamentary question of the head of the Green-Left Club MP in the Serbian Parliament, Radomir Lazović, who pointed out the importance of police badges and the fact that there were many examples of “party thugs who assume the role of the police” being employed at protests, recalling the situations in Novi Sad and Šabac, when the police withdrew and did not protect the citizens, Novi magazin, TDK (27 March 2023); “Green-Left Front: Gašić admitted that the policemen at Šodros did not have visibly displayed badges”, <https://novimagazin.rs/vesti/292624-zeleno-levi-front-gasic-priznao-da-policijci-na-sodrosu-nisu-imali-vidno-istaknute-oznake> (7 April 2023).

395 The magazine Economist talks about “deficient democracy”, Danas (3 February 2023), “Expert opinion: Serbia has fallen on the Democracy Index because the institutions are captured”, <https://bit.ly/4489rCJ> (7 April 2023); Rating of the Freedom House, VOA, Ivana Konstantinović (9 March 2023); “Freedom House: Dramatic decline of freedoms in Serbia, democracy in the world at a turning point”, <https://bit.ly/3naKZjs> (7 April 2023).

396 EWB (31 March 2023), “Report on the human rights in Serbia for 2022: Unfavourable socio-political circumstances for the realisation of human rights”, <https://bit.ly/3VgllX5> (7 April 2023).

397 Results of the survey “Attitudes of Serbian citizens on participation in democratic processes in 2022”, conducted by CRTA for the tenth year in a row: Danas, K. Bondžulić (27 February 2023), “Who gave higher marks to the work of state institutions in Serbia: Results of the CRTA survey on citizens’ attitudes”, <https://bit.ly/3NhM8k5> (7 April 2023).

RECOMMENDATIONS

- We repeat that it should be ensured that the monitoring of the implementation of laws, strategic documents and action plans by presenting the achieved effects is the only relevant assessment of progress in area 3.4 – The principle of non-discrimination and the position of vulnerable social groups, instead of accumulating information on the implemented activities.
- We reiterate that it is necessary to stop the trend of erosion of the achieved human rights of vulnerable social groups, which is happening under the pressure of conservative intellectuals, far-right movements and organizations, as well as the Serbian Orthodox Church. It is necessary to guarantee safety (physical and psychological) to all organisations and defenders of human rights, ensuring that they can perform their activities without fear of repression and free from restrictions.

4.3.4. Gender Equality

Unjustified satisfaction with “improvements on paper”

State representatives are persistent in highlighting positive results in achieving equality between women and men, but the data says otherwise. Inequality is particularly obvious in the family environment and in relation to finances. The Church demands that “all textbooks, manuals and auxiliary teaching aids in secondary, primary and preschool institutions” in which “gender ideology is propagated” be immediately withdrawn from use. Gender-sensitive language, which will become a legal obligation in textbooks from mid-2024, is also controversial. Maintaining gender stereotypes, sexism (and ageism) is not disputed by anyone. Various types of security threats and pressures on (women’s) organisations that point to the corrupt actions of state authorities are continuing while the competent ministries and mechanisms for gender equality are mainly engaged in promotional activities and forming additional bodies and mechanisms. Public funds are being distributed to secret projects and fictitious organisations.

Women, family and finances – The authorities and women do not go to the same libraries

Although state officials claim that budgetary allocations for women, children and the family³⁹⁸ have never been higher, research shows that lives of women in families are far from being favourable and equal. When it comes to the financial independence of women with children,³⁹⁹ one in four is not satisfied with the way money is managed in the household, and one in three is earning less since she became a mother. In the divorce process, former partners tried to increase expenses for women in 36.3% of the cases, reduce or hide part of their income in 43.2%, while 46% of fathers who pay alimony do so irregularly. This type of behaviour is widespread, mostly affecting the least educated mothers from all over the country. Despite this, there is no willingness of the state authorities to establish a fund to resolve the issue of non-payment of alimony at least for the most vulnerable groups of women and children, although women’s organisations have been proposing this for more than a decade.

The above is in sharp contrast to the discourse of the most responsible representatives of the state. The Minister for Family Care points out that “families and support for families are the priority of the Government of the Republic of Serbia and the President of Serbia”, that “financial support for families with children has improved in the last two years and that there are few countries that allocate as much money for these purposes as Serbia does”. Also, “the information that slightly more than 50 percent of families with children in Serbia have only one child” is of concern”, and it is necessary to “stimulate

398 It is being forgotten that the Law on Financial Support for Families with Children was amended following the initiatives of civil society organizations and the Commissioner for the Protection of Equality and the decisions of the Constitutional Court on direct discrimination of certain groups of women.

399 The search reflects the experiences of predominantly highly educated mothers who are largely economically active and who have more opportunities to protect themselves financially than less educated women, according to this report, http://media7.centarzamame.rs/2023/03/Finansijska-nezavisnost-mama-u-Srbiji-rezultati-istrazivanja-za-medije_compressed.pdf (7 April 2023).

young people to become parents as soon as possible”.⁴⁰⁰ The Speaker of the National Assembly says similar things, claiming that due to the regulations on *in vitro* fertilisation “Serbia is the best country in the world for mothers, along with Israel”,⁴⁰¹ while the Minister adds that “assisted fertilisation with donated reproductive material represents the crown of state support”,⁴⁰² At the same time, the right-wing *Dveri* movement points out that *in vitro* fertilisation with reproductive material donated from Spain and Denmark requires a special moral and ethical assessment because the mixing of genetic material “may affect the change in the genome of future generations”⁴⁰³ (this statement provoked reactions of the Minister of Science, Technological Development and Innovations, as well as the Prime Minister).

Gender and gender identity – A “serious threat” in the textbooks to be used by Serbian children

The Patriarch of the Serbian Orthodox Church stated the following: “We recently found out that lessons that propagate gender ideology have been introduced in our primary and secondary school textbooks, furtively, far from the public eye”, and added that “We demand that the competent authorities immediately withdraw from use all textbooks, manuals and auxiliary teaching aids for secondary, primary schools and preschools that contain such lessons”.⁴⁰⁴ This was supported by the *Dveri* movement and followed by urgent action of the Ministry, beyond standard legal procedures.

Although the National Education Council (NEC) determined that the teaching and learning program was fully aligned with the accepted theories, facts, conclusions and interpretations of biology, in the opinion submitted to the Ministry there was also a sentence that “no interpretation of the program can contain elements of ideology”. This led to the formation of a working group⁴⁰⁵ at the Institute for the Improvement of Education and Training (IJET), based on whose opinion, because of “elements of ideology”, it was ordered that 7 out of 8 publishers of biology textbooks for the 8th grade change the content of the disputed lesson within 10 days.⁴⁰⁶ Reactions of many organisations and even more individuals from various professions⁴⁰⁷ against the decision of IJET and a serious analysis of said decision by an interdisciplinary working group of more than 30 experts⁴⁰⁸ did not affect the decision of this state institution.

The decision of IJET and the competent Ministry could be contrary to the provisions of the Law on Gender Equality, Article 37 – The field of education, upbringing, science and technological development,⁴⁰⁹ which explicitly requires that issues of gender equality be included in the contents of the curricula and syllabi of teaching and studying, i.e. study programmes when determining the standards of textbooks, teaching methods and norms of school space and equipment, at all levels of education and upbringing. Also, one of the provisions in this article refers to the professional development and training of employees in education, which should include recognition and protection from discrimination “both on the basis of sex, i.e. gender, sexual orientation, sexual characteristics ... and on the basis of other personal characteristics”.

400 Ministry of Family Care and Demography (15 December 2022), “Financial support for families with children was improved in the last two years”, <https://minbpd.gov.rs/u-poslednje-dve-godine-poboljsana-finansijska-podrska-porodicama-sa-decom/> (April 7, 2023).

401 Žena (15 December 2022), The first conference of the ASSOCIATION OF MOMS OF SERBIA: “Try to hear and listen to yourself, MOTHERS ARE FIGHTERS AND LIONESSES, they can do anything”, <https://bit.ly/42oY5J9> (7 April 2023).

402 Ministry of Family Care and Demography (25 January 2023), Assisted fertilisation with donated reproductive material – the crown of state support”, <https://minbpd.gov.rs/potpomognuta-oplodnja-doniranim-reproduktivnim-materijalom-kruna-podrske-drzave/> (7 April 2023).

403 Vreme, Sonja Ćirić (28 November 2022), “Reactions to the Dveri movement: Let them explain what pure Serbian genome is”, <https://www.vreme.com/vesti/reakcije-o-pokretu-dveri-da-objasne-sta-je-cisti-srpski-genom/> (7 April 2023).

404 BBC News in Serbian, Jovana Georgievski (21 November 2022), Serbia and education: What will (not) be included in the new biology textbooks and whether the feminine form of ‘teacher’ will become a forbidden word”, <https://www.bbc.com/serbian/lat/srbija-63658998> (7 April 2023).

405 The working group is composed of five members, all male and known to the general and scientific public for their anti-gender views.

406 The publishers in question are: Zavod za udžbenike, Vulkan izdavaštvo, Gerundijum, Novi Logos, Klett, Data Status and Eduka.

407 Let us recall that, the same way, the Ministry of Education succumbed to the pressure of the conservative minority when the educational package on the prevention of sexual abuse of children (on which the best experts worked interdisciplinary, including representatives of the Ministry of Education) was withdrawn from use, <https://www.womenngo.org.rs/en/policy-activities/advocacy/1933-2022-resisting-the-pressure-of-conservative-intellectuals-political-parties-and-the-church> (7 April 2023).

408 This working group concluded the following: “We are of the opinion that both arguments [“the element of ideology” and “that one must take into account the psychological and sociological background of students”] are inadequate and are not based on expert assessments in the field of pedagogy, psychology and sociology, or the systemic process of integration of the Reference Framework of Competencies for Democratic Culture into the educational process”, <https://www.danas.rs/wp-content/uploads/2022/11/argumenti-UDZBENIK-BIOLOGIJE-final-1.docx> (7 April 2023).

409 “Official Gazette of RS”, no. 52/2021.

However, the problem could arise due to the difference in the use of terms, as well as their definitions (or lack of definitions) in the Law on Gender Equality (which uses the terms sex, sexual characteristics, gender, gender identity, change of sex, sexual orientation) and the Law on Prevention of Discrimination⁴¹⁰ (which uses the terms sex, gender, gender identity, gender change, that is, adjusting sex to gender identity, sexual orientation).

Gender-sensitive language – The “battle” between the Committee for the Standardisation of the Serbian Language and the Law

At about the same time as the review of the content of the biology textbook, the National Education Council (NEC) sent back for revision the *Proposal for textbook quality standards*, which regulates the use of gender-sensitive language in textbooks, with the explanation that there is a need to respect the position of Linguistics and Serbian studies, that is, *Matica Srpska* and the Committee for Standardisation of the Serbian language.⁴¹¹ The Institute for the Improvement of Education and Training (IET) withdrew the proposal for textbook standards based on which gender-sensitive language was introduced in books⁴¹² as part of a legal obligation⁴¹³ (it entered into force three years after the passing of the Gender Equality Law, i.e. in May 2024). Although an answer to this issue was requested also from the Commissioner for the Protection of Equality,⁴¹⁴ who reminded them of the legal obligation, IET decided to forward *only* the Board’s answer to the publishing houses, allegedly “only as a notification of what Linguistics thinks about it”.⁴¹⁵ At the same time, the Ministry of Human and Minority Rights is conducting a social dialogue on gender-sensitive language (as many as three meetings have been announced, with the financial support of the UN and the EU).⁴¹⁶

However, the Serbian Orthodox Church appeals to “abolish provisions of the laws that impose this violence, especially the unconstitutional law (referring to the Law on Gender Equality – author’s note) which imposes the so-called gender-sensitive language which hides the fight against marriage and the family as a divinely established sanctity and natural forms of man’s personal and congregational life” (the quote is from the Easter epistle of the Patriarch of the Serbian Orthodox Church).⁴¹⁷ An opposition MP reminded the Patriarch about the fact that there are (much) greater dangers for the family than the gender-sensitive language by mentioning “femicide, obstetric violence, non-payment of alimony, poor work of the social services, economic and any other insecurity”.⁴¹⁸

410 “Official Gazette of RS”, no. 22/2009 and 52/2021.

411 The Committee’s position is that the wording “all terms used in the Rulebook in the masculine gender include the male and female genders of the persons to whom they refer” could be used, and that “it is unclear why similar wording, which is considered only correct from the point of view of linguistics, should be a mandatory part of every textbook and teaching tool, but insists on the use of gender-sensitive language”, *Nova.rs*, author: FoNet (16 Aug 2022), “Gender-sensitive language in school textbooks under revision”, <https://nova.rs/vesti/drustvo/rodno-osestljiv-jezik-u-skolskim-udzbencima-na-doradi/> (7 April 2023).

412 Kurir (30 Sept 2022), “NO TERMS FOR FEMALE SOLDIERS, EXPERTS AND BIOLOGISTS IN TEXTBOOKS! The profession finally lumped it all together: Ideology has no place in school textbooks!”, <https://bit.ly/3LEyW7m> (7 April 2023).

413 Law on Gender Equality, Article 10, item 6); Article 37, point 4), indent 3); and Article 73, paragraph 2.

414 The Commissioner emphasised that only the Constitutional Court can invalidate certain provisions of laws, regulations and other general acts. In her reply to IET, she pointed out that “the fact that an initiative was submitted for the evaluation of the constitutionality and legality of the provisions related to gender-sensitive language does not diminish or call into question the application of the adopted law”, adding that “here, it cannot raise the question of the application of the law or partial application of the law only in the part that appeals to certain persons, bodies or organisations”.

415 013 Info (25 February 2023), “The use of gender-sensitive language in textbooks will be mandatory from 2024: Why have publishers already started erasing the female gender?”, <https://bit.ly/3HnTfTt> (7 April 2023).

416 The first in a series of social dialogues “How to achieve gender-sensitive language?” was held, 27 March 2023, <https://www.minljmpdd.gov.rs/aktuelnosti-saopstenja.php>

417 *Nova.rs*, Bojana Milovanović (13 April 2023), “Patriarch Porfirije: Gender-sensitive language hides a fight against marriage and family”, <https://bit.ly/3Hnjfji>

418 *Nova.rs*, author: FoNet (14 April 2023), “Grbović on the Easter address of Patriarch Porfirije: There are greater threats to families than gender-sensitive language”, <https://nova.rs/vesti/politika/grbovic-o-delu-uskrnjje-poslanice-patrijarha-spc-ima-vecih-opasnosti-od-jezika/>

Perpetuation of gender stereotypes – Sexism (and ageism) in advertisement

While textbooks are being “cleaned” of unwanted gender content and gender-sensitive language, no one is bothered by commercials and ads that perpetuate gender stereotypes (such as “She cleans the house and does the laundry, he watches football and drinks beer”), sexism and ageism.⁴¹⁹ The insulting statement of the football commentator on RTS regarding the arrival of women footballers in Qatar (“Sway that child, bathe in those millions and let me play”) caused public outrage and a demand that the public media service apologise on behalf of the guest-analyst.⁴²⁰ If the Regulatory Authority for Electronic Media (REM), as an independent body that should ensure the consistent application of the law and protect the interests of citizens in the field of public information, were to actually deal with matters it should be dealing with, it would have a lot of work to do.⁴²¹

Competent ministries and mechanisms for gender equality: Reports are missing, but the promotion is not

The Deputy Prime Minister, the President of the Coordinating Body for Gender Equality (CBGE) and the Minister of Culture mostly participate in international conferences⁴²² and activities of a promotional type. At the same time, when the EU Council made a decision against persons who violated the rights of women in the world at the beginning of March, Serbia did not support said decision⁴²³ (unlike all other countries of the Western Balkans).⁴²⁴ A meeting of the CBGE was held at the beginning of February where the report on the work of this body for the year 2022 was adopted⁴²⁵ (however, this report or the reports on the work from 2020 and 2021, cannot be found on the official website)⁴²⁶. There is still no report on achieving gender equality in 2022. The constitutive session of the Expert Group which collects information and proposes CBGE solutions for improvement was held only in February. This group will receive work guidelines at the next session.⁴²⁷ However, its date has not been announced and it is not clear why the guidelines have not been drafted earlier.

The Ministry for Human and Minority Rights and Social Dialogue has not prepared a report on the implementation of the Law on Gender Equality in 2022.⁴²⁸ There is no evidence that the Minister for Social Protection has significantly dealt with the issues of promoting gender equality.⁴²⁹ Most of the activities of the Minister for Family Care in the field of gender equality are of a promotional nature,⁴³⁰ with the motto “I keep repeating that it is wonderful to be a woman”.⁴³¹ It remains to be seen how the

419 Findings from the research of Dr. Margareta Bashargin entitled “Ageism and sexism in advertising discourse: A contribution to the study of TV commercials and anti-age newspaper ads”. The content of the analysed commercials that were broadcast before, during and after the central RTS Daily and TV Pink National Daily News on 3 January and 2 February 2020 – a total of 1,350 commercials were broadcast but only 13.5% of RTS featured elderly people, while on Pink there were only 7% of them. Politika, Katarina Djordjević (16 March 2023), “She cleans the house and does the laundry, he watches football and drinks beer”, <https://bit.ly/3LiXhP3> (7 April 2023).

420 N1, author: Danas (1 December 2022), “Outrage caused by Rade Bogdanović’s statements: Misogyny, RTS belongs to all women”, <https://n1info.rs/vesti/zgranutost-zbog-izjava-radeta-bogdanovica-mizoginija-rti-pripada-svim-zenama/> (7 April 2023).

421 The analysis of actions taken in the period 2017-2020 also indicates the inactivity of REM, <https://bit.ly/44eK02D> (7 April 2023).

422 ... at the 67th session of the Commission on the Status of Women (CSW) in New York – (6 March 2023), <https://www.rodnaravnopravnost.gov.rs/sr/press/vesti/gojkovic-na-67-zasedanu-komisije-za-status-zhena-u-nujorku> or at the Global Women’s Summit 2023 in Abu Dhabi, (21 February 2023), <https://www.rodnaravnopravnost.gov.rs/index.php/sr/press/vesti/gojkovic-na-globalnom-samitu-zhena-u-abu-dabiju> (7 April 2023).

423 The decision refers to nine individuals and three entities for their role in serious violations and abuse of human rights, especially sexual and gender-based violence.

424 Vreme (22 March 2023), “Council of the EU: Serbia against the decision to sanction persons who violated women’s rights”, <https://www.vreme.com/vesti/savet-eu-srbija-protiv-odluke-o-sankcionisanju-osoba-koje-su-krsile-prava-zena/> (7 April 2023).

425 Coordinating Body for Gender Equality (6 February 2023), “Session of the Coordinating Body for Gender Equality held”, <https://www.rodnaravnopravnost.gov.rs/index.php/sr/press/vesti/odrzhana-sednica-koordinacionog-tela-za-rodnu-ravnopravnost> (7 April 2023).

426 Coordinating Body for Gender Equality, Reports, <https://www.rodnaravnopravnost.gov.rs/index.php/sr/dokumenti/izvestaji> (7 April 2023).

427 Coordinating Body for Gender Equality (13 February 2023), “The constitutive session of the Expert Group of the Coordinating Body for Gender Equality was held”, <https://bit.ly/3Nm2pUV> (7 April 2023).

428 The Ministry for Human and Minority Rights and Social Dialogue, Reports, <https://www.minlmpdd.gov.rs/izvestaji.php> (28 April 2023).

429 Apart from the news that he met with the representative of the citizens’ association “Moms Ruke” (they discussed the improvement of the position of women and the conditions under which they exercise the right to maternity leave or maternity leave, in relation to their working status).

430 Also at the “Women for Women” conference of “Blic žena” magazine <https://minbpd.gov.rs/novosti/vesti/> (7 April 2023).

431 Ministry of Family Care and Demography (21 December 2022), “Improved position of women”, <https://minbpd.gov.rs/poboljsan-polozaj-zena/> (7 April 2023).

Ministry of Information and Telecommunications will implement the provisions of the Law on Gender Equality under its jurisdiction.

In the meantime, "Women Rule" [Žene su zakon] associations have sprung all over Serbia, backed by the current Minister of Economy.⁴³² In addition to the undoubted similarity of the name of the movement with the name of the association "Moms Rule",⁴³³ it is not clear what their values and activities are and who is financing these organisations.⁴³⁴ The impression is that they serve to confuse the citizens (especially by the similarity of names), extract money from the budget and act as pre-election propaganda.

✕ **ALARM: Where is the money for women and other members of deprived social groups going?**

For the second time, investigative journalists have discovered that the Ministry of Family Care and Demography has allocated the largest amount of budget funds to organisations that do not have offices or phone numbers, references in the areas for which they applied, and whose project are not publicly visible.⁴³⁵ In 2022, out of approximately EUR 3 million, most of the money (about EUR 2.6 million) was received by dubious organisations. Two persons associated with at least 21 organisations received a total of about EUR 1.3 million. Almost half of these organisations received millions of RSD in competitions in 2021. Just as the previous Minister never answered the journalists' question, the new Minister also has not answer to what these organisations in return for the funds they received.

The situation is similar at the local level, but it is more difficult to monitor. Thus, for the second year in a row, the City of Leskovac (in southern Serbia) awarded most funds to organisations that "do not meet the conditions of the call for applications, there is no information about the results of their work, or are led by persons connected with the city administration and members of the commission".⁴³⁶ For the second time, the organisation whose founder is a man who was twice convicted of domestic violence received funds for an SOS hotline in that city, regardless of the fact that an SOS hotline for women who have experienced violence has been operating in the city since 2005, run by members of the "Women for Peace" organisation.

Insecurity and detention of female activists

Various types of threats to safety and pressure on women's organisations continue. At the local level, they point to corrupt actions of state authorities, especially in connection with public tenders and the distribution of money for projects of civil society organisations (such as the case of "Women for Peace" from Leskovac). In March 2023, two female activists from Bosilegrad and Niš were detained and interrogated (by two persons allegedly from the Security Intelligence Agency) for two hours at the police station in Bosilegrad without the presence of a lawyer. They held banners requesting the removal of the mayor of Bosilegrad during the visit of the President of Serbia to that city, thus "upsetting the population".⁴³⁷

432 Otherwise, the vice president of United Serbia, whose president is Dragan Marković Palma, and who are a coalition partner of the ruling Serbian Progressive Party.

433 Which is, generally, the trend of this Minister, who announced the establishment of the "European Movement of Serbia", who are also an association of the European Movement in Serbia.

434 013, Dragana Prica Kovačević (3 March 2023), "All over Serbia, associations "Women Rule" have sprung up, Minister Basta is behind everything – This is what this is all about", <https://bit.ly/44oALwX> (7 April 2023).

435 BIRN, in cooperation with Civic Initiatives and the OKO coalition. In 2022, out of RSD 360 million (approximately EUR 3 million), the largest part – about 308 million (EUR 2.6 million) was received by dubious organisations, of which two persons associated with at least 21 organisations received a total of about RSD 160 million (EUR 1.3 million). Almost half of these organisations also received millions of RSD in competitions in 2021, <https://birn.rs/javni-novac-za-tajne-projekte/> (7 April 2023).

436 From the announcement of the coalition "OKO – Openly about public tenders", <https://birnsrbija.rs/javno-o-javnim-konkursima/> (7 April 2023)

437 The banners read "President, we are hungry and have no future here", "Urgent replacement of Zahariyev", "Besna Kobilica Mountain is collapsing"; Mašina (13 March 2023), "Activists detained because of the banner 'President, we are hungry and have no future here'", <https://bit.ly/3VgJih8> (7 April 2023).

According to the application for money laundering and supporting terrorism,⁴³⁸ the administrative inspection, the labour inspection and the tax inspection controlled the work of the women's organisation "Fenomena" from Kraljevo from 18 October to 15 December 2022. The extraordinary tax inspection included as many as 6 female inspectors from different cities (Kruševac, Jagodina, Kragujevac). Women's organisations believe that this was about intimidation and denigration of organisations that are critically oriented towards the state.⁴³⁹

The competent Ministry for Human and Minority Rights and Social Dialogue, as well as its Sector for Cooperation with the Civil Society, did not react to the above and similar situations. No significant change is expected even after the establishment of the Council for Development and Cooperation with Civil Society⁴⁴⁰ (which is why not many organisations participate in this process). The Ministry's statements given on the occasion of the World Day of Civil Society Organisations⁴⁴¹ are perceived as insincere. Likewise, nothing significant is expected from the recently formed Council for Gender Equality (presided over by the Prime Minister),⁴⁴² Only 14 applications received by civil society organisations, 7 of which were rejected because they did not meet the formal requirements, testify to what women's organisations in Serbia think about that mechanism and the possibilities of its real impact on the state of gender equality in Serbia and the position of women's organisations.⁴⁴³

RECOMMENDATIONS

- It is necessary to protect public space from discriminatory speech and behaviour, hatred, attacks and threats to the safety of all minority groups and dissidents of the ruling regime. The initiative should come from the inspirers of such speech and behaviour at the highest state level;
- It is necessary to connect obligations deriving from laws, strategic documents and action plans in the area of non-discrimination and gender equality with the daily activities of state bodies and institutions;
- It is necessary to protect the educational system from inappropriate and illegal interference and influence of the Serbian Orthodox Church, (extreme) right-wing movements and intellectuals, while fulfilling legal obligations related to the prohibition of discrimination and the realisation of gender equality;
- It is necessary to prevent threats to security and different types of pressure on (women's) organisations that point to corrupt actions of state authorities.

438 According to the Law on the Prevention of Money Laundering and Financing of Terrorism ("Official Gazette of RS", no. 113/2017, 91/2019 and 153/2020).

439 The organisation "Fenomena" is known for persistent research and proving the illegal way in which the National SOS hotline has been formed. Fenomena (8 March 2020), "Legal analysis on the establishment of a national SOS hotline to help women with experience of violence in the Republic of Serbia", <https://bit.ly/3HkkleM> (7 April 2023).

440 Ministry for Human and Minority Rights and Social Dialogue, The final consultative meeting was announced for 6 April 2023, <https://www.minljmpdd.gov.rs/konkursi-javni-pozivi-74.php> (7 April 2023).

441 Ministry for Human and Minority Rights and Social Dialogue Civil society – An irreplaceable partner in reform processes, 26 February 2023, <https://www.minljmpdd.gov.rs/aktuelnosti-saopstenja.php> (7 April 2023).

442 Ministry for Human and Minority Rights and Social Dialogue, Government of the Republic of Serbia formed a Gender Equality Council (20 April 2023), <https://www.minljmpdd.gov.rs/aktuelnosti-vesti.php#a243> (28 April 2023).

443 Public call to civil society organisations to submit candidacy for membership in the Gender Equality Council of the Government of the Republic of Serbia <https://www.minljmpdd.gov.rs/aktuelnosti-saopstenja.php> (7 April 2023)

4.3.5. Gender-Based Violence against Women

There has been no reaction from the authorities regarding the 12 murders of women that occurred in the first four months of 2023. In cases that were previously reported, the institutions commented that the murder "could not be prevented despite all the measures taken". Repeated demands from women's organisations to establish a National Mechanism for monitoring and analysing cases of femicide remained unanswered. "Forensic examination" of victims of rape and sexual violence in the police and public announcements about "false reporting" could be the reason for the incredibly small number of reports of these crimes in Serbia. There is no information that the proposal to amend the criminal offence of rape was considered in order to harmonise it with the Istanbul Convention. There is no data on the effect of the initiatives and proposals to improve the provisions in the set of draft laws submitted by the Ministry of the Interior, which are relevant for the prevention of gender-based violence and better protection of victims (including specific groups such as migrants and asylum seekers).

✂ ALARM: An epidemic of femicide without response from the authorities

In the first four months of 2023, 12 women (and two girls – aged 2 and 16) were killed in the partnership or family context. In most cases, there were no prior reports of violence. Where it was reported, there were omissions by the competent institutions and no readiness to accept them, with public announcements that murders could not have been prevented despite all the measures that were taken. The prEUgovor member Autonomous Women's Center (AWC) reacted to such a statement from the court in Pirot, emphasising that institutions' measures were mild and ineffective in relation to the risk of murder. The High Judicial Council and the High Prosecutorial Council, the relevant Ministries and the Republic Public Prosecutor's Office were requested to immediately carry out internal control procedures in this and similar cases, inform the public about the results and sanction those accountable for possible omissions. There is no information whether these appeals produced any effect.⁴⁴⁴ The request to the Government of Serbia to establish a National Mechanism for monitoring and analysing cases of femicide was also repeated, without any effect.⁴⁴⁵ The Commissioner for the Protection of Equality pointed out the importance of establishing a body to monitor femicide in Serbia.⁴⁴⁶

Rape and sexual violence – Incredibly low numbers of reported cases

For years, the Autonomous Women's Centre has been pointing to the worrying data of official state statistics when it comes to reports of rape. It seems incredible that only 44 (2020)⁴⁴⁷ to 79 (2021)⁴⁴⁸ cases of rape are reported annually in the territory of the entire state of Serbia. In one-third to one-half of the cases, criminal charges are dismissed by the Higher Prosecutor's offices, while the courts issue *guilty verdicts* in about 25 cases of rape per year. However, there are no official state statistics about cases of rape that are reported to the police but in which the Higher Public Prosecutor's offices in Serbia, based on the evidence provided to them by the police, *end the case* with an official note. It is particularly worrying that it is the police – even in cases of reported sexual abuse of minor children, and based on a "forensic interview" and the first written statement of the child – that determines whether it is a "false report",⁴⁴⁹

444 1 "AWC Press Release: React before the crime, not after!" (7 March 2023), <https://www.womenngo.org.rs/vesti/2006-azc-saopstenje-za-javnost-reagujte-pre-zlocina-a-ne-posle>

445 Ibid; The body would consist of one representative each of the National Assembly, the relevant Ministries, the Protector of Citizens and representatives of women's organisations that monitor cases of femicide, as permanent members, and heads of state institutions and bodies in whose territory the femicide occurred, as ad hoc members, to observe omissions and draw up conclusions that would help ensure that such omissions are not repeated in the territory of that local self-government.

446 N1, author: Beta (7 March 2023), "Commissioner: Establish a body to monitor femicide in Serbia", <https://n1info.rs/vesti/poverenica-uspostaviti-telo-za-pracenje-femicida-u-srbiji/>

447 Republic Institute of Statistics, Judiciary Bulletin (2020), <https://publikacije.stat.gov.rs/G2021/Pdf/G20215677.pdf>

448 Republic Institute of Statistics, Judiciary Bulletin (2021), <https://publikacije.stat.gov.rs/G2022/Pdf/G20225689.pdf>

449 Project Developing forensic statement analysis standards to fight CAE (Child abuse and exploitation): A victim centred approach), <https://www.ff.uni-lj.si/en/node/108586>. The project was managed by the Faculty of Philosophy of the University of Ljubljana and partners in the project were the Ministry of Internal Affairs of the Republic of Serbia, the European Forensic Agency (whose founders are former employees of the National Criminal Technical Centre of the Ministry of Interior of Serbia, <https://www.euroforensicagency.eu/index-en.php>), The Polyclinic for the Protection of Children and Youth of the City of Zagreb (whose director, Gordana Buljan Flander, resigned after articles on the H-Alter portal about her unlawful behaviour, <https://www.danas.rs/svet/direktoka-zagrebacke-poliklinike-za-decu-podnela-ostavku-posto-je-trazila-zabranu-pisanja-o-sebi/>) and Hrabri telefon /The Courageous Telephone, also from Zagreb.

making the action of the competent prosecutor's office and the court completely absent.⁴⁵⁰ This has been especially noticeable since the realisation of the international project supported by the EU.⁴⁵¹

Discouragement of victims of sexual violence and rape by the police

Just before the New Year's, the public was disturbed by the news of the rape of a girl by four men in the toilet of a coffee shop in Niš. During almost a week of silence from the authorities about the actions taken to shed light on this case, information from "reliable sources" appeared in the media about the existence of four different statements that the girl who was reported to have been raped allegedly gave the police. Only after that, information appeared in the MoI statement that "in a conversation prior to the polygraph examination, the 29-year-old girl admitted to the police that she had falsely accused a 29-year-old man of rape, including the place where she was allegedly raped", and that it was a so-called "false report".⁴⁵²

As this is not an isolated case, the AWC appealed to the Protector of Citizens to urgently control the work of the Niš Police Administration.⁴⁵³ An appeal was sent to the Higher Public Prosecutor's Office in Niš to react and prove to the public that it really is competent for the pre-investigation procedure and not just a verifier of police decisions, and to clarify to the public (if this would not jeopardise the procedure) the information that has been heard in the media. The answer of the Higher Public Prosecutor's Office shows that the criminal offence of false reporting is not the subject of a specific procedure, and that no one was ordered to submit a criminal report regarding that criminal offence.⁴⁵⁴

Also, after submitting a complaint to the Press Council⁴⁵⁵ for unethical reporting on this case, three out of 10 portals (Niške vesti, Mondo and Dnevno) approached the AWC to reach a settlement. It was agreed that they would the reaction proposed by the AWC.⁴⁵⁶

Advocacy activities for better legal protection – Still no information on the effects

There is no information on whether the working group formed to amend the *Criminal Code* considered the proposals of the prEUgovor coalition, among which were the proposals of the AWC on changing the definition of the criminal offence of rape and aligning other acts of sexual violence and sexual harassment with the provisions of the Istanbul Convention.⁴⁵⁷ It was proposed to incriminate the so-called "revenge pornography", as recent research has shown that thousands of anonymous profiles share intimate pictures and videos without permission in at least 16 Telegram groups on a daily basis (the largest has 50,000 members), often including private information about girls (links to their Instagram profiles or their Viber or WhatsApp numbers). The police and the prosecutor's office show the failure of the system in the protection of victims.⁴⁵⁸

450 Peščanik, Vanja Macanović (9 January 2023), "When the police is both the prosecutor and the judge", <https://pescanik.net/kada-je-policija-i-tuzilac-i-sudija/>

451 Developing forensic statement analysis standards to fight CAE (Child abuse and exploitation): A victim centred approach) abbreviated VERBUM_SAT, which was supported by the EU (ISF – Police Action Grant) during the period from 1 April 2019 until 31 August 2021.

452 N1 (5 January 2023), "MoI: A girl falsely reported rape in Niš", <https://n1info.rs/vesti/mup-devojka-lazno-prijavila-silovanje-u-nisu/>

453 AWC (6 January 2023), "Appeal for an urgent response and review of the actions of the PA Niš in the case of a reported incident of rape", <https://bit.ly/3AzwQzB>

454 Reply from the Higher Public Prosecutor's Office in Niš (16 January 2023), https://www.womenngo.org.rs/images/vesti_2023/Odgovor_VJT_Nis.pdf

455 "AWC files a complaint with the Press Council against 10 media portals for reporting on the case of reported rape in Niš" (12 January 2023), <https://bit.ly/3NhuZa8>

456 Those portals are: Mondo, Alo, Dnevno, Novosti, Luftika, Niške vesti, Telegraf, Nova, Informer and Pink. Ibid.

457 prEUgovor (2022), Proposals for Amendments and Supplements to the Criminal Code of the Republic of Serbia, <https://preugovor.org/Amendments/1750/Proposals-for-Amendments-and-Supplements-to-the.shtml> (7 April 2023).

458 Research conducted by BIRN and text in which more than 25 women and girls from Serbia talk about the shock, fear and shame they experienced as victims of "revenge pornography", <https://birn.rs/bila-sam-nemocna-ispovesti-zena-i-devojaka-sirom-srbije-o-uzasnim-posledicama-osvetnicke-pornografije/>

AWC has submitted an initiative to the Constitutional Court for the review of the constitutionality and compliance with confirmed international treaties of the provisions of the Law on Gender Equality, Articles 58 and 77.⁴⁵⁹ The established various sources of funding and different deadlines for the entry into force of legal provisions for programmes and services provided to perpetrators of violence, i.e. victims of violence, provide convenience that favours one group of persons – perpetrators of violence as persons who violate the law. Such a solution does not satisfy the condition of constitutionality from the aspect of constitutional guarantee of the rule of law, legal equality and prohibition of discrimination and other above mentioned provisions of the Constitution.

Also, AWC has submitted comments and suggestions on the Draft Law on Amendments to the Law on Asylum and Temporary Protection.⁴⁶⁰ The proposals of the Autonomous Women's Centre were given primarily from the aspect of improving the position of women, minors and unaccompanied minors who are in the asylum system, with the aim of their more complete protection and the establishment of a more efficient asylum system in the Republic of Serbia. The comments particularly refer to persons who were exposed to acts of gender-based violence, which are recognised as acts of persecution by Article 28 of the Law on Asylum and Temporary Protection. Comments and proposals on the Draft Law on Amendments to the Law on Weapons and Ammunition were submitted as well.⁴⁶¹ Misuse of firearms is indisputably linked to the commission of gender-based violence and domestic violence, regardless of the form of violence itself, and the possession of firearms is recognised as a significant risk factor. In order to take preventive action to suppress gender-based violence and domestic violence committed with the use of firearms, it is necessary to constantly improve the legal framework in the area of possession of firearms. There is still no response from the competent Ministry to the proposals from the public debate.⁴⁶²

After the withdrawal of the *Draft Law on Internal Affairs*, the Ministry of Interior prepared a new Draft and organised a second round of consultative meetings (four) with representatives of the civil society. prEUgovor member AWC proposed amendments to 15 articles, which mainly related to the specification of provisions on the police's actions in situations of reporting incidents of domestic violence, procedures for returning confiscated weapons to police officers reported for domestic violence, protection of victims and witnesses of crimes, regulation of polygraph interrogations, i.e. the prohibition of that form of interrogation when it comes to minor persons as injured parties and witnesses, as well as victims who could have the status of a sensitive witness.⁴⁶³ During the consultations, the Mol accepted one full proposal and two in part, while as many as 12 proposals for amendments to the new Draft Law on Internal Affairs were rejected. No written explanation was provided regarding the rejected AWC proposals (some of the proposals will be represented further in the course of the public hearing process that will follow).

(Lack of) Activities of state bodies and mechanisms for the prevention of violence

It was only in mid-March that the first session of the Council for the Suppression of Domestic Violence was held in the new convocation.⁴⁶⁴ In the news about that event on the Ministry's website, there is no information that the Council dealt with the issue of femicide (and the proposals of women's organisations). From her position of the person presiding over the work of the Council, the Minister of

459 In accordance with the provisions of contested Article 58 of this Law, financial means for specialised services to support victims of gender-based violence from Article 55 of the Law are obtained from the budget of the Republic, the autonomous province and the budget of local self-government units, with the provision that the services referred to in Article 1, point 2) and point 4), i.e. safe accommodation for women victims of violence and their children in safe houses and shelters, as well as providing free support to victims of sexual violence, are obtained from the budget of local self-government units, and these provisions begin to be applied from 1 January 2024. The same chapter of the Law envisages programmes for persons who have committed violence. The financial means for these programmes are obtained from the budget of the Republic of Serbia, and their implementation began on 1 January 2022. AWC is of the opinion that the provisions of Articles 58 and 77 of the Law are in contradiction with the provisions of the Constitution of the Republic of Serbia, namely Articles 3, 18, 20, 21, 36, 68 and 69, as well as with ratified international treaties, <https://www.womenngo.org.rs/en/policy-activities/advocacy/1989-2023-awc-submitted-an-initiative-for-the-evaluation-of-the-constitutionality-and-compliance-with-confirmed-international-treaties-of-the-provisions-of-the-law-on-gender-equality>

460 "AWC submits comments and suggestions on the Draft Law on Amendments to the Law on Asylum and Temporary Protection" (2022), <https://bit.ly/3Noph6w>

461 "AWC submits comments and proposals on the Draft Law on Amendments to the Law on Arms and Ammunition" (2022), <https://bit.ly/3Nhvp0c>

462 Mol website with draft laws in public debate (5 April 2023), <https://bit.ly/3ZNXXBb>

463 "AWC participates in consultations on the new Draft Law on Internal Affairs" (2023), <https://bit.ly/3NrWOS5>

464 Ministry of Justice (15 March 2023), the first session of the Council for the Suppression of Domestic Violence was held", <https://www.mpravde.gov.rs/vest/39260/odrzana-prva-sednica-saveta-za-suzbijanje-nasilja-u-porodici.php>

Justice emphasised the “necessity of more intensive joint action to achieve coordinated, effective and comprehensive protection and support for victims of violence and to ensure a safe environment for all family members”, but there is no information on proposals for concrete measures to make this happen. State officials insist on “raising the awareness of victims, their immediate environment and the broader public about the need to report domestic violence” and the Minister’s highlighting of the importance of victims not giving up on criminal proceedings, but there is no analysis of the failure to act, or measures to ensure appropriate support for victims of serious and dangerous violence, when it is reported, and appropriate support for victims during criminal and other proceedings.

The competent authorities in Serbia submitted a report on the implementation of the recommendations of the Committee of the Parties of the Council of Europe regarding the recommendations and obligations under the Istanbul Convention⁴⁶⁵ (which were sent to Serbia in January 2020). The answers that were given, and even more the fact that some questions were not answered, show to what extent the Government and the competent Ministries, whose representatives sit in the two mechanisms that are stated in the report as being in charge of coordinating and monitoring policies in this area, do not care about issues of protecting women from violence. Instead, AWC has sent responses to questions addressed to the state.⁴⁶⁶

What the coordinator for gender-based violence in the Higher Public Prosecutor’s Office in Belgrade (HPPO) does represents an example of good practice in the promotion of multi-sector cooperation. Still, the State Prosecutorial Council ranked this Deputy Public Prosecutor as 34th out of a total of 43 candidates in the process of selecting the Deputy of the Public Prosecutor’s Office in Belgrade. Member organisations of the Women against Violence Network (Belgrade region) expressed their displeasure with this assessment,⁴⁶⁷ which also reflects their attitude towards the topic of gender-based violence. They reminded of the fact that the Ministry of Justice, emphasising the engagement of the state in relation to the issue of violence against women, mentioned the activities of this representative when reporting in Chapter 23 of the negotiations with the European Union.⁴⁶⁸

RECOMMENDATIONS

- We repeat the proposal to the Government of Serbia to establish the National Mechanism for monitoring and analysing cases of femicide;
- We reiterate the recommendation that all competent Ministries should consider with due diligence the standards of the Council of Europe Convention on preventing and combating violence against women and domestic violence, as well as the GREVIO recommendations given to Serbia, and integrate them into all relevant laws, public policy documents and especially into the practice of state bodies;
- We repeat the recommendation that it is necessary to ensure the monitoring and analysis of the implementation of the existing institutes of protection and support for women and other victims of gender-based violence and domestic violence in order to increase their safety as well as recovery, empowerment and independence, in accordance with their human rights and good practice standards;
- It is necessary to carefully approach amendments to the Criminal Code in relation to all acts of sexual violence, including those that use technology and social networks, to improve the knowledge of the authorities in the police and judiciary in dealing with victims of such acts and reporting on the conviction of perpetrators.

465 “Reply by SERBIA to the reporting form on the implementation of the Recommendation of the Committee of the Parties adopted on 30 November 2020”, <https://bit.ly/3n6S8l5>

466 “AWC Contribution for the Committee of the Parties to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence regarding the 2020 Recommendations for Serbia” (31 March 2023), <https://bit.ly/3n7wOvM>

467 AWC (20 March 2023), “Press release: Questionable evaluation of the Coordinator for gender-based violence by the State Prosecutorial Council”, <https://bit.ly/3VbAlpr>

468 As well as an entire series of activities of this deputy public prosecutor in the implementation of the Act on Prevention of Violence (2027), including the fact that she was the editor and author of the educational materials that are on the website of that Ministry, entitled “Cancel Violence”, <https://iskljuci-nasilje.rs/preuzmi-2/>

4.3.6. Rights of the Child

After the murder of two two-year-old girls, the discovery of a case of severe neglect of an eight-year-old girl, and the subsequent supervision of professional work and control of the work of the acting services, the fact that there will be no deeper analysis of system limitations and omissions is quite worrying. There are no indications that these cases will be linked to a series of unrealised activities from Chapter 23 of the AP that were supposed to improve support for children and families and provide mechanisms, facilities, professional staff and finances for this. Until efforts are made to improve the protection of children, as well as women, in the procedures of entrusting children and determining the model of visitation when there is violence in a partner relationship, the quasi-scientific concepts of "parental alienation" or "child alienation" are being popularised among the professional public regardless of the fact that they can have negative consequences on the best interests of the child as well as the safety of the child and her/his mother.

Murder and severe neglect of children – Without a systemic response from the state

Prevention of murder of children by fathers who have already been reported and convicted of domestic violence remains without a systemic response or state responsibility. In the autumn of 2022 the public was shaken by, and the citizens of Vršac protested because of the murder of a two-year-old girl who was killed by her father, who had pleaded guilty to domestic violence and had a restraining order towards the mother, but no restriction or control of contacts with the child. In February 2023, the public was faced with another murder of a two-year-old girl in Zaječar. She was beaten by her stepfather and has died in the hospital as a result of the beating. The competent Social Welfare Centre issued a statement that the child's family had been in their records "on various grounds since 2016, and that they continuously monitored them in procedures that were conducted from time to time, taking all measures within their purview". It was also stated that "in the previous work with that family, there were no reports of child neglect and abuse and that neither parent was reported for domestic violence against the children",⁴⁶⁹ which happens to be incorrect, according to the information that was published in the media.

In late March 2023, a father who for years kept an 8-year-old girl captive in an apartment in Zvezdara (Belgrade) was arrested after his partner reported violence that she suffered from him to the police. This case stunned the public and brought many systemic issues once again to the fore – from entrusting children to parental care in high-risk circumstances and the exchange of information and cooperation of competent authorities, to the role of citizens when they suspect or know that abuse and neglect of a child or a family member is taking place.⁴⁷⁰ This time too, the supervision of professional work and control of the work of the acting service was announced (it is not certain whether the public will be informed about the results), but the fact that there will be no deeper analysis of system limitations and omissions is worrying. This is confirmed by other similar incidents of abuse and attempted murder of children after their mother leaves a violent partner.⁴⁷¹ There are no indications that this case will be linked to a series of unrealised activities from the AP for chapter 23 related to children's rights, which should have improved support for children and families and provided mechanisms, institutions, professional staff and finances for this.

469 Danas, M.D.S. (22 February 2023), "The Social Welfare Centre in Zaječar issued a statement regarding the tragic death of a girl", <https://bit.ly/40UU0v6>

470 RTS (28 March 2023), "Who were all those who erred in the case of the girl from Zvezdara?", <https://bit.ly/3AlrvWt>

471 For example, the attempted murder of 18 year old daughter (Nova.rs, Aleksa Momčilović (5 April 2023), "The girl (18) who was almost killed by her father when he deliberately crashed into a lamppost is recovering", <https://bit.ly/41T460Q>); or locking up, beating and mistreating a 16 year old girl (Telegraf, Jelena Paunović (24 April 2023), "Horrible violence near Sopot: Man locked up his daughter, beat her for hours, doctors called the police", <https://www.telegraf.rs/vesti/hronika/3666941-jezivo-nasilje-kod-sopota>)

Popularisation of quasi-scientific concepts endangers the safety and best interests of children

Nothing was done regarding the invitation of the GREVIO expert group (which monitors the implementation of the Council of Europe Convention on the Prevention of Violence against Women and Domestic Violence) addressed to the authorities in Serbia to take necessary measures, including amendments to the law, to ensure that the courts are obliged to: a) consider all issues related to violence against women when determining custody and visitation rights; b) ensure the recognition of witnessing violence against a close person as compromising the best interest of the child; c) restrict custody and visitation rights where this is warranted to guarantee the child's best interest and safety; and d) end the practice of removing children from non-abusive parents and placing them into foster care (paragraph 172).

In Serbia, preventive protection against domestic violence rarely includes children who have witnessed violence against their mothers, sometimes not even children who are direct victims of violence (in 2021,⁴⁷² only 6% of emergency and extended emergency measures included children). In addition, in recent years, the education of experts on the topic of "high-conflict divorce" and "parental alienation" or "child alienation" has become quite popular. Such trainings are accredited by the Chamber of Social Protection, as well as by the Republic Institute for Social Protection (the latter has also developed professional-methodological instructions for social welfare centres in which this quasi-scientific concept is defined and used, without specifying the theoretical and research data that support and challenge it). A particularly strong campaign to popularise the concept of "parental alienation" is carried out by portals and organisations of men/fathers, whose founders and followers were often themselves punished for violence against their partners, and who, through the selection and manipulation of information, justify typical prejudices against women/mothers (about false reports for violence and separating children from their fathers).

Regarding the above, the AWC has already addressed all relevant authorities, from Ministries and professional institutions and bodies, to state bodies and institutions (without any effect), informing them about the inappropriate use of the above concept in the context of domestic violence, that is, violence against women and children. Reference was made to the recommendations made by GREVIO to other countries, but also to the views contained in the *European Parliament Resolution on the impact of intimate partner violence and custody rights on women and children* (2019/2166(INI)).⁴⁷³ Nevertheless, the unscientific concept of "parental alienation" is still being promoted in Serbia at conferences supported by international donors.⁴⁷⁴

Serbian laws are not the same for all – The saga of children expelled from a kindergarten continues

The previous Alarm Report⁴⁷⁵ mentioned children of preschool age from Pećinci who have been refused a place in the kindergarten due to the political orientation of their parents and relatives. The educational inspector established that the procedure was unlawful and ordered that the decision be corrected, which has not yet been done. Meanwhile, the president of the municipal board of the ruling Serbian Progressive Party filed a criminal complaint against the mother of one of the children for the criminal offence of prolonged insult. This mother addressed the public on several occasions stating that their children were "marked by the local strongman".⁴⁷⁶

472 AWC, Tanja Ignjatović (15 Jun 2022), "TENTH REPORT on independent monitoring of the implementation of the Law on the Prevention of Domestic Violence in Serbia for the period January – December 2021", <https://bit.ly/3LFHL16>

473 AWC (2021), "Lack of social attention and expertise on the consequences of violence perpetrated by intimate partners in procedures for determining parental care of the child", <https://bit.ly/3VhVPB6>

474 Centar ravnopravnog roditeljstva, Međunarodna konferencija "Izazovi ravnopravnog roditeljstva", Novi Sad 27-28. April 2023. <https://www.ravnopravnoroditeljstvo.org/wp-content/uploads/2023/04/Informator-Konferencije-2023.pdf>

475 P. 93.

476 Direktno, source: IN Media (18 April 2023), "SNS strongman sues mother of the child prohibited from entering kindergarten", <https://direktno.rs/vesti/hronika/466159/milorad-pantic-luki-sns-pecinci-tuzba-jelena-mihajlovic.html>

RECOMMENDATIONS

- We repeat that it is necessary for the Government to ensure the responsibility of the competent Ministers for the drafting of amendments and supplements to all laws, the preparation of all by-laws, and to provide resources (people, finances and knowledge) for all support services for families and children from the Revised AP for Chapter 23 so as to make up for the enormous backlog in this area;
- We repeat that it is necessary to urgently provide systemic knowledge, mechanisms and responsibility regarding the protection of child victims and witnesses of domestic violence, with special attention on the abuse of children as a form of violence against their mothers.

4.3.7. Personal Data Protection

The Law on Personal Data Protection from 2018 is still to be improved, and the delayed harmonisation of a number of other regulations should follow. The Personal Data Protection Strategy was drafted in an inclusive manner and put on public debate in the Spring. The practice of the Commissioner for Information of Public Importance and Personal Data Protection in 2022 shows that critical shortcomings in this area remain. The Ministry of the Interior continued to work on its withdrawn draft laws of December 2022, with the aim to introduce and legalise the technology for mass smart surveillance of the population.

The Draft Strategy for the Protection of Personal Data for the period from 2023 to 2030 was put up for public discussion in the second half of March.⁴⁷⁷ Representatives of two expert civil society organisations subsequently joined the working group, which was formed in mid-2021. This document highlights the key problems and priorities in this area until 2030 and will be accompanied by a three-year Action Plan and a monitoring body. The text of the action plan was not presented to the public; according to the claims of the representatives of the Working Group, it was written in parallel with the Strategy through the elaboration of the planned activities by the competent institutions.⁴⁷⁸ As a reminder, the previous strategy from 2010 was never implemented because the accompanying action plan was not adopted.

The Draft Strategy clearly defines the goals and measures to achieve them. Among other things, it aims for Serbia to receive an adequacy decision from the European Commission. When it comes to improving the legal framework, changes are necessary first to the Law on Personal Data Protection, in which the provisions of two EU acts are confusedly rewritten and mixed. It is estimated that the degree of compliance of sectoral laws with this central law is only 40%,⁴⁷⁹ although Serbia has committed to complete the harmonisation process by the end of 2020. Moreover, now this low percentage is interpreted as an advantage, and the continuation of the process will require changes to the central law, for which no deadline is defined in the Draft Strategy. In terms of strengthening institutional capacities, three regional offices of the Commissioner for Information of Public Importance and Protection of Personal Data are expected to be opened, and the first one was opened in Novi Sad at the very end of 2022.⁴⁸⁰ The Draft Strategy also addresses the small percentage of data controllers and processors who have designated a data protection officer (37%) and the need to increase the number of foreign companies that have appointed their representatives in Serbia (among which Facebook is persistently missing). A particular goal relates to education and raising awareness in the field of personal data protection through promotional campaigns, the development of a curriculum for different levels of education, and the training of public administration personnel and judiciary representatives to improve judicial practice.

477 <https://ekonsultacije.gov.rs/topicOfDiscussionPage/153/1>

478 Notes of the author from the roundtable discussion within the public debate in Belgrade on 31 March 2023.

479 Draft Strategy, p. 33.

480 <https://www.poverenik.rs/sr-yu/saopstenja/3893-повереник-отворио-регионалну-канцеларију-у-новом-саду.html>, 30 Dec 2022

Table 5: Practice of the Commissioner for Personal Data Protection in 2022

The Commissioner's practice, in numbers	2020	2021	2022
Resolved complaints	149	209 ▲	177 ▼
Received complaints	139	204 ▲	181 ▼
Supervision procedures conducted	205	303 ▲	416 ▲
Supervision procedures initiated	223	363 ▲	354 ▼
Binding final decisions (percentage of those acted upon)	56 (91%)	83 ▲ (85%) ▼	51 ▼ (92%) ▲
Criminal charges filed by the Commissioner	3	3 ■	1 ▼
Requests to initiate misdemeanour proceedings	6	3 ▼	2 ▼

Source: Commissioner's annual reports for 2020, 2021 and 2022⁴⁸¹

The development of information and communication technologies in digitisation processes is recognised as a unique challenge. The Strategy, therefore, envisages the regulation of automated processing of genetic and/or biometric personal data and the use of audio and video surveillance, which must begin with amendments to the central law. However, while the Strategy was being drafted, the Ministry of Interior (Mol) put the Draft Law on Internal Affairs⁴⁸² and the Draft Law on Data Processing and Records in the Field of Internal Affairs⁴⁸³ for public debate in December 2022. Both drafts had serious shortcomings from the perspective of personal data protection, and the provisions legalising the mass biometric surveillance of the population for special purposes attracted the public's attention. Under public pressure, both drafts were withdrawn, and at the initiative of the Prime Minister in 2023, a series of meetings between Mol representatives and civil society organisations gathered in the NCEU Working Group for Chapter 24 began. As described in earlier Alarm reports, the Ministry of Interior also held a series of consultations with CSO experts in 2022 on biometric surveillance, but they hadn't reached a consensus. However, provisions from the drafts of the two laws on which the Mol worked in parallel were never presented. Although the Mol presented a new draft impact assessment of the use of this technology on the protection of personal data and other rights and freedoms at the last meeting on 30 November 2022,⁴⁸⁴ it didn't indicate that the drafts of the two laws, which were already put up for public discussion the following week, had been drafted. Ethical guidelines for the safe and reliable use of artificial intelligence⁴⁸⁵ underwent a public debate in December 2022, and the Government adopted them in March 2023.

Another attempt to legalise mass biometric surveillance – the outcome is still uncertain

Although the initially rather broad purposes have been narrowed in the set of draft laws of December 2022, the system still implies indiscriminate mass biometric surveillance in real-time and the creation of enormous amounts of personal data in case the police should find themselves in a position to justifiably need some of them in some specific case. Such processing of personal data is unacceptable from the point of view of risk to human rights and freedom,⁴⁸⁶ while the financial profitability of such an expensive system is also questionable. It is envisaged that the extracted biometric photos [of the faces] will be preserved for 72 hours, but the videos from which they were extracted will be kept for an entire year.⁴⁸⁷ Apart from the protection of privacy, this also discourages the enjoyment of other rights and freedoms,

481 <https://www.poverenik.rs/sr/o-nama/godišnji-izveštaji.html>

482 <https://ekonsultacije.gov.rs/topicOfDiscussionPage/98/1>

483 <https://ekonsultacije.gov.rs/topicOfDiscussionPage/99/1>

484 <https://www.sharefoundation.info/wp-content/uploads/Procena-uticaja-novembar-2022.pdf>

485 <https://www.ai.gov.rs/extfile/sr/591/Етичке смернице за развој, примену и употребу поуздане и одговорне ВИ - усвојени текст.pdf>, 24. 3. 2023.

486 https://www.sharefoundation.info/wp-content/uploads/SHARE_Pozicija_Biometrijski_Nadzor.pdf

487 The same deadline is prescribed for another system of mass surveillance of the population that has been applied in Serbia since 2010.

such as freedom of expression and assembly, and threatens the confidentiality of journalistic sources. Relevant European and global bodies such as the United Nations High Commissioner for Human Rights,⁴⁸⁸ the European Data Protection Supervisor and the European Data Protection Board,⁴⁸⁹ as well as the European Parliament⁴⁹⁰ have already spoken out against the use of such technology.

To date, the MoI has not provided any valid arguments, supported by statistical data and analyses, that the application of this technology is necessary for its intended purposes, which is a prerequisite for any further discussion. Instead, in the meantime, the Ministry of Interior cited several examples from practice in which this technology could have speeded up and facilitated the identification of the perpetrator of a criminal offence.⁴⁹¹ However, foreign research shows that this type of surveillance manages to reduce the number of traffic violations and cases of petty theft, but is not effective in suppressing violent and organised crime,⁴⁹² despite the fact that this is stated as the purpose of its application. The MoI thus found itself in a paradox, where this form of surveillance has proved neither necessary nor effective in the fight against more serious forms of crime, which would be the only purpose that could justify such an invasion of privacy.⁴⁹³

Throughout the reporting period, the Ministry presented to relevant CSOs several improved versions of the Draft Impact Assessment of this technology on personal data and fundamental rights; however, the text has not been finalised. Personal data protection was the topic of the meeting on 19 April, when the last (unpublished) versions of the relevant drafts were presented, in which the modalities of using this technology for the identification of perpetrators of criminal offences prosecuted ex officio and the search for missing persons were additionally limited. It is recognised that the implementation of this measure must first be foreseen by the Criminal Procedure Code, the comprehensive amendments of which are being drafted by a separate working group. The Draft Law on Personal Data Processing in the Field of Internal Affairs has been rewritten. However, the new version contains shortcomings and dangers, such as unjustifiably broad permanent data storage or preventing public oversight by hiding even statistical data on implementing specific measures, contrary to the Law on Data Secrecy.

RECOMMENDATIONS

- Adopt the Personal Data Protection Strategy, with the accompanying Action Plan and establish a working body to oversee the implementation of these acts in order not to extend the envisaged deadlines any further.
- It is necessary to improve the vague provisions of the Law on Personal Data Protection as soon as possible, especially in the area of data processing for special purposes, and continue the process of harmonising provisions of other laws with this Law;
- The Ministry of Interior should abandon the introduction and legalisation of smart mass biometric surveillance following the recommendations of international bodies. Otherwise, it must present detailed statistics that would clearly indicate the need for this type of surveillance, the proportionality of the purpose of this intrusive technology in relation to the encroachment on fundamental human rights and freedoms, and provide for strict mechanisms to protect personal data from possible abuse. Moreover, the possibility of real-time monitoring, which implies indiscriminate surveillance, should be excluded entirely, and the degree of control should be increased to the level of special investigative measures, which are applied in criminal investigations as a last resort based on the proposal of the public prosecutor and the order of the court. Coordination between the MoI and the Ministry of Justice is necessary to regulate this matter, with the involvement of the Commissioner and civil society organisations.

488 <https://news.un.org/en/story/2021/09/1099972>

489 https://edps.europa.eu/press-publications/press-news/press-releases/2021/edpb-edps-call-ban-use-ai-automated-recognition_en

490 https://www.europarl.europa.eu/doceo/document/TA-9-2021-0405_EN.html

491 Impact Assessment of the Intended Biometric Personal Data Processing Actions on Personal Data Protection, version of 30 March 2023, available to the author.

492 https://www.sharefoundation.info/wp-content/uploads/Analiza_procene_uticaja_SHARE_Partneri-Srbija_BCBP.pdf

493 prEUgovor Brief Alert (Feb 2023), *Pushing and Pulling: What's Wrong with the New Draft Law on Internal Affairs?*, <http://bit.ly/3Uy25nR>

5. CHAPTER 24 – JUSTICE, FREEDOM AND SECURITY

5.1. Police Reform

The Ministry of Interior once again failed to produce a new Draft Law on Internal Affairs of sufficient quality and to ensure a proper consultation process, causing the Draft to be withdrawn from the legislative procedure for the second time in December 2022. During the subsequent consultation process with civil society organisations as part of producing the third Draft, worrying trends were identified within the police organisation that threaten to further undermine its integrity and professionalism. Improving police integrity and ensuring operational autonomy from the influence of politics and organised crime remains the key aspect of police reform in line with the Chapter 24 benchmarks.

On 8 December 2022, the Ministry of Interior (MoI) published the new Draft Law on Internal Affairs and announced public consultations which were supposed to last until the end of the year. The new Draft represented an amended and, in some instances, improved version of the old one, whose content became a matter of controversy and was quickly withdrawn from the procedure in 2021.⁴⁹⁴ During the period between the publication of the two drafts, a series of consultative meetings was organised between the MoI and parts of the expert public. They resulted in significant changes in certain parts of the text, mostly involving the intended use of biometric surveillance.⁴⁹⁵

The new Draft did not significantly improve many of its provision, but it contained new ones that parts of the expert public found problematic.⁴⁹⁶ Just like the old one from 2021, the new Draft Law generated widespread criticism, both regarding the content and the limited time assigned for consultations. The National Convention on European Union (NCEU) requested an extension of the public debate, which was accepted by the MoI so a new deadline was set for 22 January 2023.⁴⁹⁷ However, after prolonged and substantial criticism from civil society organisations, professional associations, political parties and members of the EU parliament, the MoI decided to withdraw the Draft Law from the procedure for the second time.

✖ ALARM: Key shortcomings of the Draft Law on Internal Affairs of December 2022

Cementing political influence on operational police work: Despite cosmetic interventions, the Draft Law ensures a stranglehold of political decision-makers over police work. This influence comes from the Government, primarily through the Minister of Interior, whose position comes with excessive powers such as issuing mandatory instructions and requesting special reports related to the work of police, as well as the power to limit the right to peaceful assembly by a governmental decree.

Excessive powers of the police: The Draft Law granted overly broad powers to the police, including the power to enter private property without a warrant and use force without adequate safeguards, including new police powers such as the use of rubber bullets. These powers could be easily abused and could lead to human rights violations.

Lack of accountability measures: The Draft Law did not provide sufficient measures to hold the police accountable for their actions. For example, it does not allow for an independent police oversight mechanism (the Internal Affairs Sector is subjugated to the Minister of Interior), and has made identifying police officers more difficult for citizens owing to the changes of provisions related to identification marks on police uniforms.

494 For more details, see: Pejić Nikić, Jelena, ed. (Nov 2021), prEUgovor Alarm Report on Progress of Serbia in Cluster 1, pp. 108-109, Belgrade Centre for Security Policy, available at: <http://bit.ly/3MloqNv>

495 For the overview of the consultation process, see: <http://bit.ly/3A1cZZP>

496 For a more detailed overview of identified issues, see: prEUgovor Brief Alert (Feb 2023), Pushing and Pulling: What's Wrong with the New Draft Law on Internal Affairs?, available at: <http://bit.ly/3Uy25nR>

497 MoI wesbite, 16 December 2022, <http://bit.ly/3Gib9kf>

Third time's the charm?

Following two unsuccessful attempts at adopting the Law on Internal Affairs, the Mol initiated another behind-the-closed-door consultation process with civil society organisations gathered around NCEU. The consultations took place from January to April 2023, and it is now expected that the Mol will present the new Draft to the public and initiate a new public debate. The mere fact that the Mol has organised a series of consultative meetings with civil society organisations is a significant step compared to the earlier public debates on the Draft Law. At these meetings, the Draft law was analysed article by article, with Mol and CSO representatives presenting their arguments and amendments to the text. This is an unusual and welcome practice. Although it is uncertain at this point to what extent the Mol will include the proposals and comments presented by various experts in the text, the process so far indicates that, although significant progress has been made, the most important issues could remain unresolved.⁴⁹⁸

There will be a chance to address these issues at a final, high-level meeting that is agreed to take place between the CSOs involved in the consultations, the Prime Minister of Serbia and the relevant ministries (Ministry of Internal Affairs, Ministry of Justice and Ministry for European Integration).

First, the part of the Draft Law that underwent the most significant changes is the one related to the use and processing of biometric data by the police. This has been a point of contention between the Mol and parts of the expert public because it has the potential to lead to most egregious violations of human rights, including the rights to privacy and peaceful assembly.⁴⁹⁹ This is particularly worrying in a situation with limited and ineffective oversight of the work of police, and with several thousand cameras already installed around many cities in Serbia. The Mol showed greatest interest in the provisions of the new Draft that are related precisely to this issue, amending them several times as well as the accompanying impact assessment, while going through an extensive consultation process with external experts. At the time of writing of this Report, it is still unclear what the final proposed solution will look like and whether it will meet the criteria of necessity and proportionality.⁵⁰⁰

Second, it has become apparent that the Working Group in charge of preparing the Draft Law did not have a mandate to change provisions that relate to police governance and the power-sharing structure within the Mol. This is particularly related to the role of the Minister and the excessive powers this position entails when it comes to influence on operational police work, top-level appointments within the Police Directorate, and the chain of command and responsibility within the police organisation.

During the consultations, much time was spent discussing ways to ensure the operational independence of the police or, in practice, how to protect operational police work from political influence. Although this is an international standard in policing and has been incorporated into the Chapter 24 negotiating framework for Serbia, it appears that there is very little chance that any significant progress will be made. In Serbia, this problem largely has to do with the subordination of various Mol departments to the Minister's will and the relations with Police Director.

The Draft Law envisages discretionary powers of the Minister of Interior that could keep his undue influence over the operational work of police. Although the Draft Law does recognise operational autonomy as a principle, said autonomy is derogated by provisions that allow a backdoor influence of the Minister. This includes excessive influence on personnel decisions and appointments within the police, as well as requesting special reports on the work of the police. Much time was spent discussing these provisions during the consultations, and the Mol finally revised the contested Article 13 so as to strike a balance between the legitimate need of the Minister to issue mandatory instructions and obtain special reports on the work of the police, and the need to prevent undue influence through these mechanisms.

498 Several authors of this report have participated in these meetings and the assessment provided in this section of the report is based on conclusions from the consultations.

499 See: Round Two of the Battle Against Mass Biometric Surveillance, 2020, Share Foundation, available at: <http://bit.ly/3o9eyll>

500 For additional information, see the section of this Report entitled Personal Data Protection.

Apart from the above, it appears that there is no sincere political intention to resolve urgent problems related to the fulfilment of the European Commission's benchmark which envisages the establishment of strong protection mechanisms against the influence of organised crime and politics on the operational work of the police.⁵⁰¹ If the Draft Law remains in its current form, it will ensure political influence over police work and lack of accountability, and will further undermine professionalism within the force.

Citizens' Assembly on the Draft Law on Internal Affairs

As part of its efforts to contribute to the police reform process by engaging a wider group of stakeholders, in February 2023 the BCSP organised a citizens' assembly with 40 randomly selected participants from all over Serbia. With the help of experts and moderators, citizens discussed ways to find a better solution to the proposed biometric surveillance and the governance of the police organisation, with particular focus on how to depoliticise the police force. They came up with several recommendations and proposals, which they presented at a plenary session to a group consisting of MoI representatives, members of the Serbian Parliament and one public prosecutor. The conclusions were drafted and submitted to the MoI as part of the ongoing consultation process.⁵⁰²

Changing the rules for appointing Police Director after a long unjustified vacancy

Third and perhaps most important, the developments that took place within the police organisation during the consultation process on the Draft Law suggest sinister intentions of the new Government and the Minister in charge of internal affairs. This has to do with the concept of rule by law instead of the rule of law, where the former refers to the situation in which those from the executive branch of power can arbitrarily create and apply laws without any accountability and with little or no resistance from the other two branches.

This is best illustrated by the process of so-called "DB-isation"⁵⁰³ of the police, which describes the transfer of personnel from the security services (in this case, the Security Intelligence Agency, in *Ser.* BIA), which is something that is happening not only in the police but in other institutions as well. The new Minister, who took office in October 2022 having previously held the post of the Director of BIA, has already appointed his two close confidants from the Agency to the posts of Acting State Secretary and Head of the Internal Affairs Sector.⁵⁰⁴ It is highly likely that the new Police Director (a post that has been vacant for a year and a half, ever since the previous Director retired) will also come from BIA, and that the position is in fact being "saved" by not appointing a new one before the adoption of the new Draft Law.

Article 35 on the appointment of Police Director has been one of the most contentious issues in the consultations between the MoI and CSOs. The Draft Law envisages expanding the criteria for appointing the Police Director so as to include persons not only with 15 years of work experience in the police, but also those with experience in managerial positions in "security affairs" without specifying what this term might entail. Despite objections against expanding the criteria in this manner, the MoI kept refusing to reconsider the provision. The argument put forward was that in this way more competent individuals might be motivated to apply for the position, although the very high threshold of 15 years in managerial positions represents a much bigger obstacle to accessing the pool of competent candidates. The MoI kept refusing the argument that appointing a police director from outside of the police (e.g. from military or security services) might represent a turn from police that is organised as a public service, or even cause humiliation to 40.000 people-strong Serbian police force which allegedly cannot produce a qualified candidate. The MoI pointed to a comparative solution contained in the Montenegrin Law on Internal Affairs, which *does* expand the criteria but also lists the institutions that are eligible to provide

501 European Commission (2014), Screening Report for Chapter 24.

502 BCSP (2023), Citizen-Oriented Policing: Effective Fight against Serious and Organised Crime. BCSP, Belgrade, available at: <https://bit.ly/3LxhNeO>

503 Translator's nota bene: in Serbian, DB stands for Državna bezbednost, i.e. State Security in English.

504 In Serbian: Novi načelnik u MUP Goran Colić: Došao iz BIA, bio predstavnik navijača u Skupštini FK Partizan [New head of the MoI, Goran Colić came from the BIA, was a representative of the fans in the Assembly of the Football Club Partizan], Nova S, 8 February 2023, <https://bit.ly/3MDO85O>

candidates.⁵⁰⁵ However, the Serbian Draft Law does not do so, rather containing a vague formulation of “security affairs.” The coalition prEUgovor fears that this will pave the way for further DB-isation and moving the police away from the model of citizen-oriented service.

Moreover, during the consultations several proposals were presented on the process of appointing the Police Director and the role of the Minister and the Government therein. CSOs that participated in the consultations were of the opinion that Police Director represents the most important bulwark against undue influence and that this position must therefore be strengthened, most importantly by changing the appointment procedure where the Minister and the Government are in charge. The Mol firmly held the position that, to ensure hierarchy within the Mol structure, it is necessary to ensure subordination of the Director to the Minister. CSOs presented several proposals on how to change the appointment procedure, including the proposal to replicate the model used in Montenegro where the relevant parliamentary committee has an advisory role when selecting the Police Director, but they were all rejected by the Mol.⁵⁰⁶

Police education at a turning point

Another example of the rule by law instead of the rule of law is the ongoing reform of the police education programme. The Draft Law envisaged the establishment of a High School for Internal Affairs in line with a separate law (article 246) that should be adopted following the new Law on Internal Affairs. This move to establish a high school for police officers represents a major departure from the current model of police education governed by the Law on Police, which envisages basic police training for candidates after they finish regular high school.

The Mol provided no official explanations or analyses as to why this radical departure from the existing model was proposed. In the current model, the Centre for Basic Police Training, open since the mid-2000s, serves as the educational facility for police officers. It replaced the previously dismantled High School that ceased to exist in 2009 after the graduation of its last generation of cadets. The reasons for abandoning this model of education in the 2000s was based on best practices and the findings that “the socialisation and isolation of police recruits from the general public at such a young age is counterproductive to the development of a police officer in tune with the values of society and an understanding of the needs of the public.”⁵⁰⁷ It is therefore a cause of concern why the Mol would suddenly propose such drastic changes that would revert to the previously used, and then abandoned, model of police education.

Regardless of the above listed concerns, in the midst of the consultations on the Draft Law on Internal Affairs that were taking place from January 2023 onwards, the Government of Serbia adopted a decision to establish the High School for Internal Affairs.⁵⁰⁸ It appears that the Government was in a rush to proceed with its plans without bothering to wait for a legal basis for such a move precisely because the Draft Law was stuck in the consultations. The next step was the Government’s decision from the end of March 2023 to change the Rulebook on the Enrolment of Students in Secondary School⁵⁰⁹ to allow for the newly established police high school to enlist new students. The Mol announced a public call for the first generation of students of the newly established High School for Internal Affairs “Jakov Nenadović” as early as on 3 April.⁵¹⁰ The deadline for applications was set for 20 April, despite the fact that potential candidates could not see the educational programme or the curriculum, since these are not available on the school’s website. For the same reasons, it is impossible to tell whether the new school will eliminate the shortcomings that were identified in its previous iteration and led to its closure in 2009.

Most importantly, the future careers of prospective students are uncertain since there is currently no legal basis for them to be employed by the Mol, owing to the fact that the current Law on Police only

505 Article 9 of the Montenegrin Law on Internal Affairs (“Official Gazette of Montenegro”, no. 44/2012, 36/2013, 1/2015 and 87/2018).

506 Ibid.

507 Downes, Mark (2004), Police Reform in Serbia: Towards a modern and accountable police service, p. 33, OSCE Mission to Serbia and Montenegro, available at: <http://bit.ly/3Ktvzyk>

508 Government of Serbia, Decision on the establishment of the High School of Internal Affairs “Jakov Nenadović” in Sremska Kamenica, “Official Gazette of the RS” no. 4/2023-4, available at: <https://bit.ly/41iKDpw>

509 “Official Gazette of the RS”, no. 23 of 24 March 2023, available at: <https://bit.ly/416wa0b>

510 Available in Serbian at: <http://bit.ly/41vm60D>

envisages the completion of basic police training as the legal prerequisite for becoming a police officer. Therefore, the future of this entire operation rests on the Government's ability to push forward with the Draft Law on Internal Affairs and assure that it is adopted in due time. Regardless of these uncertainties, more than 3,000 would-be police officers applied for 210 spots at the police high school.⁵¹¹

Investigative story 4:

The Trial – How a Man Was Convicted of Driving a Car He Had Never Entered

Slobodan Simeunović (35), from the village of Kruševica near Lazarevac, has never had any problems with the law. All changed in 2022, when, based on the police officers' testimony, the court convicted him for driving a car without a license. However, Slobodan neither knows how to drive nor has he ever entered that car.⁵¹²

In May 2022, the postman brought two misdemeanour charges against Slobodan. The misdemeanour court in Golubac called him for questioning because he was driving a car in that city without a license and an identity card. The vehicle belonged to a woman sitting in the passenger seat on that occasion. Although she claimed in her testimony before the court that she was seeing Slobodan for the first time in her life, four out of five police officers claimed with high probability that it was Slobodan driving the vehicle on the disputed day. The court believed their statements without any further checks and imposed a fine of RSD 65,000 on Slobodan.

It will turn out that Slobodan's relative drove the car stopped by the police and deliberately gave false information to the officers. Previously, he offered bribes to police officers and provided data of a person who did not exist. Instead of detaining the suspicious driver to establish his identity properly, they took him at his word and filed misdemeanour charges against the person with the name he provided.

Slobodan's attorney resorted to different legal remedies to have the procedure repeated. He filed criminal charges against four police officers with the competent prosecutor's office and sent complaints to the Internal Control Sector of the MoI. The sector checked the data from the mobile phone base stations and performed an expert examination of the signatures, which confirmed Slobodan's testimony. The real driver later admitted to driving the car and giving false information to the police. Slobodan still pays his fine in instalments, and his health has deteriorated.⁵¹³

RECOMMENDATIONS

- The Government of the Republic of Serbia, the National Assembly of the Republic of Serbia, political actors, EU institutions, EU member states, civil society organisations and the media must insist and work together on establishing an environment that is conducive to improving the operational autonomy of the police;
- Before the next version of the Draft Law on Internal Affairs enters the legislative procedure for the third time, it is necessary to address issues that could potentially erode the rights of citizens and downgrade the standards of policing;
- As a matter of priority, the Government of Serbia must organise a public and transparent procedure for the appointment of a new Director of Police.

511 In Serbian: Više od 3.000 kandidata se prijavilo za upis u Srednju školu unutrašnjih poslova, na jedno mesto 15 kandidata. Jelena Radovanović, 20 April 2023, Blic daily. Available at: <https://bit.ly/3nu0MtN>

512 <https://www.cins.rs/en/the-trial-how-a-man-was-convicted-of-driving-a-car-he-never-even-entered/>

513 <https://www.preugovor.org/Video-price/1801/prEUgovor-video-prica-Slobodana.shtml>

5.2. Migration and Asylum

Work on amending the legislative framework in order to liberalise the labour market for a wider range of foreigners was the focus of the competent authorities in the reporting period. However, the issue of the continuous presence of migrants without regulated legal status stresses the need to enhance the implementation of legal concepts provided by the Law on Foreigners and the Law on Asylum and Temporary Protection, whose purpose is to regulate the legal status of migrants and refugees in the territory of the Republic of Serbia. Serbia has aligned its visa policy with the EU in line with the requirements presented to government officials, which has influenced the migratory movements to the EU through the Western Balkan route. Cross-border incidents, including elements of violence, still occur.

General overview of the state of affairs

According to the latest FRONTEX data, the Western Balkan (WB) route saw a significant decrease in crossings in February thanks to the alignment of Serbia's visa policy with EU requirements.⁵¹⁴ However, it remains the second most active migratory route into the European Union with nearly 8 400 detections (main nationalities: Syria, Afghanistan and Turkey).⁵¹⁵

Table 6: UN statistics on migration in Serbia September 2022 – March 2023

Monthly figures	September 2022	March 2023
The number of migrants and refugees present in Serbia	8,151	3,160
Recorded new arrivals to centres	19,345	6,477
The number of migrants and asylum seekers in government accommodation facilities	6,183	2,505

Source: The UN Refugee Agency (UNHCR), Snapshot for September 2022 and March 2023

At the national level, available statistics indicate a significant decrease in the number of estimated new arrivals to Serbia compared to the previous reporting period. During winter months, migrants stayed longer in the centres, while with the improvement of weather conditions, the period of their stay was reduced again.⁵¹⁶ According to the information from the organisations present on the field and in border areas, despite the reduced number of new arrivals, the number of informal migrants' gathering places in border areas has not decreased.⁵¹⁷

According to the available data, over the past several months there has been a slightly higher number of Morocco nationals among migrants, refugees and asylum seekers in Serbia.⁵¹⁸ Moreover, a slight increase of people from Mongolia in governmental facilities has also been noted by the Commissariat for Refugees and Migration (SCRM).⁵¹⁹ Additionally, although the abolition of the visa-free regime with some migration-high-risk countries led to a decrease in the number of registered irregular crossings to the EU through the WB route (according to the FRONTEX data), this however did not necessarily have the same push effect on irregular migration at the national level. Thus, for example, although Serbia has in October revoked the visa-free regime for Burundi nationals, holders of regular passports, available data from February 2023 indicates that Burundi nationals continue to be one of the highest numbers of

514 Since October, Serbia has (re)introduced a visa regime for nationals of Burundi, Tunis, India, Cuba, Bolivia, Guinea Bissau, holders of regular passports.

515 Source: Frontex, Detections in the Central Mediterranean more than doubled in the first two months of 2023, 10 March 2023.

516 For example, according to the UNHCR Snapshot data, around 3,782 new arrivals in governmental centres were recorded during February (in March, this number was 6,477), while total occupancy of governmental centers at the end of February was 2,354 (in March, this number was 2,505).

517 "The capacities of the Reception Center in Subotica are filled again", Telegraf, 26 April 2022, <https://bit.ly/41Lf8oG>.

518 According to the UNHCR, Serbia Statistical Snapshot in August 2022, there were around 6% of Moroccan nationals among asylum seekers/migrants, while in March 2023, this percentage has increased to 15%.

519 Child Protection Working Group meeting, 31 March 2023.

asylum seekers/migrants present in Serbia,⁵²⁰ indicating that trends in irregular migration are to a certain extent also influenced by other reasons besides the visa-free regime.

In the reporting period, fifteen accommodation facilities (asylum centres and reception/transit centres) were active (where Vranje asylum centre is still a facility accommodating only refugees from Ukraine). In March 2023, by the Decision of the Government,⁵²¹ the Asylum Center in Bogovađa, where mostly unaccompanied migrants/asylum seekers have been accommodated, has stopped working, and the premises have been returned to the owner – Red Cross.

Although currently active accommodation facilities are not filled, some reception/transit centres in border areas are still facing high pressure (RC Pirot),⁵²² which may indicate increased migratory movements in the border zone with Bulgaria. Additionally, local media have reported that in March, the centre's capacities in Pirot have been almost always full. Still, the migrants are not staying long, and after a stay of several days, they continue on their journey.⁵²³

The number of recorded intentions to seek asylum continued to increase. However, this high level of asylum applications is not indicative of the total number of persons arriving with protection needs because Ukrainians have also been registering for temporary protection.

Table 7: Asylum statistics for Serbia

	Sep 2022	Oct 2022	Nov 2022	Dec 2022	Jan 2023	Feb 2023	Mar 2023
Registered intentions to seek asylum	297	294	214	302	136	55	166
Asylum applications	11	12	23	13	21	21	19
Positive decisions	3	3	2	5	1	1	4

Source: UNHCR Serbia Statistical Snapshot October 2022, December 2022 and March 2023

Reports of international organisations and civil society organisations that follow migrants' and refugees' movements indicate that cross-border incidents, including elements of violence, still occur. According to some testimonies at certain borders, they are increasingly brutal.⁵²⁴

Despite an increasing body of evidence on human rights violations at the borders of not only Serbia but also along the European continent, there is still a climate of impunity. This is partially caused by the lack of adequate monitoring of findings and recommendations of human rights monitors, and the lack of a clearer accountability system and failure to meet the obligation of protecting human rights.⁵²⁵ In such circumstances, it is particularly important to consider the establishment of an independent institutional mechanism for monitoring the state border either through the tasks of the National Preventive Mechanism (NPM) or by establishing a new mechanism within the Ombudsperson's institution, or by establishing an independent surveillance mechanism for police officers, in partnership with international stakeholders, the academia and/or civil society organisations.⁵²⁶

520 According to the UNHCR, Serbia Statistical Snapshot in October 2022, there has been around 5% of Burundi nationals among asylum seekers/migrants, while in February 2023, this percentage has doubled.

521 Official Gazette No 21/2023 from 17 March 2023.

522 UNHCR, Centre Profiling Serbia March 2023.

523 Pirostke vesti, "Last year, 124,127 migrants were registered in Serbia – About 200 migrants daily in PC "Fourth Kilometre"", 21 March 2023. <https://bit.ly/3LdEvIK>.

524 Klikaktiv, "More people, more police and less safety-Annual Report 2022", p. 5. More: <https://bit.ly/3AyPKq3>

525 Strengthening Human Rights Accountability at Borders ENNHRI Report, July 2022. More: <https://bit.ly/3eqCb4y>

526 In Croatia, an Independent Mechanism for monitoring the actions of police officers of the Ministry of the Interior in the area of illegal migration and international protection was established under the Agreement of 8 June 2021 signed by the Ministry of the Interior of the Republic of Croatia on the one hand and the Croatian Academy of Medical Sciences, Croatian Academy of Legal Sciences, Center for Cultural Dialogue, Croatian Red Cross and prof. dr. sc. Iris Goldner Lang on the other hand. More details: 1. Biannual Report of the Independent mechanism of monitoring the actions of police officers of the Ministry of the Interior in the area of illegal migration and international protection, June – December 2021, Zagreb, December 2021 <https://bit.ly/3CKQpGT>. 10 October 2022.

Legislative activities – liberalisation of access to the labour market for broader categories of foreigners

Unfortunately, the chance was missed to improve certain provisions in the Law on Foreigners and the Law on Asylum, particularly those regarding the protection of the *non-refoulement* principle in the forced return procedure and protection of the right to an effective legal remedy in the course of conducting security checks.

In the reporting period, the proposals of the Law on Amendments to the Law on Foreigners and the Law on Employment of Foreigners were adopted, and the public discussion on amendments to the Law on Citizenship was completed. It is expected that the draft laws enter the parliamentary procedure in May.

Bearing in mind the similarity of the desired goals for adopting the laws on amendments to the Law on Foreigners and Employment of Foreigners (developing a more favourable business environment), as well as the content of the proposed changes, it is essential to observe these two laws together.

Some of the key changes in the proposed legislative solutions include the following:

- A new procedure for approving temporary residence for foreign nationals who want to work in Serbia is being introduced, and in accordance with the new procedure.
- New institutes are being introduced (such as a single permit for temporary residence and work, consent to change the basis of work, change of employer, or to be employed with two or more employers).
- The list of categories of persons who have been granted the possibility to access the labour market freely has been expanded (asylum seekers who have not yet received a decision after six months from the moment of submission of the asylum application, persons who have been granted asylum, including temporary protection, persons with temporary residence on humanitarian grounds, etc.).

In addition, an important novelty is a specification that a foreigner can conclude an employment contract for an indefinite period with an employer, which puts the protection of his labour rights completely under the scope of the Labour Law, which for the competent authorities that ensure compliance with the provisions of the Labour Law, can open certain doubts (which was highlighted during the public debate).

The application of new legal solutions is conditioned primarily by the existence of an effective digitalisation process, which is still not completed. Additionally, bearing in mind the scope of substantially important changes and the introduction of new institutes, it is essential to prepare all actors involved in the procedure of regulating the right to access the labour market in order to ensure uniform application of legal provisions throughout the territory of Serbia.

Proposed changes to the Law on Citizenship are introducing enormously favourable provisions regarding access to citizenship through naturalisation (persons who have temporary residence in Serbia after one year can seek access to Serbian citizenship if they have been working in Serbia and whose secondary of higher education acquired in another country has been recognised in Serbia).

It will take some time to see the effects of proposed changes and how they will influence the implementation of the laws in the area of foreigners and employment of foreigners, and on the statistical data of approved temporary residence permits and permanent residence in the Republic of Serbia.

What is the scope of mental health protection of migrants?

In recent years, persons with mental health issues among the migrant population, have become increasingly visible to the system, particularly those with disorders that require inpatient treatment and round-the-clock observation.⁵²⁷ On the other hand, some examples from the field⁵²⁸ indicate that there

527 More: Institutional Barometar 3.0.

528 Youtube, 24sata vesti, "Belgrade, Nadežda Pucar, doctor at Dr. Laza Lazarević clinic, about a patient who committed suicide" <https://bit.ly/4276jFE>

is a misunderstanding of the scope of the right to protect the mental health of materially unsecured foreigners, that is, that the existing legislative wording leaves room for migrants or persons in the asylum procedure to be denied adequate treatment in specialised institutions, due to the inability of health institution to charge them for the treatment.

When, due to the cessation of treatment or the absence of adequate treatment, a person for whom there is a real and immediate risk of suicide commits suicide, the question of the state's responsibility for protecting his/her right to life can be raised. Taking this into consideration, all legal uncertainties must be resolved in line with the international standards of positive state obligation regarding the provision of mental health in the protection of the right to life.

It is questionable whether police relocation actions are reducing irregular migration

Police continue to conduct actions to find and place adult irregular migrants in reception and asylum centres in Sombor, Subotica, Belgrade, Kikinda and Šabac.⁵²⁹ The situation in the field confirms that the presence of migrants in open squats puts their safety and the safety of the local population at risk. In the reporting period, several armed incidents among migrants have been recorded in border areas.⁵³⁰

However, despite these actions, the continuous presence of irregular migrants in border area settlements⁵³¹ brings into question the sustainability of the actions and indicates the lack of consistent system response to combat irregular migration.

✖ **ALARM: Police must determine the facts and circumstances of the acts at the Mali Zvornik border crossing and the RC in Sombor and take adequate measures**

On 25 April 2023, footage appeared in the media showing the excessive use of force against migrants by members of the police at the Mali Zvornik border crossing from Serbia to Bosnia and Herzegovina and in the reception centre in Sombor during the action of relocation of migrants to other centres in Serbia.⁵³² According to the statement of the Ministry of Interior, the Internal Control Sector has taken measures to establish all the facts and circumstances related to the recording published in the media and will take all the steps provided for by the law towards responsible police officers.⁵³³ Even though these situations are isolated and are not frequent, as indicated by representatives of certain institutions⁵³⁴ as well as CSO's⁵³⁵ it is crucial to determine the facts and all the circumstances of the case and act accordingly.

Media image and perception of security risks

According to the data of the Ministry of Interior,⁵³⁶ in 2022, in the border area of Subotica, Sombor and Kikinda, the formation of groups of foreigners (from Afghanistan, Pakistan, Morocco, Syria and others) which are linked to the smuggling of migrants' operations from Serbia to Hungary and Croatia, was observed. According to existing knowledge, in addition to migrant smuggling, they also smuggle cocaine and heroin from Serbia to Hungary and Croatia in such a way that they do not charge migrants for illegal crossing into Hungary and Croatia if they agree to smuggle the above-mentioned narcotic drugs for them. Due to the growing number of persons involved in the mentioned criminal activity, mutual conflicts

529 "The police in several locations in Serbia found 668 illegal migrants, transferred to reception centers", 021.rs, 15/03/2023, <https://bit.ly/3LcJV6F>

530 For instance, on 14 March, one migrant was murdered near Loznica in a fight between two migrant groups. More: <https://bit.ly/3NI4Wt7> On 26 April, one migrant was injured in what is suspected to be a fight in the border zone near Horgoš. More: <https://bit.ly/3HnQ2nz>.

531 "The police found 180 migrants in the forest and city areas, all of whom were transported to reception centers" Subotica.com, 15 March 2023, <https://bit.ly/424wY5J>

532 More: <https://bit.ly/42a9SuF>

533 "Mutual conflicts, racism, "pushback": An analysis of violence against migrants", N1, 25 April 2023, <https://bit.ly/3Nm9AN1>

534 "Zigmanov on the beating of migrants: Brutal violation of rights, isolated procedure", N1, 26 April 2023, <https://bit.ly/41Jz7E1>

535 "The Belgrade Center is looking for an immediate reaction due to the abuse of migrants", 26 April 2023, <https://bit.ly/3nem0f6>

536 MOI Fact Sheet, 2023.

between members of different criminal groups, as well as physical harassment and robbery of migrants who try to cross the state border illegally on their own without paying members of criminal groups, occur more and more often. It is precisely in these local communities that the problem of misperception of particular security risks is observed, resulting from an unbalanced public narrative and media image of the problem, which leads to the creation of misconceptions, stereotypes and tensions between the local population and migrants.

Protection of Ukrainian refugees

According to SCRM data, since the beginning of the war in Ukraine, over 148 000 Ukrainian refugees have passed through Serbia, and around 26 000 of them have registered residence in Serbia.⁵³⁷ Compared to these data, a significantly lower number of Ukrainian refugees has asked for international protection, so from 24 February 2022 until February 2023, 1 213 persons fleeing Ukraine received temporary protection in Serbia.⁵³⁸

Besides the Ukrainian nationals, among the displaced persons who have arrived from Ukraine and who have asked for temporary protection, there are also nationals of the Russian Federation, Uzbekistan, Armenia, China and Belarus, Bosnia and Herzegovina, Georgia and Latvia.⁵³⁹

It is commendable to note that the Government of Serbia has adopted a Decision⁵⁴⁰ extending the temporary protection of people from Ukraine for another year (until 18 March 2024), whereas the extension will not be automatic. Thus, beneficiaries need to confirm in person or via e-mail for an individual decision of extension to be issued.

Enrolment of migrant children in regular schools continues

According to the Ministry of Education data, 218 refugee and migrant children are enrolled in schools – 74 from Ukraine (64 in primary school and 10 in secondary schools) and 144 from other countries (1 preschool, 116 primary school, 27 secondary schools).⁵⁴¹

RECOMMENDATIONS

- It is essential to ensure all the necessary preconditions for full and effective implementation of new legal provisions included in the draft laws that are crucial for the area of migration.
- Necessary steps need to be taken to achieve a full application of the Law on Foreigners and creation 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 authorities in charge of implementing legal provisions limiting the freedom of movement, 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 the implementation of the Law on Foreigners, the Law on Asylum and Temporary Protection, in particular of the provisions related to the non-refoulement principle.
- It is important to strengthen infrastructure and human capacities of actors involved in securing access to labour market to foreigners in order to ensure implementation of new legal institutes.

537 SCRM, "Since the beginning of the conflict in Ukraine, 148,000 citizens of Ukraine have passed through the Republic of Serbia", 24 February 2023, <https://bit.ly/44dC81o>

538 UNHCR, Serbia update February 2023.

539 Belgrade Center for Human Rights, Right to Asylum in the Republic of Serbia, 2022, p. 20, <https://bit.ly/3oH3z34>

540 Official Gazette No 21/2023 from 17 March 2023.

541 CPsWG meeting, 31 March 20213.

- It is essential to enhance capacities for combating smuggling of people, and for the protection of migrants subjected to smuggling.
- It is important to strengthen the connection between the system for combating irregular migration and the asylum system.
- It is necessary to intensify activities aimed at sensitising local communities and at initiation of the dialogue that would contribute to understanding the needs of migrants and host communities.

5.3. Fight against Organised Crime

Serbia is still not implementing a strategic approach to the fight against organised crime. Instead, the practice of competent authorities is focused on individual cases. Organised criminal group Vračarci was arrested in this reporting period. The Prosecutor's Office for Organised Crime maintained bilateral cooperation with the prosecutor's offices from the region and the European Union. Representatives of the Ministry of the Interior informed the public that the fight against organised crime was successful in 2022; however, data to support this statement are not publicly available. It is necessary to investigate the allegations raised by professional journalists about the links between political structures and criminal groups.

In mid-January 2023, the Serbian Ministry of the Interior (Mol) presented the results of its work in 2022, stating that 28 organised criminal groups (OCGs) were dismantled and prosecuted. They highlighted the arrest of the criminal group headed by Darko Šarić in April 2022 and the criminal group *Vračarci* in November 2022 as important successes in the fight against organised crime.⁵⁴² Although the number of arrested and neutralised OCGs gives the impression that the fight against organised crime in Serbia really was successful, this is, unfortunately, difficult to verify as data on the work of the relevant authorities are not publicly available. Also, the number of OCGs is a variable category.

In collaboration with the Security and Intelligence Agency (BIA), Serbian police arrested 17 members of the criminal group *Vračarci* while its leader and the other 10 members were on the run, on suspicion that they committed three aggravated murders and five attempted aggravated murders in Serbia and abroad. This OCG allegedly operated within the framework of the Montenegrin Kavač clan. Its members did not directly cooperate with the criminal group of Veljko Belivuk, which served as an outpost of this clan in Serbia, as they had an agreement not to attack each other.⁵⁴³

The President of Serbia stated the following about the arrest: "We are talking about murderers who lustfully wanted my death, while some of them wanted the death of my children".⁵⁴⁴ The bad practice of representatives of the executive of publishing information from the investigation did not stop. By doing this, they were able to influence the outcome of the pre-investigation and investigation phases and manipulate citizens. However, the head of the Service for Combating Organised Crime (SBPOK) explained that there was no sufficient evidence to indict this OCG for the attempted murder of Serbian President Aleksandar Vučić and his family members.⁵⁴⁵ This was the first time that a professional from the police force had an opportunity to publicly address the statements of the representatives of the executive branch of power and clarify the state of the facts to the citizens of Serbia.

According to the Mol, the second success in the fight against organised crime in Serbia in 2022 was the arrest of the OCG led by Darko Šarić. The indictment against Darko Šarić and his criminal group was confirmed in mid-January 2023. For the first time, three high-ranking members of the Mol were also charged as members of this criminal group. According to the indictment, it was thanks to them that Darko

⁵⁴² Ministry of Interior of the Republic of Serbia, The Work Results of the Ministry of Interior 2022, p. 2, <https://bit.ly/40DGPit>, 7 April 2023.

⁵⁴³ "Arrest of 'Vračarci': 17 members of a criminal group linked to Kavač were arrested", *Vreme*, 11 November 2022, <https://bit.ly/3UckKoT>, 7 April 2023.

⁵⁴⁴ "Vučić on the arrest of Vračarci: Some of them wanted my death, and some wanted my children's death", *N1*, 11 November 2022, <https://bit.ly/3mvxfQa>, 7 April 2023.

⁵⁴⁵ "Cmolić (SBPOK): There is not enough evidence for the indictment against 'Vračarci' for the assassination of Vučić", *Danas*, 14 November 2022, <https://bit.ly/43blFsz>, 7 April 2023.

Šarić received confidential information from the investigation. Šarić's defence attorney was also accused as being a member of the OCG. Before he was taken into custody, the attorney also defended Veljko Belivuk. The indictment was based on messages that members of the group exchanged via the Sky application as the main evidence. As stated in the indictment, they were planning to kill the cooperating witness in the proceedings that were pending against Darko Šarić for cocaine trafficking. However, they abandoned this idea and redirected their activity to discrediting him instead. According to the indictment, they used tabloids and one television station with a national frequency, known as pro-regime media, for doing so. Namely, they planted an explosive device on the car of the second witness in the proceedings, with the intention of falsely accusing the cooperating witness using the media. After Šarić's arrest, the same tabloids started a campaign to reveal the persons behind the encrypted names on the Sky application. These people are allegedly state officials, but their identities remain unknown.⁵⁴⁶

In this case, the investigation and the indictment did not deal with discovering who provided Darko Šarić with a phone while he was in custody (until December 2021). This is particularly important to understand how this criminal network operated, and it is, therefore, necessary to expand the investigation to include that aspect. This was the third indictment against Darko Šarić. He was sentenced to 14 years in prison for trafficking cocaine, while the proceedings for money laundering are still pending based on the second indictment.

Controversial role of the Security Intelligence Service in criminal investigations

At the end of February 2023, prosecutors for organised crime from 12 European countries gathered at a conference in Belgrade. On that occasion, the Serbian Prosecutor for Organised Crime, Mladen Nenadić, met with prosecutors from Montenegro and Greece. It is assumed that they talked about the progress in investigations into the allegations that Veljko Belivuk's clan had committed murders in those countries.⁵⁴⁷

The trial of the Veljko Belivuk criminal clan began in October 2022, in the Special Court in Belgrade.⁵⁴⁸ In two indictments, members were accused of a total of 7 murders, illegal drug trading and several other crimes. The key evidence against this criminal group are the confessions of three of its members that they participated in committing criminal acts (which earned them the status of accused witnesses) and the evidence that was collected through the Sky application and submitted to the Serbian Prosecutor's Office for Organised Crime. These indictments, which cover the period starting from the year 2019, do not include the connections of this group with the police and political structures, which investigative journalists had already reported about in the preceding period.⁵⁴⁹ It is therefore necessary for the Prosecutor's Office for Organised Crime to investigate the political background of the activities of Belivuk's group.

Although the trial of Belivuk's group is pending, professional journalists recently discovered that the BIA had followed and wire-tapped Veljko Belivuk, the leader of the OCG, at the time of the five murders. Communications not included in the Sky application were intercepted. Allegedly, he had been subjected to 'special measures', but the BIA did not prevent any of the murders.⁵⁵⁰ This showed the participation of the BIA in criminal investigations as problematic because there is no supervision of the application of special measures. The issue of the division between the BIA and the police in applying special measures is one of the interim measures listed in the Action Plan for Chapter 24.⁵⁵¹ However, the situation did not change in this reporting period, and the BIA is continuing to apply special investigative measures.⁵⁵²

546 "Insider reveals the details of the indictment: Investigation and obstruction of the investigation against Šarić (VIDEO)", Insajder, 29 January 2023, <https://bit.ly/43l2C09>, 7 April 2023.

547 "International conference of prosecutors for organised crime in Belgrade", N1, 22 February 2023, <https://bit.ly/3Kmbvbs>, 7 April 2023.

548 For additional information about the cases involving the criminal group of Veljko Belivuk and the cases 'Jovanjica 1' and 'Jovanjica 2', see earlier prEUgovor Alarm reports, available at: <http://bit.ly/AlarmReports>

549 For additional information, see: "The connections of Belivuk's group in the police have only been scratched", KRIK, 29 April 2022, <https://bit.ly/3MlgUSY>, 7 April 2023.

550 "NIN information: Belivuk was followed by the BIA during the period when five people were killed", Danas, 19 January 2023, <https://bit.ly/3zN7XQC>, 7 April 2023.

551 For additional information about the role of the security services in criminal investigations, see: Jelena Pejić Nikić (ed.) The prEUgovor Alarm Report on the Progress of Serbia in Cluster 1, Belgrade, May 2022, p. 120, <https://bit.ly/43mJRK4> and Jelena Pejić Nikić (ed.) The prEUgovor Alarm Report on the Progress of Serbia in Cluster 1, Belgrade, November 2022, p. 105, <https://bit.ly/3nZjNV4>

552 Ministry of the Interior of the Republic of Serbia, Revised Action Plan for Chapter 24 – The report on the implementation of activities for the period July-December 2022, The Interim Benchmark 4 within Fight against Organised Crime, <https://bit.ly/3mmATM1>, 7 April 2023.

Delays in two 'Jovanjica' cases

The phase of questioning witnesses has come to an end in the case of 'Jovanjica 1', which involves the indictment of an OCG that produced large quantities of marijuana. The presentation of written and material evidence has begun. During this stage of the proceeding, the court panel decided to exclude from evidence 660 kg of dried cannabis and the planner that served to record the shifts of people who participated in the production of drugs. According to the court panel's rationale, Predrag Koluvija, the accused leader of the criminal group, was not present during the search that revealed the above evidence.⁵⁵³ The Deputy Prosecutor for Organised Crime acting in this case filed an appeal against this decision. The Appellate Court revoked the decision to exclude the above evidence and pointed out the need to interrogate police inspector Slobodan Milenković and other inspectors who performed the search. Their questioning is planned for April 2023. As a result of this, the 'Jovanjica 1' trial has been in recess for almost five months. The suspension of the trial in the case of 'Jovanjica 1', however, also affected the trial in the case of 'Jovanjica 2', in which members of the police, the BIA and the Military Intelligence Agency (VOA) were charged as members of the same OCG. The preliminary hearing in 'Jovanjica 2', which is a condition for the formal start of the trial, has been postponed 18 times to date.⁵⁵⁴

RECOMMENDATIONS

- Serbia should adopt and implement a strategic approach to fighting organised crime instead of focusing on individual cases;
- Competent authorities should investigate allegations of possible cooperation between members of organised crime and politicians, based on existing media reports;
- In the Draft Law on Internal Affairs, create ways for better cooperation between the police and the prosecution to achieve better efficiency in fighting organised crime;
- It is necessary to develop the capacity of the police to apply special investigative measures independently of the security intelligence services, which should not be participating in criminal investigations. The monitoring centre with technical equipment for the interception of communications should be moved from the premises of the BIA;
- The (police's, prosecutor's offices' and courts') track-record of the fight against organised crime should be made public, so that the interested public can be informed about the successes.

553 "Evidence of more than 600 kg of cannabis found on the property was excluded from the 'Jovanjica' case", BIRN Serbia, 22 November 2022, <https://bit.ly/3UkEQxr>, 7 April 2023.

554 "After a four-and-a-half-month break, the trial in the 'Jovanjica 1' case continues with the hearing of Mali Senta and four other police officers", BIRN Serbia, 6 April 2023, <https://bit.ly/41gm2Bw>, 7 April 2023.

5.4. Suppressing and Combating Trafficking in Human Beings

The deterioration of the state anti-trafficking framework continues in the reporting period. After several years of receiving government attention and certain level of efforts invested in the building of the anti-trafficking structure, the whole year of 2022 and first quarter of 2023 are marked with setbacks, delays and overall negligence towards the fight against trafficking in human beings and protection of the victims.

The list of anti-trafficking activities planned from Action Plan for Chapter 24, which were already modest and narrow at the adoption, became a short list of, mainly, unrealised wishes. Yet, the reading of the official report on the implementation of the AP 24 shows no major issues – there is not one activity marked as delayed, not implemented or cancelled. The discrepancy between the practice and the picture painted by this report could not be bigger.

It seems like the repetition of the year 2016, when Serbia was downgraded to Tier 2 Watch list by the Trafficking in Persons Report,⁵⁵⁵ due to the, among other issues, failure to adopt the Strategy and Action plans. Having in mind that state of Serbia was recently downgraded to the Watch List last year (2022) after several years of stagnating, due to the issue of labour exploitation of Vietnamese workers in the Linglong factory in Zrenjanin, there is a serious concern that the overall developments could potentially bring Serbia to the lowest Tier (3) in past 10 years.

The umbrella national public policy document in the field, *Strategy for Prevention and Suppression of Trafficking in Human Beings, especially Women and Children, and Protection of Victims in the Republic of Serbia for 2017-2022* expired four months ago, without the Action Plan being adopted, and also without proper monitoring and reporting. However, this activity is also recognised as 'going as planned' by the official report on the AP 24, while no official updates on plans for the development and adoption have been shared with the key actors, at least not with the specialised CSOs.

The 2022 was also marked by significant number of international bodies and institutions' reactions regarding the state of Serbia failing to support and protect the foreign workers from Vietnam exploited in the Linglong factory in Zrenjanin.⁵⁵⁶ Not one Serbian institution reacted fully in accordance to their mandate, even after 18 months since the case got into the public attention.

Renewed intensification of the Western Balkan route for migration, influx of migrants and refugees from Ukraine and Russia, new wave of foreign labour workers arriving to Serbia to work in low-paid jobs (mainly in construction, but also in service sector), poorly controlled sector of seasonal work, as well as continuous outflow of Serbian citizens in pursue for unsecure and suspicious jobs abroad, remain the source for concern and increases in scope daily.

The state of the anti-trafficking framework and support to the victims in Serbia can best be described by the growing number of cases of Serbian citizens who were exploited in foreign countries. Even after receiving the status of the victims of trafficking by the competent institutions in foreign countries, upon return to Serbia, they are reluctant to have any contact with Serbian institutions: *"Please, I cannot go through lengthy procedures, repeat myself again and again and end up with no proper help. I just feel nobody really cares here..."*⁵⁵⁷

555 The TIP Report's three-tier system ranks countries based on each country's efforts to prosecute traffickers, protect trafficking victims, and prevent human trafficking. The tiers are based on the country's efforts to address human trafficking and not on the size of the country's human trafficking problem. <https://www.refworld.org/docid/577f95b26.html>

556 Jelena Pejić Nikić (ed). prEUgovor Alarm Report on Progress of Serbia in Cluster 1 – November 2022, prEUgovor coalition, Belgrade, November 2022 shorturl.at/goEX8

557 ASTRA Victim Support Unit, Notes from the interview from one of the victim exploited in the EU country.

The poor scope of the services and support to the victims of trafficking, regardless of where they come from, or where they were exploited, can be (but only to some extent) explained by the limited financial funds. However, the overall attitude of the State towards the strategic and operational anti-trafficking efforts, as well as obvious blatant omissions in concrete cases, indeed are confirming the concerns vocalised by this victim.

For an unknown reason the State is withdrawing from the few milestones achieved in previous period and is leaving the anti-trafficking framework with no attention or support. Considering a bundle of the internal and external challenges, the timing cannot be worse.

5.4.1. Combating trafficking in human beings in the Action Plan for Chapter 24: Still a list of unrealised and unverifiable activities, but no red flags in the official report

The reviewed Action Plan for Chapter 24 (AP 24)⁵⁵⁸ from 2020, involves, combating against trafficking in human beings, under the section on fight against organized crime. The situation has not improved comparing to the previous reporting period.⁵⁵⁹ The only difference is that the list of measures and activities contained therein which are late, and the ones whose level of fulfilment cannot be properly monitored due to the lack of information, is becoming longer. However, the official report on the implementation of the AP 24 offers a completely different perspective: among the 13 activities, only three (3) are marked with yellow (activity in progress). The majority of activities (10 out of 13) are in green colour, which means either “activity being implemented continuously” or “activity completed”. The closer look at four major activities and the colour marking its’ progress, reveals a number of issues.

Table 8: Official and ASTRA’s assessment of implementation of anti-THB activities in AP 24

AP 24 activity / assessment on the status of implementation	Official report	ASTRA’s assessment
6.2.8.1. Implementation of the Strategy of prevention and fight against THB, especially women and children and protection of victims, for the period 2017-2022	Activity being implemented continuously. The state is listing namely four activities (one meeting, one training and two workshops) as an explanation for such an optimistic assessment.	Activity 6.2.8.1 should be marked in red: <ul style="list-style-type: none"> • No AP adopted for the final two years of strategy implementation • No monitoring on the implementation • No reporting on the implementation • Thus the implementation of the Strategy in whole, is questionable.
6.2.8.3. Draft a proposal of the Action plan for the Strategy of prevention and fight against THB, especially women and children and victims protection, for the period 2021-2022	Activity completed. The state assesses the activity being successfully completed and provides a description of the process which resulted in AP being rejected by the Ministry of Finance.	Activity 6.2.8.3 should be marked in red: <ul style="list-style-type: none"> • No AP adopted for the final two years of strategy implementation • No monitoring on the implementation • No reporting on the implementation

⁵⁵⁸ In Chapter 6: Police Cooperation and Combating Organised Crime, Section 6.2, Temporary Measure 8, 2020, <https://bit.ly/3Bxzk0f>

⁵⁵⁹ Jelena Pejić Nikić (ed). prEUgovor Alarm Report on Progress of Serbia in Cluster 1 – November 2022, op. cit.

AP 24 activity / assessment on the status of implementation	Official report	ASTRA's assessment
6.2.8.6. Conduct an external evaluation of the implementation of the Strategy for Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children and Protection of Victims 2017-2022	Activity in progress. The state reports on how the activity in question has started and will be completed in the "following period".	Activity 6.2.8.6 should be marked in red. The activity cannot be properly conducted since there is: <ul style="list-style-type: none"> No officially adopted AP for the final two years of Strategy, in accordance to whom the progress, achievements and impact that can be evaluated No report on the implementation of the final two years of Strategy that can be cross-examined and evaluated
6.2.8.7. Draft a new National Strategy for the eradication of trafficking in human beings in the Republic of Serbia for the period 2023-2028. with the accompanying Action Plan for the period 2023-2025	Activity in progress. The State reports how the process in ongoing with the intensification of activities in June 2023 "in accordance to the Law on Planning System".	Activity 6.2.8.7 should be marked in red. <ul style="list-style-type: none"> The implementing period of the document in question has already started with the preparation of the new Strategy document announced only in June 2023. Such timeline is already causing a half a year of delay. Even with the most optimistic dynamic of work, the final document cannot be expected before the end of the 2023, which mean a whole year lost in the implementation.

The new national policy document for eradication of human trafficking in the Republic of Serbia for 2023-2028, together with a draft proposal of the action plan for its implementation for 2023-2025⁵⁶⁰ are not developed nor adopted yet, although the support from several donors was secured years ahead.⁵⁶¹ Despite the fact that the development and adoption of the new strategy and action plan are obviously late, and no achievements are made, the support of the donor is expanded.⁵⁶² Such clustering of donors around an important public policy document is very welcomed and it is in line with a decades-long strive for better donor coordination. However, it is unclear how the donors are perceiving such an obvious negligence toward the actual implementation and concrete achievements in this area.

The manner in which activities' progress is being assessed and labelled must be improved. Instead of yellow colour and neutral note (activity in progress) for the activities that are obviously delayed, a different colour can be assigned. Also, a difference between the 'activity being implemented continuously' (green) and being completed (also green), must be made. The way the assessment is being presented now, allows too much space for manipulation with the achievements and enables the state to present information what should be a reason for concern, in a mild and neutral way.

Along with the delays and set-backs, the trend of keeping the specialised civil society organisations out of the loop, continues. This means that the monitoring of the overall state efforts in the area of fight against trafficking is increasingly difficult.

One of the realised activities in the AP 24 is the adoption of the amendments to the Law on Protector of the Citizens (late 2021) that introduced the independent rapporteur for trafficking in human beings. However, there are still no (visible) significant efforts invested in operationalisation of the rapporteur (more below).

⁵⁶⁰ AP 24, Activity 6.2.8.7.

⁵⁶¹ Organisation for International Cooperation of FR Germany – GIZ and Initiative for Migrations, Asylum and Refugees – MARRI Regional Project Preventing and Combating Human Trafficking with total value of the project 5 million euros.

⁵⁶² IOMs project "Instrument for building capacities in the field of integrated border management in the Western Balkans" (WBIBM) has been added to the list of those contributing to the implementation of the activity.

5.4.2. Institutional framework for combating trafficking in human beings – put on hold?

The crucial body in the management, coordination and support to intersectoral response to trafficking in human beings is *Council for Combating Human Trafficking*⁵⁶³. However, this body remains inactive, marking an infamous anniversary of full four years without sessions.

National Anti-Trafficking Coordination Office (Office), the operation of which is directly related to that of the Council, continued to operate with low visibility. However, after a period of several months without the coordinator being appointed, prEUgovor member ASTRA was informed that the new head of the Coordination Office was finally appointed in the first quarter of 2023. In the period until the mid-2021 the Office was organising regular meetings of the coordination body for monitoring of implementation of the Strategy and the Action Plan, coordinated the process of collecting reports on the realised activities, and the exchange of information among actors. After the report on the implementation of the AP 2019-2020 was drafted, the coordinating body for monitoring and implementing the Action plan was dissolved, under the explanation that it was appointed to monitor only AP 2019-2020. The specialised civil society organizations were at that point in time removed from the direct participation in the development of the AP 2021-2022. Having in mind that the plan for 2021-2022 was never officially adopted, therefore, there was no "new" body for monitoring and implementation established.

More than a year after the Law on the Protector of Citizens has been amended, introducing a new, important institute of the independent national rapporteur for trafficking into Serbian practice, the scope of the activities and achievements under this institute is still to be fully revealed. On the official web site of the Protector of Citizens (Ombudsman), this role is still not clearly stated among its areas of work. The Ombudsman's annual report for 2022 elaborates a bit more on the accomplishments in relation to the protection of the trafficking victims. The report contains a brief explanation of the role, mentions 10 cases of trafficking in human beings among other cases in 2022, and elaborates on the success of the Ombudsman's reports to the Centre for Human Trafficking Victims' Protection (Centre) which resulted with positive identification of victims. The Ombudsman notes the inexistence of the "systematic approach of the competent state authorities in the fight against human trafficking" which is resulting in "lack of timely protection and assistance to victims, including a large number of children".⁵⁶⁴ It is announced from that there will be a separate Ombudsman's report on the anti-trafficking issues. Since it is expected that the contributions and interventions of the rapporteur will be more specific and concrete, the recourses and tools developed by the Balkan Anti-Trafficking Network (BAN)⁵⁶⁵ can be used for monitoring⁵⁶⁶ and reporting⁵⁶⁷ purposes.

Still there are no updates on the amendments of the existing or the proposal of the fully new Law on Social Protection. Such an important act is still on hold with no clear explanation. As noted in the previous Alarm reports, the Law on Social Protection has a particular significance for the National Referral Mechanism for human trafficking victims (NRM), especially in defining the role and position of the Centre for Human Trafficking Victims' Protection in the social welfare system.⁵⁶⁸

SOP – *Standard Operating Procedures* for the trafficking victims, a document elaborating on intersectoral cooperation, competences and procedures in dealing with human trafficking victims, also remains in the same form from the adoption (2019) and still represents an unused opportunity for further development and instalment into the mandatory proceedings of all state actors involved.

563 Decision on establishing the council for the fight against human trafficking, ("Official Gazette of RS", No. 92/2017) <https://bit.ly/3eW4fgK>

564 Regular Annual report of the Ombudsman for the year 2022 <https://www.ombudsman.rs/attachments/article/7685/Redovan%20GI%20za%202022.%20god.pdf>

565 ASTRA – Anti trafficking action, Balkans ACT Now III, EuropeAid/154870/DH/ACT/Multi. <https://astra.rs/en/balkans-act-now-iii-english/>

566 ASTRA: Monitoring and evaluation of policies to combat human trafficking: A manual for victims' representatives <https://drive.google.com/file/d/1ldpoY5dbrFYinaKbZkNe-yusqa-f4uJh/view>

567 An electronic version of the Monitoring Tool <https://drive.google.com/file/d/1ldpoY5dbrFYinaKbZkNe-yusqa-f4uJh/view>

568 Established in 2012 via the Decision by the Government of the Republic of Serbia, Official Gazette RS, No. 16/2012.

5.4.3. New slavery for the 21st century – no closure, only new challenges

The case of the Vietnamese workers employed in the Linglong tyre factory, received no proper attention by Serbian authorities. Almost 18 months after the case was revealed, in spite of enormous efforts of specialised CSOs, activists, experts, investigative media, as well as international institutions and bodies, the state remained determined in ignoring the obvious breaches of human and labour right of the workers, to respond in accordance to its' own legal framework and international standards ratified via number of conventions and agreements. The Vietnamese workers in question mainly left Serbia in previous months. Still, new workers arrive daily to the construction site in Zrenjanin, and most of them are from India and Turkey, in accordance to ASTRA findings. As previously reported, the overall situation has been improving, i.e. the housing situation is better, but the issues with the superiors' behavior towards workers, unpaid wages, and the dynamics of the work, remain. ASTRA's associates also reported on the unsuccessful attempts to initiate the production of tires due to some technical and compound issues. The production and selling phase is also important having in mind the new EU and German developments in the area of due diligence to human rights and environment issues, and contracts that Linglong allegedly has with Volkswagen and Renault for tire purchase.

The trend of an increased inflow of foreign workers to Serbia continues. At the same time, the key legal acts: Law on Foreigners and Law on Employment of Foreigners were amended and public debate was organized, during February and March 2023. PrEUgovor member ASTRA is following and actively participating in the monitoring and development of these two laws, from the point of risk of trafficking in human beings for the purpose of labour. In parallel, according to the findings and cases of ASTRA Victim Support Unit, new groups of foreign workers, potential victims of trafficking in human beings for the purpose of labour exploitation are being discovered in Serbia, broadening the list of the countries whose citizens are arriving to work here (Uzbekistan and other Central and Far East countries), only to end up in difficult circumstances and some of them, heavily exploited.

5.4.4. Protection of and support to victims in practice – statistics and trends

Centre for Human Trafficking Victims' Protection – old problems, new challenges

In 2022, the Centre for Human Trafficking Victims' Protection (Centre) received 138 new reports on potential trafficking victims.⁵⁶⁹ For 117 cases, the identification procedure was initiated. 62 victims of human trafficking were formally identified, which is 35% increase comparing to the 2021, but still 18% less comparing to the number of identified victims in 2018 (76 victims).

Sexual exploitation is still the most dominant form (55%), followed by forced begging with 12.9%, multiple exploitation with 11.3%, forced marriages with 9.5% and labour exploitation with 6.4%.

The percentage of children among the victims is extremely high and amounts to 40%. Out of 62 identified victims, 79% are women (42). Almost half of the female victims are girls (20). 68% of the adult female victims were sexually exploited, 12% were victims of forced marriage, 8% were exposed to multiple exploitation, etc. Among the total number of child victims, 59% of them were sexually exploited. The average age of the exploited girls is 14 years. 16% of the child victims were forced to beg, and 12% were victims of forced marriage. The Centre warns about the severity of exploitation of children, which are very extreme. Also, they are noting a large increase in the number of sexually exploited children, which is higher than in the past two years combined. The victims are mostly girls (13 out of 14 victims), and the average age of sexually exploited children is 14 years.

As for the male victims (13 of them), the majority were victims of forced begging (38%), multiple exploitation (23%), labour exploitation (15%), sexual exploitation (8%), forced criminality (8%) and economical exploitation (8%).

569 The Centre's annual statistical report for 2022, <https://centarzztlj.rs/wp-content/uploads/2023/01/statisticki-izvestaj-2022.-3.docx>

The majority of the victims are Serbian – Serbian citizens were exploited mainly in Serbia (84% of cases), and in 16% of cases abroad, mainly in Western European countries, through forced marriage, forced begging, labour and multiple exploitation. The number of foreign victims is still very small; in 2022, 6 foreign victims were identified (10% of the total number of identified victims). In 2021, the Centre identified only one foreign victim.

The foreign victims identified in 2022 are all women, from Bosnia and Herzegovina, Uganda, Cameroon, Congo (2 victims) and Tunisia.

The Centre identified one female victim (minor) of labour exploitation, one adult female, as well as 2 adult male victims. Labour exploitation is present in 3 more cases, labelled as multiple exploitation (combined with sexual exploitation, forced begging, and forced criminality), which increases the total percentage of cases with labour exploitation elements – to 12%.

The Centre's full annual report for the year 2022 is not yet published. There is a lack of data or the lack of clarity of data on the Centre's role as a central coordinating body for providing social services of protection, and cooperation with numerous actors, institutions and organizations.⁵⁷⁰ In addition to the data presented in earlier Centre's reports, there should also be a clear and precise overview of those related to the services provided, the type of services, type of institution who provided the assistance/ services provided, number of victims, main challenges and improvements, etc.

Main issues and remarks in relation to the work of the Centre for Human Trafficking Victims' Protection

A. Invisibility of the foreign victims of labour exploitation to the Centre

Regardless of the hundreds of Vietnamese workers,⁵⁷¹ presumed victims of trafficking in human beings for the purpose of labour exploitation on the construction site for the Linglong tyre factory in the Zrenjanin, the Centre failed to identify any victims in this case. During different public events, the representatives of the Centre claimed that the "procedure is ongoing", however, even after more than a year since the first reports, no concrete actions were performed, and no written trace of any efforts invested, can be found in the publicly available documents. Since the case of Vietnamese workers have similarities with the case of Indian workers⁵⁷² (2019-2021), it's worth to point out that the Centre did not react to the case of Indian workers, in the same manner they ignored the procedure in the case of Vietnamese workers. Also, in EU Commission Serbia Report 2022,⁵⁷³ there is a sentence on the Centre's activity in progress, regarding Vietnamese workers. However, no official information is available on the achievements in this regard.

B. Filipino women – victim of labour exploitation left with no support from the Centre

There were several procedural and operational omissions in relation to the Filipino women, a victim of trafficking in human being for the purpose of labour exploitation in the household, which resulted in severe breach of her rights and failure to provide her with the adequate support and services. With the support of ASTRA, the client submitted a Constitutional Complaint in which she disputes the actions of the Centre for Human Trafficking Victims' Protection, Ministry of Labour, Employment, Veterans and Social Affairs of the Republic of Serbia in the process of identifying a victim of human trafficking, which was started in December 2021.

570 ASTRA, on behalf of the PrEUgovor Coalition, made an analysis of the Centre for the observed year 2021. Dušan Šabić (ed). Institutional Barometer 3.0, April 2023, Belgrade, pp. 78-93. <https://preugovor.org/Institutional-Barometers/1792/Institutional-Barometer-30.shtml>

571 Would you really buy this – Final report on LingLong case by ASTRA, ASTRA – Anti trafficking action, 2022 <https://drive.google.com/file/d/1LUZR7VYImVYW5IE7YOvU421oqVyZ9Leu/view>

572 ASTRA-Anti trafficking action, Indian workers exploited in the Serbian road construction industry, ASTRA – Anti trafficking action, 2023 https://drive.google.com/file/d/1seOwE_vZ4-gPHoFpHvJXldWxbodfRZzZ/view

573 https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2022_en

C. The Centre's unclear legal position

After an evaluation of the 10 years of Centre's work reflecting on the cooperation with ASTRA and most common or the most severe issues met by ASTRA's expert workers, a policy brief was produced on *Challenges of recognition of the status of human trafficking victim in the Republic of Serbia*⁵⁷⁴ (2022) elaborating in detail the unclear position of the Centre within the Law on Social Protection, absence of the two degrees' appeal procedure for the victims, since now it is only possible to appeal to the Ministry, also unclear procedure in case the victim would like to work with another expert worker, no evaluation of the service by the victims (besides the one for the Shelter) and so on.

D. Memorandum of Understanding, Protocols for Cooperation etc. – no criteria nor practical impact

One of the main tasks of the Centre is to coordinate the support to the victims. This means that the Centre's mandate and activities must be widely communicated with all state institutions, and important stakeholders in general. In their statistical report for 2022, the Centre also notes that there are not so many specialised CSOs contributing to the combating THB and providing assistance to the victims, and that there should be more such organizations. On the other hand, the Centre is entering some cooperation agreements with organizations that have questionable qualities and capacities to contribute to the overall anti-THB and service provision framework in Serbia. Of course, signing of the MoU does not guarantee any activities being implemented with the other signing side, nor it automatically ensures any improvements in practical support to the victims. Annual reports of the Centre list the number of the signed MoUs as a specific achievement in the positioning of the Centre, focusing on the collecting of the MoUs, rather than the strengthening cooperation with practical outcomes. On the other hand, though, the Centre's entering into a relation with certain organizations claiming to be active in the field of anti-trafficking, whose action (or the lack of it) is very well known among the established institutions and CSOs – is sending a discouraging message to the ones who are truly contributing to the cause. It can also send a wrong message to the persons in risk and victims of THB, since some of the organizations in question have leaders and promoters who are known to the public for other activities beside the self-proclaimed fight against THB. Unfortunately, the appearance of the GONGO or GONGO-like organizations can also be noted in the field of anti-trafficking and service provision to the victims.

E. The Centre is intentionally misinterpreting ASTRA's activity, in their annual statistical report

In their annual statistical report⁵⁷⁵, the representatives of the Centre made an incorrect statement regarding ASTRA's ability to properly report the cases of trafficking to the Centre. The report mentions *14 applications from the NGO ASTRA, which do not include data that would allow us to know which persons they are, and how to provide them with the necessary assistance*, underlining that the increase of the reports *does not follow the quality of the content*. ASTRA has indeed forwarded reports to the Centre, about the Serbian victims (majority of them identified as victims of THB abroad), who returned to Serbia, and reached to ASTRA for support. The victims were thoroughly informed by ASTRA about their rights in front of the state institutions. However, the victims themselves insisted on keeping their anonymity and not trying to claim any rights in Serbia in front of the authorities. As they stated, they have no trust that the official procedures will bring anything but disappointment and re-victimization.

On the other side, the rationale behind forwarding anonymous reports with basic description of the case and circumstances, lays in the Memorandum of Understanding that ASTRA signed with the Centre. According to the Memorandum, if a potential/presumed or confirmed victim of human trafficking does not accept the official process of the identification and cooperation with the Centre, ASTRA will still provide the Centre with anonymized basic data about the victim, using special form, and the data will be used exclusively for statistical reporting on the phenomenon of human trafficking in Serbia.

574 Challenges of recognition of the status of human trafficking victim in the republic of Serbia, ASTRA-Anti trafficking action, 2022 https://drive.google.com/file/d/1x__mnFXbhzwLb9k-EV4ifEDR1sWlcPhk/view

575 CPoTV annual statistical report for 2022. <https://centarzztlj.rs/statisticki-podaci/>

Besides the anonymized reports mentioned, ASTRA have had 287 contacts with the Centre (calls, emails, letters, field visits, etc.) in regards to the 33 persons – 8 girls, 15 women and 10 men. ASTRA and Centre have had meetings or multi-sector meetings 10 times, and joint fields actions for 8 times.

F. New trend – victims reluctant to cooperate with the Centre and other state institutions due to lack of trust

Although the description of the attitudes and perception of some victims, elaborated in section above, is not directed only to the Centre, but rather to the system as a whole – this is altogether a deeply concerning trend.

ASTRA's Victim Support Unit – the variety and complexity of the cases increases, while the state support in any form is still lacking

ASTRA Victim Support Unit identified 25 victims in 2022 in total (16 Women, among which is 5 girls and 9 men). Majority of the victims were victims of labour exploitation; 11 (3 women, 8 men). Also, there were six cases of sexual exploitation, three cases of forced marriages, and five cases of multiple exploitation (4 women, one man).

Majority of the victims are Serbian citizens (21 out of the total of 25). Foreign victims were from India (2), Albania (1), and Vietnam (1).

ASTRA SOS hotline processed 4,770 calls in total, during 2022, out of which there were 2632 received calls. The majority of processed calls (86% or 4082 calls) were directly related to the trafficking in human beings. ASTRA VTU performed a total of 84 of field actions and sent 98 different types of reports to the state institutions regarding the cases. Since 2002 ASTRA has identified 587 victims of THB in total (405 adults, 182 children).

The position of victims of human trafficking in court proceedings' – preliminary findings from the 2022 analysis

The analysis of the verdicts for 2022 show that there were total of 16 first level verdicts (1/3 less than in 2021). Only five decisions in the first instance are in relation to the crime of THB. More than half (56%) of total number of verdicts (9) were made by excepting the plea agreements. This means that the trend of increase in the number of court decisions concluded with plea agreements continues. There were five children victims in the court proceedings that ended in 2022. As in previous years, analysed court decisions fail to include the information about any of the victims being awarded the status of especially sensitive witness.

Constitutional Court accepted one more complaint filed on behalf of a THB child victim

ASTRA case ID 6520: In the December 2021, ASTRA's client's attorney filed a constitutional complaint on behalf of the minor N.N. to the Constitutional Court, against the actions of the High Public Prosecutor's Office in Jagodina and against the judgment of the High Court in Jagodina. The file was submitted due to the violation of the N.N. right to dignity and free development of the personality, the right to inviolability of mental and physical integrity, the right to a fair trial, the right to equal protection of rights and to a legal remedy and the rights of the child, guaranteed by the provisions of numerous articles of the Serbia Constitution, a number of ratified conventions and agreements⁵⁷⁶ and three laws. A year later, in December 2022, the Constitutional Court passed a decision on accepting the constitutional appeal of ASTRA's client, deciding that the complainant's rights of the child were violated, in connection with the principles of the best interest of the child and the protective approach to victims.

⁵⁷⁶ European Convention for the Protection of Human Rights and Fundamental Freedoms, the United Nations Convention on the Rights of the Child, the Law on the Ratification of the Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse, the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.

RECOMMENDATIONS

- Consider the possibility of changing the operative framework for combating trafficking in human beings in Serbia, when it comes to changing the function and role of the Council for Combating Human Trafficking, as a body consisting of high officials, which is (due to elections and political reasons) susceptible to frequent changes in composition and, in addition to not being operative, is blocking the operation of the entire system with its inactivity.
- Continue with following of the relevant EU strategic and operative frameworks, by taking the widely defined approaches and the solutions implementable in Serbia, as well as by maximising the opportunities of including and connecting with non-EU member states.
- Change the manner of reporting on progress on AP 24 so that the level of achievements is clearer and in correlation with the actual situation.
- Engage all the relevant institutions (ministries) and, with respecting the existing procedures, start the process of amending the relevant legislation, so that it would be harmonised with the EU Acquis in the field of the prevention of and combating against trafficking in human beings.
- Follow the trends in the EU initiatives and directives, while also developing and adopting the documents to enable legislative and strategic framework for combating human trafficking in Serbia to be in line with the EU frameworks and good practices.
- Prepare and adopt the bylaws that would secure the minimum of activity and standards that institutions need to demonstrate when addressing the issues in relation with human trafficking, especially when it comes to support to victims in the state of emergency, limited access to institutions and organisations due to the pandemic-related risks, etc.
- Invest efforts and resources in the capacity building and strengthening of the Centre for Protection of Human Trafficking Victims, starting from the staffing issues, and further develop and define the roles of the Centre within the system of social care in general (cooperation, coordination).
- Improve reporting of the Centre and other actors on the scope, type, level, length and effectiveness of the support services provided to human trafficking victims and steadily update the list of the missing services, so that they could be planned and the resources necessary for their realisation secured.
- Plan the resources for further development and improvement of services for human trafficking victims, which would equally involve civil society organisations with experience in the field, and fully utilise all the available capacities in order to create an optimal range and better quality of the services.
- Strengthen the capacities of and connections between different actors in addressing the issue of child exploitation on the internet and strengthen interagency cooperation in the online and offline protection of the children in high risk of abuse and exploitation.
- Work on the effectiveness and efficiency of market and labour inspections, strengthen their monitoring of risk factors, as well as combat unethical and exploitative practices.
- Further improve referral of human trafficking victims, using all available capacities and resources, including the CSO capacities.
- Undertake a proactive, independent investigation in the complex case of the Vietnamese workers in the Linglong factory in Zrenjanin, as well as in the "Jagodina" case,⁵⁷⁷ and secure that all relevant state actors are fulfilling their duties and responsibilities in line with their competences. It is necessary to secure and provide full support and protection to all potential victims.

577 Jelena Pejić Nikić (ed.), PrEUgovor Alarm: Report on the Progress of Serbia in Cluster 1 – November 2021, op. cit, pp. 117-118.

5.5. Fight Against Terrorism and Violent Extremism

Far-right groups and parliamentary political parties of the extreme right have been very active in the past 6 months, focusing their activities on undermining President Vučić's acceptance of the Franco-German framework for normalising the relations between Serbia and Kosovo. Faced with the decline of popularity and the reduced patience of the Western countries, the Serbian Government responded firmly this time, arresting several far-righters who threatened violence and organising a smear campaign against the leaders of extreme-right parliamentary political parties. A public opinion poll showed that far-right and pro-Russian stances are widespread among Serbian citizens, especially youth, as a result of the nationalistic and pro-Russian rhetoric the ruling party consistently applied for more than 10 years.

✖ ALARM: Close ties of the Serbian far-right with Wagner paramilitary

Damijan Knežević, leader of the Serbian far-right organisation People's Patrol, visited the newly opened military-technology centre of the Russian paramilitary group Wagner in St. Petersburg at the end of November 2022. He stated that he hoped his visit might guarantee Russian support in the decades-long feud with Serbia's former province of Kosovo, and particularly the assistance of the Russian Federation and the Russian Army in the event of a conflict in Kosovo.⁵⁷⁸ The video report about the visit was distributed via Internet channels and portals close to the far-righters. Soon after, it was published that Wagner had opened its cultural and information office called Z-Orlovi in Belgrade, which proved to be fake news. The Russian-Serbian Centre Z-Orlovi does exist, but it operates mainly on Telegram, where its members spread disinformation and post threats to Russian liberals currently residing in Serbia.⁵⁷⁹ The leader of this group, Alexander Lysov, hosted Knežević during his visit to Wagner. Also, after Knežević visited Wagner, some Serbian far-righters started wearing Wagner patches at protests in Serbia and at the barricades in Kosovo, spreading fear that members of this paramilitary might be actually present in Serbia.⁵⁸⁰

The Serbian public was greatly disturbed by a video that was published by Russia Today, where Wagner called Serbian citizens to join its ranks (in the Serbian language), offering good earnings and adventure. Russia Today soon removed the video, but this did not prevent many in the Balkans and in the Western countries from worrying about Wagner recruiting Serbian citizens, and its capability to destabilise security in the Western Balkans, especially considering that individuals with Wagner symbols have already been observed in Serbia.⁵⁸¹

Beaten while trying to repaint Wagner's mural in Belgrade

Ilya Zernov, who fled to Serbia to escape Putin's regime in Russia, was beaten when he tried to repaint the mural dedicated to Wagner in Belgrade. Zernov filed criminal charges against Miša Vacić, leader of the Serbian Right, as he noticed that he was among the attackers.⁵⁸²

578 "Serbian right-winger says Wagner ties could help if there is a 'conflict in Kosovo'", RFE, 6 December 2022, <https://www.rferl.org/a/serbia-russia-wagner-kosovo-ultranationalists-/32164146.html>, 20 March 2023.

579 "Nakon objave Vagnera da je registrovao udruženje u Srbiji, ruski antiratni aktivisti negiraju, eksperti upozoravaju" [After Wagner's announcement that it had registered an association in Serbia, Russian anti-war activists deny it, while experts warn about it], VOA, 6 December 2023, <https://www.glasamerike.net/a/balkan-srbija-rat-u-ukrajini-ukrajina-rusija-grupa-vagner-delovanje-analiticari-nikitin-varga-radic/6868391.html>, 20 March 2023.

580 "Obeležja ruske jedinice Vagner na desničarskom protestu u Beogradu" [Markings of the Russian Wagner unit observed at a right-wing protest in Belgrade], RSE, 17 March 2023, <https://www.slobodnaevropa.org/a/beograd-protesti-desnica-kosovo/32323225.html>, 20 March 2023.

581 "Prekrećen Wagnerov mural u Beogradu: Obrisana i vijest o oglasu za regrutaciju" [Wagner's mural in Belgrade painted over: The news about the recruitment advertisement erased as well], 17 January 2023, Al Jazeera Balkans, <https://www.youtube.com/watch?v=yH7bSs-jhw8>, 20 March 2023.

582 "Ruski antiratni aktivista podneo prijave zbog batina u Beogradu" [Russian anti-war activist filed charges for being beaten in Belgrade], RSE, 13 February 2023, <https://www.slobodnaevropa.org/a/ruski-antiratni-aktivista-podneo-prijave-zbog-batina-u-beogradu/32269700.html>, 23 March 2023.

Far-righters protest and threaten violence

After Serbian President Aleksandar Vučić announced that he would accept the Franco-German proposal for the normalisation of relations between Serbia and Kosovo in January 2023,⁵⁸³ far-right groups and political parties of the extreme-right initiated activities to undermine the acceptance of said proposal. In this respect, the People's Patrol and other far-right groups and individuals organised protests in front of the Presidency building on 15 February, the Serbian Statehood Day. Chanting "No surrender!" and "Treason!", they threatened to riot if Serbia backed the EU plan to normalise relations with Kosovo. Also, the editor of the online portal Srbin.info, Dejan Zlatanović, said in his speech that "the one who signs will be killed", alluding that the Serbian President will be murdered if he signs the normalisation agreement.⁵⁸⁴ At one point, the protesters tried to break through the protective fence and enter the Presidency building, but the police prevented the attempt.⁵⁸⁵

Extreme-right parliamentary political parties – *Dveri*, *Zavetnici*, *Nova demokratska stranka Srbije* and *Pokret za obnovu kraljevine Srbije* (POKS) – organised a protest against the EU proposal for the normalisation of relations between Serbia and Kosovo on 17 March, the day when Kosovo extremists conducted a pogrom against Kosovo Serbs in 2004. A couple of thousand protesters chanted "Kosovo is Serbia!", carrying banners with the inscriptions "The people and the Church in defence of the country are the only solutions against treason", "Kosovo is not for Sale", and "No to capitulation!". Protesters with Wagner patches were present at the rally.⁵⁸⁶ The same political parties organised another protest on 24 March, the day when the NATO bombing campaign against the Federal Republic of Yugoslavia began in 1999. Extreme-right political parties announced that they would escalate the protests by organising rallies and blocking traffic throughout Serbia.⁵⁸⁷

State authorities' (para)institutional response to the far-right

Serbian state authorities responded to far-rightist threats of violence by arresting Damijan Knežević, leader of the People's Patrol, and Dejan Zlatanović, editor-in-chief of the far-right internet portal Srbin.info. They were charged with an attempt to violently overthrow the Government. Another man, allegedly a member of People's Patrol, was also arrested on his way to the February protest after a telescope rifle was found in his car.⁵⁸⁸ The Serbian authorities did not hesitate to resort to para-institutional measures to address the challenge coming from the extreme right. In this regard, the ruling party activists put up posters all over Serbian cities as well as banners on overpass bridges over major highways with derogatory messages directed at the leaders of extreme right parliamentary political parties who had organised protests against Serbian President Aleksandar Vučić.⁵⁸⁹ By taking these steps, the Serbian Government demonstrated that it is ready to take a firmer response to far-right activities. However, the problem is that the Government takes such measures only when it assesses that their rule is threatened, while remaining silent when far-righters use violence against CSOs, minorities, LGBT+, migrants and other vulnerable groups. The coalition *preUgovor* has been reporting on the Government's weak response to violent far-right activities in its previous Alarm reports.⁵⁹⁰

583 "Vučić posle sastanka sa petorkom: Srbija je spremna da prihvati francusko-nemački plan uz jednu rezervu" [Vučić, after the meeting with the five: Serbia is ready to accept the Franco-German plan, with one reservation], 20 January 2023, *Danas*, <https://www.danas.rs/vesti/politika/srbija-je-spremna-da-prihvati-francusko-nemacki-plan-uz-jednu-rezervu-Vucic-posle-sastanka-sa-petorkom/>, 24 April 2023.

584 "Serbia nationalist protests spike tensions over Russia", BBC, 18 February 2023, <https://www.bbc.com/news/world-europe-64674133>, 20 March 2023.

585 "Desničari srušili ogradu pored Predsedništva, ulaz u zgradu gađali jajima" [Right-wingers tore down the fence next to the Presidency building, threw eggs at the entrance], N1, 15 February 2023, <https://n1info.rs/vesti/desnicari-srusili-ogradu-pored-predsednistva-doslido-ulaza-u-zgradu/>, 20 March 2023.

586 "Desničarski protest protiv evropskog plana za Kosovo u Beogradu" [Right-wing protest against the European plan for Kosovo in Belgrade], RSE, 17 March 2023, <https://www.slobodnaevropa.org/a/protest-beograd-eu-plan-kosovo/32323350.html>, 21 March 2023.

587 "Desnica održala jednočasovni protest ispred zgrade Vlade" [The far-right holds a one-hour protest in front of the Government building], *Danas*, 24 March 2023, <https://www.danas.rs/vesti/politika/desnica-odrzala-jednocasovni-protest-ispred-zgrade-vlade-najavili-pravne-korake-protiv-Vucica/>, 21 March 2023.

588 "Serbian far-right leader arrested after nationalists try to storm the Presidency building in Belgrade", RFE, 16 February 2023, <https://www.rferl.org/a/serbia-far-right-knezevic-arrested-Vucic-kosovo/32274304.html>, 21 March 2023.

589 "Otkriveno ko su članovi SNS koji su lepili uvredljive plakate protiv opozicije po Batajnici" [Identities of SNS members who put up offensive posters against the opposition in Batajnica have been revealed], *Nova*, 15 March 2023, <https://nova.rs/vesti/politika/otkriveno-ko-su-clanovi-sns-koji-su-lepili-uvredljive-plakate-protiv-opozicije-po-batajnici/>, 21 March 2023.

590 *preUgovor* Alarm reports are available at: <http://bit.ly/AlarmReports> I, 22 March 2023

There are two reasons for the Government's firmer response to the far-right in Serbia. First, the voters of the ruling party have conservative and nationalistic opinions and the ruling party did nothing to soften or change them; instead, it further strengthened them by sending nationalistic and pro-Russian messages. The same party is now experiencing loss of voters and the rise of popularity of extreme-right parliamentary political parties, which it tries to mitigate by using smear campaigns. Second, the ruling party is trying to show the Western countries that the threat from far-right groups is severe and that the Government is ready to take stricter measures against them.

Although it has taken a firmer stance toward far-right groups and extreme-right political parties, the Serbian Government has not yet adopted a new Strategy for preventing and fighting extremism (the last one expired 2021). The new Strategy should focus on the far-right, as pointed out in the document entitled "Right-Wing Extremism in the Western Balkans", prepared by the Czech Presidency of the EU for the needs of the Working Group in charge of the fight against terrorism in the EU,⁵⁹¹ in line with what the Serbian authorities pledged to do back in 2019, at the Western Balkans Interior Ministers' meeting in Skopje.⁵⁹² By adopting and implementing a new Strategy, the Serbian Government would demonstrate its willingness to address the far-right in a comprehensive and non-selective manner.

Widespread support for the far-right and Russia, especially among youth in Serbia

A public opinion poll conducted by the BCSP in mid-October 2022 shows that the Serbian public supports the far-right and is widely pro-Russian. Almost half of the respondents support the far-right views, while only one third are against them. The same number of people supports the idea of the Serbian World, the softened version of Greater Serbia promoted by Government officials. Among the top three threats to citizens' safety and security, they listed minorities aspiring to secede (41%), global elites (36%) and migrants (35), while the top three foreign policy priorities were: protection of Serbs in the region (82%), fight for Kosovo (77%) and strengthening cooperation with Russia (72). Far-right groups and hooligans were at the bottom of these lists, together with EU membership and strengthening ties with the USA. The majority of Serbian citizens assign responsibility for the outbreak of the war in Ukraine to NATO and the USA (~30%), and are consequently against imposing sanctions on Russia (80%). As regards the war in Ukraine, the majority believes that Serbia should remain neutral or ally with Russia. The finding that causes extreme worry is the fact that an above-average number of young people (18-29) has far-right and pro-Russian attitudes. BCSP's analysis shows that these are the result of the nationalistic and pro-Russian rhetoric that was consistently used by the ruling party for more than ten years.⁵⁹³

591 "EU body proposes a discussion on the prohibition of right-wing activists from the Western Balkans", RSE, 14 Jul 2022, <https://www.slobodnaevropa.org/a/zapadni-balkan-eu-desnica-ekstremisti-/31943443.html>, 6 October 2022

592 The Commission and the authorities of Serbia approved the arrangement on cooperation in the fight against terrorism, the European Commission, the Office for Migration and Internal Affairs, Brussels, 19 November 2019, <http://bit.ly/3V4cpmj>, 6 October 2021.

593 Vuk Vuksanović, Srdjan Cvijić and Maksim Samorukov, How does Russian Soft Power in Serbia Really Work? BCSP, Belgrade, December 2022, <https://bezbednost.org/wp-content/uploads/2022/12/How-does-Russian-soft-power-in-Serbia-really-work.pdf>

Financial Intelligence Did Not Eliminate the Damage It Had Caused by its Illegal Investigation of CSOs, Media and Individuals

In the past year, it became clear that the *Administration for the Prevention of Money Laundering* (the Serbian Financial Intelligence Unit) misused its mandate and competencies to silence voices of the CSOs and media that were critical of the current Government when it asked banks to provide it with all the financial data pertaining to 37 CSOs/media outlets and 20 individuals (the List Case).⁵⁹⁴ This was evident not only from the conclusions of the key (expert) bodies in this field,⁵⁹⁵ but also from the fact that *Serbian Telegraph*, a tabloid close to the ruling party, published (otherwise publicly unavailable) bank transactions of several CSOs in order to publicly label them as traitors. Consequently, the targeted CSOs have filed criminal charges against the Administration and the tabloid's editor-in-chief.⁵⁹⁶

Despite these facts, the Financial Intelligence Unit refuses to publish a detailed report of the financial investigation of 37 CSOs/media outlets and 20 individuals and eliminate the damage that was caused to targeted organisations and individuals, by publicly acknowledging that they are in fact operating in accordance with the Law, and by notifying commercial banks in Serbia of these findings.

This case is even more important if we consider recent investigative journalists' findings that a network of ghost CSOs run by a few individuals extracted and wasted approximately EUR 1 million from the Ministry for Family Welfare and Demography.⁵⁹⁷ Also, according to official data, the share of cash in the purchase of real estate in Serbia is above 80%.⁵⁹⁸ There is no information that Financial Intelligence did anything to prevent or investigate these or similar cases. Instead, it focuses its scarce resources on investigating CSOs and individuals critical towards the ruling party.

RECOMMENDATIONS

- The authorities in Serbia should not only condemn the attacks, threats, and rhetoric of the far-right but also take appropriate legal action against the perpetrators;
- The authorities in Serbia should thoroughly investigate the links between the extreme right and the Wagner group and take appropriate legal measures if groups endanger the peace and security of Serbia and its citizens.
- The national strategy for preventing and suppressing terrorism and extremism expired in 2021. Therefore, the process of drafting a new national strategy should begin. The strategy should include an analysis of all forms of (violent) extremism, with a particular focus on the extreme right. The development of a new National Strategy should be preceded by an evaluation of the existing Strategy and its accompanying Action Plan;
- The Administration for the Prevention of Money Laundering should publish a complete report on the conducted investigation. It should also eliminate the damage caused to targeted organizations and individuals by publicly acknowledging that they are operating in accordance with the Law. The Administration should also notify commercial banks in Serbia of these findings;

594 For additional information about the "List" case, see: Pejić Nikić, Jelena (ed), *prEUGovor Alarm Report on the Progress of Serbia in Chapters 23 and 24*, prEUGovor, Belgrade, May 2021, <https://bit.ly/prEUGovorAlarmMay2021EN>, pp. 27-6 and 101-103.

595 Special Rapporteurs of the United Nations Human Rights Council, International Working Group on Financial Measures in the Fight against Money Laundering and Terrorism Financing (FATF) and Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (Moneyval).

596 "Civil society organisations file criminal charges against the Directorate for the Prevention of Money Laundering and the editor-in-chief of *Serbian Telegraph*", *Južne vesti*, 25 September 2021, <https://bit.ly/3sOh1AZ>, 18 October 2021.

597 "Javni novac za tajne projekte: Više od million evra na konkursima dodeljeno mreži povezanih udruženja" [Public funds for secret projects: More than EUR 1 million awarded in competitions to a network of related associations], *BIRN*, 22 March 2023, <https://birn.rs/javni-novac-za-tajne-projekte/>, 23 March 2023.

598 "Republic Geodetic Authority report: Real estate and land are mostly purchased for cash", *N1*, 10 March 2021, <https://rs.n1info.com/biznis/izvestaj-rgz-nekretnine-i-zemljiste-najvise-se-kupuju-za-gotovinu/>, 18 October 2021.

- In addition, competent authorities must initiate a procedure to establish responsibility in the Administration for the Prevention of Money Laundering for exceeding the powers set out in the Law on the Prevention of Money Laundering and Terrorist Financing of Terrorism, as established in the FATF report;
- In its future activities, the Administration for the Prevention of Money Laundering should fully adhere to FATF standards and recommendations, as well as best practices in this area. The Directorate must not use its powers and resources to intimidate civil society organizations under the pretext of preventing money laundering and terrorism financing.

5.6. Cooperation in the Field of Drugs

The key issues in the area of drugs are: the absence of strategic documents – which reflects the lack of strategic planning – and weak coordination of different stakeholders, especially those on the side of the government. This also includes cooperation between governmental institutions and civil society organisations. Use of narcotics and possession for personal use are still criminalised, resulting in stigmatisation and discrimination of people who use drugs and their reluctance to ask for support and access harm-reduction and treatment services. Serbia has not implemented several activities related to the treatment and destruction of seized precursors and amendments to the Criminal Procedure Code concerning the procedure for the destruction of psychoactive substances. International cooperation is fruitful, and the capacity building of law enforcement is improving. Drug-related public health issues are marginalised, especially in the EU accession process.

The Strategy has expired and inter-institutional coordination is missing

The national drug strategy expired at the end of 2021. The evaluation⁵⁹⁹ conducted in November 2021 by designated experts of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) showed several failures in its implementation.

Despite the requests from the civil society (since as early as 2020), and even a formal proposal by the Office for Combating Drugs (OCD) to develop a new strategic document, the Ministry of Health (MoH) appointed a Working Group for this purpose only in July 2022. The Group was comprised only of government representatives. Civil society organisations (CSOs) strongly reacted, asking that they, too, participate in the process. A meeting with the Working Group was scheduled with the support of the OCD, resulting in the decision that four representatives from the civil society would participate in its work but would have no voting rights. Unfortunately, the Ministry dismantled the Working Group at the end of the year, without any further meetings. Another problematic decision was that the new document should not be a strategy, but a programme within the national Public Health Strategy. This is not simply a semantic issue, as a programme is less important than a strategy. A group of government representatives is currently working on an action plan (not even a programme!), without the involvement of the civil society.

The Centre for Monitoring Drugs and Drug Addiction of the MoH prepared the report entitled *Serbia – National Drug Situation Overview 2022*.⁶⁰⁰ The report is the result of an 8-month online capacity-building exercise organised with the support of the Austrian National Public Health Institute (Gesundheit Österreich). It was supposed to serve as the basis for the development of the new Strategy. The report provides a top-level overview of the drug phenomenon in the Republic of Serbia, covering drug supply, use and public health problems, as well as drug policy and health and social responses. Experts from the Ministry of the Interior (Mol), the Institute of Public Health of Serbia “Dr Milan Jovanović Batut” (IPHS) and the National Poison Control Centre (NPCC) of the Medical Military Academy were also included. Unfortunately, neither the OCD nor the civil society organisations were involved in preparing or commenting on the report before it was published.

599 Report on the final evaluation of the Strategy for the Prevention of Drug Abuse 2014-2021, Office for Combating Drugs of the Government of the Republic of Serbia, Belgrade, November 2021, <https://bit.ly/411xnWE>

600 Serbia National Drug Situation Overview 2022, Ministry of Health of the Republic of Serbia, Belgrade, November 2022, <https://bit.ly/41keHRF>

The coordination role and responsibilities of the main government actors in the field of drugs – OCD, MoH and MoI – remain unclear. The Working Arrangement between the EMCDDA and the three authorities,⁶⁰¹ signed in March 2020, stipulates that the OCD is the competent authority for implementing the drug policy in the Republic of Serbia and coordinating the work of public administration bodies in the field of combating drugs, as well as for professional, administrative and operational tasks in the field of combating drugs, while the MoH is the contact point for activities related to cooperation with the EMCDDA and matters related to the Early Warning System on New Psychoactive Substances. Finally, the MoI is responsible for preventing and detecting criminal offences, and finding and apprehending perpetrators and bringing them to justice. This division of responsibilities is practiced in relations with the EMCDDA, but internally, the responsibilities overlap, causing misunderstandings and rivalries.

Several structures planned in the accession process, including the National Drug Observatory and the Early Warning System (EWS), are now fully staffed and operational. Civil society organisations complain about the role of the EWS, which they see as only informative because it collects and disseminates chemical information about the new psychoactive substances. They need more useful information, including dosage and negative effects, which should be shared with people who use drugs in order to prevent harm and overdose. Four regional centres are operating in the country as part of the Drugs Combating Service Department for Coordination, Cooperation and Drug Abuse Prevention within the Police Directorate.

Civil society initiatives were not followed by legislative activity

No relevant laws on drugs were drafted or adopted in the reporting period. Civil society organisations were recently active in proposing changes, especially in the process of amending the Law on Psychoactive Controlled Substances⁶⁰² (back in 2017 and 2018) and the Criminal Code of the Republic of Serbia⁶⁰³ (in 2019).

The main request of the civil society is to decriminalise the use of drugs and their possession for personal use, and to use alternatives to coercive sanctions. These alternatives should be evidence-based and designed to provide essential support to people who need assistance because of drug use or problems with addiction. Furthermore, alternatives to coercive sanctions may contribute to alleviating prison overcrowding, recidivism, addiction, as well as problem drug use and related negative health effects. They may also have a positive economic impact, since they are generally less expensive than incarceration.

In 2022, the Statistical Office of the Republic of Serbia (SORS) aligned the national statistics on the perpetrators of crime with the Eurostat crime statistics standards. The Drug Policy Network South East Europe (DPNSEE) used the SORS data for the analysis, which showed that, in the period 2010-2021, 55,284 persons were reported for committing drug-related crimes. Out of the above number, 16,552 persons (30%) were reported for unauthorised production and distribution of narcotic drugs (Article 246 of the Criminal Code), 37,940 (69%) for unauthorised possession of narcotic drugs (Article 246a), and 792 (1%) for facilitating the consumption of narcotic drugs (Article 247).

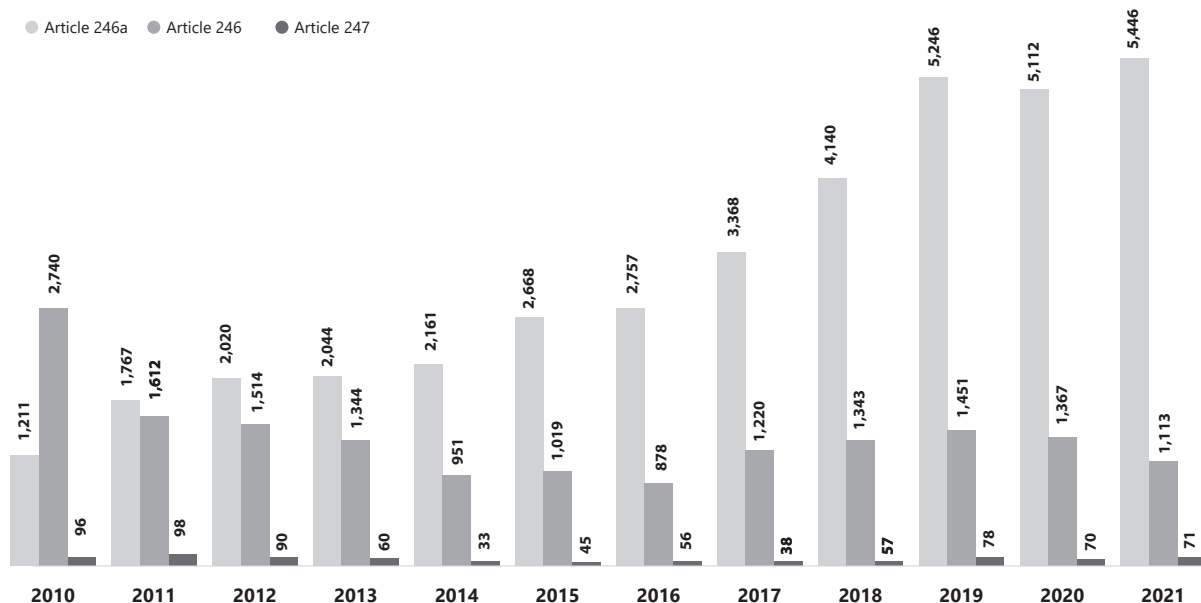
A worrying trend shows that the number of persons reported for unauthorised production and distribution of narcotic drugs (a crime that is related to drugs) is decreasing from one year to the next, while the number of persons reported for unauthorised possession of narcotic drugs (for personal use – people with an addiction problem) is constantly growing.

601 Available at: <https://bit.ly/3oep3UE>

602 The document containing CSO's proposals is available at: <https://bit.ly/3nh7ovt>

603 The document containing DPNSEE proposals is available at: <https://bit.ly/3NnHmBG>

Figure 2: Reported perpetrators of crime related to drugs 2010-2021



The complete analysis is expected to be published for the International Day Against Drug Abuse and Illicit Trafficking 26 June. It should be considered in the process of amending the Criminal Code, which is expected to start soon, to advocate for decriminalisation of drug use and possession for personal use.

Cooperation between the government and the civil society could be improved

In general, government structures are not very open or willing to actively cooperate with civil society organisations regarding drug policy. They rarely fully involve them in the process of development, usually respecting the obligation to organise public debates on laws and strategies at the time these are already in the stage of adoption.

In 2018, the Office for Combating Drugs invited civil society organisations to jointly create a Memorandum of Understanding confirming the importance of such organisations and the need for their active involvement in the implementation of drug policy and promotion of a new concept of cooperation between state bodies and CSOs. This cooperation is now well established and serves as a role model for other countries in the region. Open calls for CSOs to sign the Memorandum are organised on an annual basis. From the initial 11, there are currently 22 organisations that are signatories to the Memorandum, of which two have joined in 2022. Civil society organisations cooperate very well with the Institute for Public Health "Dr Milan Jovanović Batut".

International cooperation is fruitful

The National Drug Observatory at the Ministry of Health and the Office for Combating Drugs cooperate well with the European Drug Agency (EMCDDA). Contacts and data collection are regular.

Since 2008, the EMCDDA has cooperated with EU candidates and potential candidates by developing and implementing technical cooperation projects financed by the Instrument for Pre-Accession Assistance (IPA) of the European Commission. In November 2022, the EMCDDA hosted the closing conference of its international cooperation projects with the Western Balkans and the European Neighbourhood Policy region.⁶⁰⁴ Governmental and civil society representatives from Serbia participated in and spoke at the event.

⁶⁰⁴ "EMCDDA hosts the closing conference of two EU-funded technical cooperation projects", EMCDDA, 21 November 2022, <https://bit.ly/43m2eyy>, 12 March 2023.

In January 2023, EMCDDA started the new IPA-8 project. Its overall goal is to promote and support the Western Balkans' uptake of best EU practices and approaches in health and security areas, and to strengthen the strategic and operational cooperation within the Western Balkans and between the region and the EU in the drug monitoring and information area, using EU standards and tools. Representatives of the EMCDDA project team visited Serbia and held meetings with government and civil society representatives in February 2023.

Government and civil society representatives regularly participate in the UN Committee on Drugs and Crime (CND), held annually in Vienna. A round table entitled "Improving a multidisciplinary approach to people who use drugs and people in recovery in the Western Balkan countries"⁶⁰⁵ was organised on 14 March 2023, at the 66th CND session of the Commission for Narcotic Drugs.

Serbian law enforcement and judicial structures cooperate with Europol, Interpol and Eurojust. Serbia actively cooperates with the EU Agency for Law Enforcement Training (CEPOL) and contributes to the development of content for e-lessons on drug laboratories.

Regional cooperation between the countries, both on governmental and civil society level, is very intense and fruitful. There have been several events and joint projects on various elements of the drug policy.

From December 2022 until May 2023, the DPNSEE and its member organisations from Serbia and Montenegro will be implementing a regional project *"Emergency support for the provision of HIV and Harm Reduction services among key populations in Ukraine and refugees in selected neighbouring countries"*⁶⁰⁶ 2023. It includes a Regional round table⁶⁰⁷ focused on community-led consultative process on the importance of human rights and evidence-based national drug strategies in HIV response, held on 21 February in Belgrade. The Second Regional Forum on Drug Addiction and Recovery was held in November 2022 in Belgrade.⁶⁰⁸

The DPNSEE has become a member of the Civil Society Forum on Drugs, an expert group of the European Union, where its Executive Director chairs the Working Group on emerging issues in drug policy. The Swedish Presidency of the Council of the European Union scheduled the *EU – Western Balkan Dialogue on Drugs* for 25 May 2023, and invitations were dispatched to country embassies in Brussels. Serbia should prepare well in order to be able to contribute to this important event.

Drug-related public health issues are being marginalised

The issue of drugs is not high on the candidate countries' accession processes agendas. Almost all attention that has to do with drugs is on law enforcement, in Chapter 24, while other important elements of the drug policy are missing.⁶⁰⁹ In recent annual reports, health issues were mentioned in just one sentence, referring to health inequalities: "Health inequalities and access to healthcare services need to be improved for people with disabilities, people living with HIV, children and adults who use drugs, prisoners, women involved in prostitution, LGBTI people, internally displaced persons and the Roma".⁶¹⁰

The human rights issues, the discrimination of people who use drugs⁶¹¹ and the stigma surrounding drug use are not mentioned neither in the reports nor any other documents related to EU accession. The above are very much present in the Serbian society, but are not considered in human rights initiatives in the country.

605 "The 66th session of the Commission for Narcotic Drugs was held in Vienna", Office for Combating Drugs, 22 March 2022, <https://bit.ly/3mARnQH>, 12 March 2023

606 For additional information about this project, see the DPNSEE website following this link <https://bit.ly/3KTWQPN>

607 "A dialogue on national drug strategies", DPNSEE, 21 March 2023, <https://bit.ly/3obiBOr>, 12 March 2023

608 "Second Regional Forum on Drug Addiction and Recovery", Office for Combating Drugs, 10 November 2022, <https://bit.ly/3MF8vz>, 12 March 2023

609 On an annual basis, the DPNSEE publishes documents with segments related to drugs from different countries' reports. They are available on its webpage, at: <https://bit.ly/3GFdmNI>

610 Serbia 2021 Report, European Commission, Brussels, October 2021, <https://bit.ly/3A222qF>, p93

611 More about the discrimination of people who use drugs in South East Europe is available in two DPNSEE publications, at: <https://bit.ly/3Kz2TnV>

In its Chapter 28 – Consumer and Health Protection, the EU Serbia 2022 Report contains several notes about various public health issues related to drugs. These include cross-border health threats caused by communicable diseases, effective, sustainable financing of disease-specific strategies, including the national HIV/AIDS strategy, community-based mental health services, legislation on preventing drug abuse, health inequalities and access to healthcare services.

According to the Global State of Harm Reduction 2022⁶¹² report, Serbia has 28,500 people who inject drugs, which is an increase of 39% compared to the year 2020. As a result of the long-lasting prevention programmes, HIV prevalence among these persons is close to 0%, but the prevalence of Hepatitis C is at a worrying 42.6%. Civil society data state that this prevalence is in fact even higher, going up to 60%. Harm reduction responses to these problems include two needle and syringe programmes and other associated services provided – only in Belgrade and Novi Sad – by the civil society organisation *Prevent* (covering approximately 3% of the population in need), and opioid assisted therapy with methadone or buprenorphine, which is available in 22 cities. Unfortunately, effective harm reduction programmes such as peer distribution of naloxone, drug consumption rooms and safer smoking equipment (a new programme to prevent harm from smoking substances like cocaine or methamphetamine) are still not available in Serbia.

With the support of civil society organisations, the Institute for Public Health “Dr. Milan Jovanović Batut” conducted a bio-behavioural survey in the spring of 2021 – a systematic community research designed to assess risk behaviours and the prevalence of HIV and other blood and sexually transmitted diseases among the most vulnerable population groups, including people who inject drugs. Unfortunately, despite the fact that two years have passed since the survey, the results (which are important to gain insight into the situation and prepare a response) have yet to be published.

In 2020, the Drug Policy Network South East Europe (DPNSEE) prepared the Analysis of the data on drug-induced deaths in Serbia 2008-2019,⁶¹³ using statistics about drug-induced deaths kept by the Statistical Office of the Republic of Serbia. These data are segmented by using codes to mark the causes of death which have been agreed upon with the Ministry of Health and the Institute for Public Health “Dr Milan Jovanović Batut” in accordance with the standard protocol of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). In August 2022, DPNSEE published a document with data for the years 2020 and 2021.⁶¹⁴ It indicates that the number of drug-induced deaths in the last two years has decreased by 9%, but that it is still high. Data also show that the average age of those who died has increased from 38.36 to 46.04, including 12 persons who were older than 60. The number of females has increased by 43%. The fact that the number of people who have died from methadone has doubled is a cause for concern.

Other activities in the area of drugs

The Republic of Serbia has reported on several activities related to the implementation of the activity “Develop and implement a programme for the prevention of the use of psychoactive substances based on scientific evidence, in accordance with international standards”.⁶¹⁵ Unfortunately, there is no comprehensive and all-involving prevention programme, so individual activities are not achieving their full potential.

Serbia has not implemented several activities related to the treatment and destruction of seized precursors and amendments to the Criminal Procedure Code concerning the procedure of destruction of psychoactive substances. The national contact point for the transmission and analysis of samples of psychoactive controlled substances has not been established either.

612 Global State of Harm Reduction 2022, Harm Reduction International, London, November 2022, <https://bit.ly/3zTVX4E>

613 Data on deaths from the consequences of drug use in Serbia for the period 2008-2019, Drug Policy Network Youth East Europe, Belgrade, December 2020, <https://bit.ly/3zQTOSk>

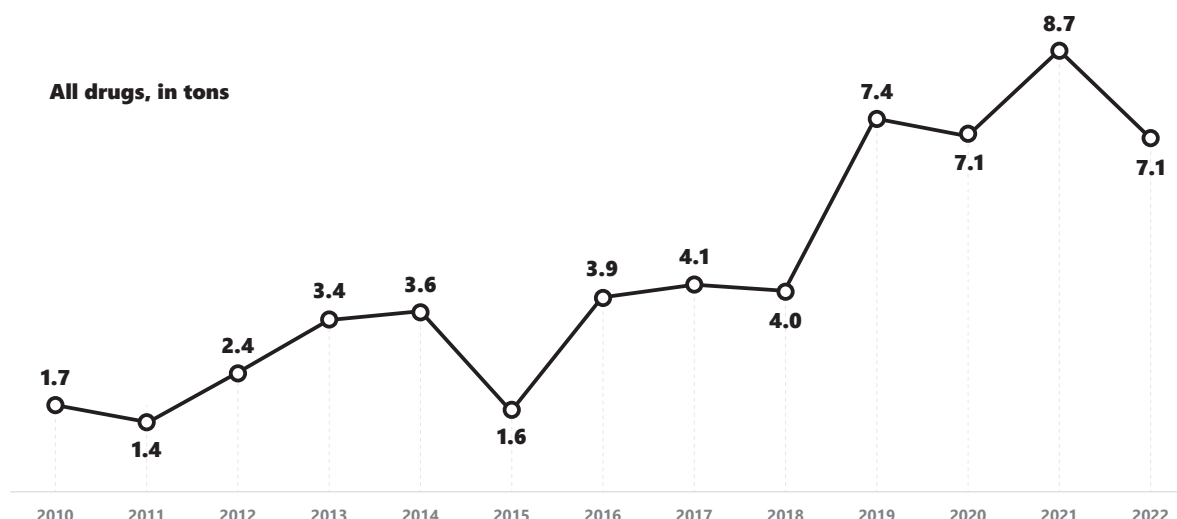
614 Data on deaths from the consequences of drug use in Serbia for the period 2008-2021, Drug Policy Network Youth East Europe, Belgrade, Aug 2022, <https://bit.ly/401sKuf>

615 Interim benchmark 3, Activity 8.3.1

On 24 January, the OSCE organised the third national workshop on the social re-use of confiscated assets in Serbia. The event brought together representatives from the Ministry of Justice, the Republic Public Prosecutor's Office, the Prosecutor's Office for Organised Crime and the civil society and other international organisations. Civil society organisations complained about the complicated process and unfavourable conditions for social re-use of confiscated assets, which mostly come from crimes related to drugs.

The Ministry of the Interior presented the results of their work in 2022,⁶¹⁶ indicating that "of the dismantled and prosecuted 28 organised criminal groups, 10 were charged with drug trafficking". In 2022, the police seized 7.1 tonnes of drugs, i.e. 18 percent less than in the record 2021.

Figure 3: The amount of seized drugs per year, 2010-2022



Source: Mol and Saša Đorđević⁶¹⁷

The most seized drug was marijuana (6.6 tonnes), followed by 71.4 kilograms of amphetamine, 61.1 kilograms of heroin, 50.3 kilograms of MDMA and 45.8 kilograms of cocaine. 191 illegal laboratories were detected, of which 62 were indoor marijuana cultivation laboratories while 129 were marijuana "plantations".

RECOMMENDATIONS

- Accelerate the all-inclusive process of designing a new strategic document on drugs;
- In the process of amending the Criminal Code, explore positive and negative sides of decriminalising drug use and possession for personal use;
- Include more provisions for aligning with EU strategies and actions in the area of public health and human rights related to drugs in the EU accession *acquis*;
- In preparations for Serbian participation in the EU – Western Balkans Dialogue on Drugs scheduled for 25 May 2023, ensure the participation of all stakeholders, from all sectors.

⁶¹⁶ "Results of the work of the Mol have been presented: 28 organised criminal groups were dismantled and 193 people were arrested in 2022", Euronews Serbia, 16 January 2023, <https://bit.ly/3n5szkl>, 28 April 2023

⁶¹⁷ <https://twitter.com/Bambayay/status/1618617462806966272?s=20&t=I0-8y3WrpG1CBabc6zideg>

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Coalition prEUgovor is a network 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 and 24 of the Acquis. 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.

Members of the coalition 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 (CPES)

www.cpes.org.rs

Centre for Investigative Journalism in Serbia (CINS)

www.cins.rs

Group 484

www.grupa484.org.rs

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www.transparentnost.org.rs

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