

# SELF-EVALUATION

## SERBIAN **OSCE** CHAIRMANSHIP

### CSO FEEDBACK

#### **CSO COALITION FOR THE MONITORING OF SERBIA'S OSCE CHAIRMANSHIP**

BELGRADE/SERBIA,  
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# INTRODUCTION

CSO Coalition for Monitoring Serbia's Chairmanship of OSCE welcomes Serbia's government's and Foreign Ministry's decision on self-evaluation and reporting on the implementation of OSCE human dimension commitments during the country's chairmanship of the organization. This contributes to OSCE fundamental principles and strengthens the role of Serbia's civil society in decision-making and implementation of human dimension recommendations.

OSCE Chair's self-evaluation in the domain of human rights results from the endeavor and advocacy of the international CSO network – the Civil Society Platform. During its OSCE Chairmanship in 2014 Switzerland was the first to conduct and publish a self-evaluation report on the implementation of OSCE human dimension commitments. The experience of the Swiss NGO Working Group was most precious to Serbia's civil society organizations.

Serbia's coalition for the monitoring was formed by Helsinki Committee for Human Rights, Lawyers' Committee for Human Rights – YUCOM, Forum for Ethnic Relations, Policy Center and Humanitarian Law Fund. Other NGOs contributing to the report were Autonomous Women's Center in consultation with ASTRA – Action against Trafficking in Human Beings, Women's Space and Dea Dia Association.

A CSO with experience in and expertise of a specific domain was tasked with developing each of the subtopics and thematic wholes of this report. However, all the members of the coalition contributed to the final version of the report with their comments and recommendations. Hence, all thematic studies and the report as a whole result from a joint effort.

\*

There are two sections of the CSO self-evaluation report. In the first, the CSO Coalition commented on four topics the state of Serbia has defined: the right to assembly, elections, gender equality and position of Roma. Generally, commented on were the reports by a scholarly institution – the Institute of Social Sciences – and an independent agency – the Commissioner for Gender Equality. In its choice of self-evaluation topics the Foreign Ministry opted for the methodology Switzerland had used. Namely, it chose the topics the reports on which have already been publicized in OSCE region over the past five years.

The Coalition takes that the analysis of the state of affairs and implementation of OSCE recommendations, as well as recommendations dealing with the freedom of assembly, gender equality, and fair and democratic elections are of vital importance. The situation in these domains concerns the Coalition the same as it does the independent agencies.

The Coalition insisted on adding another three topics to the self-evaluation: the freedom of expression, the situation of national minorities and protection of human rights defenders. Consultations with OSCE in 2014 proved that these topics were most pertinent to the situation of human rights in Serbia. Disrespect for international standards – fundamental OSCE principles in the first place – and inadequate implementation of existing legislation in these domains have been noted as a growing tendency over the past years. The Foreign Ministry has not tasked independent agencies with reporting on these topics. It has included NGO reports as an annex the government is supposed to comment on.

The first section of the report comments on independent agencies reports on four areas of concern, including the developments and phenomena that have been omitted. The annex first provides overviews of OSCE commitments and recommendations in the said domains, and then elaborates violations – or, the actual state of affairs. Some topics and case studies referred to in several sub-report intertwine and, therefore, can be evaluated from a multidimensional angle each.

\*

The selection of the topics – in the cases of Switzerland and Serbia alike – was the biggest challenge given that crucial human dimension problems of a country are not necessarily taken into account in the report of OSCE institutions. Exclusive reliance on OSCE reports – as our colleagues from Switzerland noted – can be a hindrance. In our opinion, the methodology for the selection of self-evaluation topics needs to be improved. Serbia's civil society managed to contribute to this end by setting priorities of its own and having them included in the official report the relevant ministries would subsequently comment on.

The very time frame for drawing the report was yet another challenge. Serbia's CSO coalition shares the Swiss NGO Working Group's view that reports should be drawn before a country's appointment to OSCE Chairmanship so as that the year of its term of office could be used for monitoring the implementation of OSCE recommendations. In the case of Serbia, much time has been wasted on the selection of topics.

Monitoring the implementation of CSOs recommendations and those put forth in the reports submitted by independent agencies is also a challenge. Should the report be publicized at the beginning of a country's term, the year of its OSCE chairmanship could be devoted to advocacy for the implementation of recommendations and to promotion of human rights and fundamental freedoms.

The process of self-evaluation should not boil down to drawing reports but imply taking actual steps instead. This would greatly add to the credibility of the entire process. We hope that the process of self-evaluation would become a common practice of every OSCE presiding country. In this context, experience of Swiss and Serbian CSOs may be valuable to development of proper reports.

Monitoring of individual countries should not once their OSCE chairmanship ends. Recommendations cannot be implemented in one year only, the more so since self-evaluation reports are being submitted by the end of a country's chairmanship.

In our opinion, CSOs should report to OSCE on the implementation of their recommendations on annual basis. Such practice would turn them into an integral part of the human dimension monitoring within OSCE.

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of OSCE Commitments, Coordinator*

# 1. COMMENTS OF THE COALITION OF CIVIL SOCIETY ORGANIZATIONS ON THE INSTITUTE OF SOCIAL SCIENCES REPORT "ELECTION PROCESSES IN THE REPUBLIC OF SERBIA"

LAWYERS' COMMITTEE FOR HUMAN RIGHTS – YUCOM  
/ FORUM FOR ETHNIC RELATIONS

## 1.1 GENERAL OVERVIEW OF THE STUDY "ELECTORAL PROCESSES IN THE REPUBLIC OF SERBIA"

The Coalition of Civil Society Organizations accepts the report of the Institute of Social Sciences, as well as all identified problems and conclusions in the areas presented. On the other hand, the Coalition deems it appropriate to draw attention to the events in 2014 and 2015, which happened after the national elections were held. It is on the basis of these events that an assessment can be made of the consistency of the Serbian state and political actors in respecting the recommendations issued by the OSCE after the completion of the election monitoring process in Serbia in 2012 and 2014.

## 1.2. THE LEGAL FRAMEWORK OF THE ELECTORAL PROCESS

The regulations governing the operation of local self-government units allow for the dissolution of the assembly and repeated elections in a local self-government unit. According to the Law on Local Self-Government, the assembly of the local self-government unit can be dissolved if: 1) it fails to convene more than three months; 2) it fails to elect the president of the municipality and the municipal council within one month from the date of the constitution of the local self-government unit assembly or from the date of their dismissal or resignation.<sup>1</sup>

These provisions are applied, as a rule, in local self-government units where the election result is not identical to the result at the state level. "Power" at the local level becomes the subject of the "will" of political parties, which is something that does not contribute to the realization of specific needs of citizens within the local self-government and to substantial "separation" of the two different levels of government. This also indirectly affects election results and prevents the exercise of mandates at the local level.

<sup>1</sup> LAW ON LOCAL SELF-GOVERNMENT, RS OFFICIAL GAZETTE, NOS. 129/2007 AND 83/2014, ART. 85.

In the period between the extraordinary elections, which were held on March 16, 2014, and September 2015, new elections were called in several local self-government units, as well as in several city municipalities and local communities (Lučani,<sup>2</sup> Majdanpek, Mionica, Medveđa,<sup>3</sup> Žitorađa, Irig, Vrdnik, Brus, etc.). Some of these new local elections were marred by incidents and irregularities<sup>4</sup>. During the local elections in Mionica, on December 28, 2014, the head of the list of the Democratic Party (DS) and activists of the Socialist Party of Serbia (SPS) were beaten up. Interior Minister Nebojša Stefanović confirmed that three activists of SPS, SNS and DS were assaulted during the election day in Mionica.<sup>5</sup>

On the other hand, in the local self-government units where restructuring of power in accordance with the balance of power at the national level did not happen, the hostilities among parties' representatives at the local level increased, becoming further intensified by vibrant messages of representatives of national authorities.<sup>6</sup> In certain municipalities, such as Inđija, incidents have been reported associated with the impossibility of restructuring the power at the local level.<sup>7</sup> These phenomena jeopardize the free exercise of mandates, substantial decentralization and separation of political parties from the state. Announcements of early local elections by top government officials are an additional argument that impediments to the exercise of mandates exist.<sup>8</sup>

2 THE GOVERNMENT DISSOLVED THE LUČANI MUNICIPALITY ASSEMBLY BY ITS DECREE OF OCTOBER 22, 2014.

3 THE GOVERNMENT DISSOLVED THE MEDVEĐA MUNICIPALITY ASSEMBLY BY ITS DECREE OF JULY 8, 2015.

4 THUS, IN IRIG THE DECISION ON THE APPOINTMENT OF THE MUNICIPAL ELECTION COMMISSION WAS ANNULLED, DUE TO ITS IMPROPER COMPOSITION. (THE RULING OF THE ADMINISTRATIVE COURT, UŽ. 3/2015 OF FEBRUARY 05, 2015)

5 [HTTP://WWW.RTS.RS/PAGE/STORIES/CI/STORY/1/%D0%9F%D0%BE%D0%BB%D0%B8%D1%82%D0%B8%D0%BA%D0%B0/1786273/%D0%98%D0%BD%D1%86%D0%B8%D0%B4%D0%B5%D0%BD%D1%82%D0%B8+%D1%83+%D0%9C%D0%B8%D0%BE-%D0%BD%D0%B8%D1%86%D0%B8.HTML](http://www.rts.rs/page/stories/ci/story/1/%D0%9F%D0%BE%D0%BB%D0%B8%D1%82%D0%B8%D0%BA%D0%B0/1786273/%D0%98%D0%BD%D1%86%D0%B8%D0%B4%D0%B5%D0%BD%D1%82%D0%B8+%D1%83+%D0%9C%D0%B8%D0%BE-%D0%BD%D0%B8%D1%86%D0%B8.HTML)

6 [HTTP://WWW.021.RS/INFO/VOJVODINA/RASTE-NETRPELJIVOST-DS-A-I-SNS-A-OK0-OPSTINA-U-VOJVODINI.HTML](http://www.021.rs/info/vojvodina/raste-netrpeljivost-ds-a-i-sns-a-ok0-opstina-u-vojvodini.html).

7 B92: INĐIJA: BORBA ZA ODBORNIKE NE JENJAVA (THE FIGHT FOR COUNCILORS IS NOT SLOWING DOWN), MAY 27, 2015. [HTTP://WWW.B92.NET/INFO/VESTI/INDEX.PHP?YYYY=2015&MM=05&DD=27&NAV\\_CATEGORY=11&NAV\\_ID=997276](http://www.b92.net/info/vesti/index.php?yyyy=2015&mm=05&dd=27&nav_category=11&nav_id=997276)

8 [HTTP://WWW.JUZNEVESTI.COM/POLITIKA/GAŠIĆ-LOKALNI-IZBORI-MOZDA-U-DECEMBRU.SR.HTML](http://www.juznevesti.com/politika/gašić-lokalni-izbori-mozda-u-decembru.sr.html); [HTTP://WWW.BLIC.RS/VESTI/POLITIKA/543846/OTKRIVAMO-POKRAJINSKI-I-LOKALNI-IZBORI-KRAJEM-GODINE](http://www.blic.rs/vesti/politika/543846/otkrivamo-pokrajinski-i-lokalni-izbori-krajem-godine)



### 1.3. PROTECTION OF ELECTORAL RIGHT

The process of protection of electoral right is characterized by legal formalism with short deadlines for filing legal remedies. As a result, certain legal remedies are rejected as inadmissible or untimely,<sup>9</sup> and apparent illegalities remain uneliminated.

At the local elections in Majdanpek in 2014, a group of citizens filed a complaint regarding an apparent irregularity related to the layout of the ballots.<sup>10</sup> The position taken by the Administrative Court was that the date when the plaintiff obtained knowledge of the layout and content of the ballot did not bear any significance to the timeliness of the complaint, given that the legal deadline of 24 hours is calculated from the day when the decision on the layout of the ballot was taken, and not from the day when the knowledge of the irregularity was obtained.<sup>11</sup> This system of protection of right was also criticized by the OSCE/ODIHR monitoring mission.<sup>12</sup>

### 1.4 THE MEDIA IN THE ELECTORAL PROCESSES

The position and role of the media in the electoral process were observed by non-governmental organizations, both during the 2012 elections and during the elections in 2014. Specific problems have been noted in 2014 related to the reporting on the election of national councils.

The study "Media in Elections: *Media Monitoring: Election Campaign 2012*"<sup>13</sup> carried out by the Bureau for Social Research stated that "a latent censorship of the media, to which a formal ban of media is not central, is taking place in Serbia. It is rather implemented by controlling the financial survival of the media and journalists, who unfortunately, failing to organize themselves, in unions in the first place, contribute to this state of affairs. The findings of our monitoring also speak in favor of the thesis on latent censorship. During the election campaign for parliamentary elections, the monitored media showed a low level of integrity, since an information-promotional discourse with elements of propaganda dominated the reporting. Domination of informative genre forms and the use of dialogue genre forms for promotional purposes prevented the analyzed media from reporting on the participants in the electoral process in an analytical and critical manner. Another indicator of the lower integrity of monitored media is a high level of unsigned articles, blurred journalistic sources, reliance on government sources and a very high level of affirmative presentation of political parties, comparable to the findings in

9 ADMINISTRATIVE COURT, DEPARTMENT OF KRAGUJEVAC, DECISION UŽ 21/15 OF MAY 11, 2015, ADMINISTRATIVE COURT, DEPARTMENT OF NOVI SAD, DECISION UŽ. 12/15 OF MARCH 19, 2015, ADMINISTRATIVE COURT, DEPARTMENT OF NOVI SAD, DECISION UŽ. 18/15 OF MARCH 16, 2015.

10 "ARTICLE 30 OF THE LAW ON LOCAL ELECTIONS HAS BEEN VIOLATED", THE BALLOT FAILED TO SHOW THE NAMES AND SURNAMES OF THE FIRST CANDIDATES ON THE LISTS AS PRESCRIBED BY THE LAW. ASKED WHY THEY HAVE NOT COMPLAINED EARLIER, IGIĆ EXPLAINED THAT THEY FIRST WANTED TO SEE FOR THEMSELVES AND TO BE SURE THAT THIS IS INDEED THE CASE BEFORE REACTING. [HTTP://WWW.B92.NET/INFO/VESTI/INDEX.PHP?YYYY=2014&MM=09&DD=07&NAV\\_ID=896905](http://www.b92.net/info/vesti/index.php?yyyy=2014&mm=09&dd=07&nav_id=896905)

11 RS ADMINISTRATIVE COURT, DECISION UŽ. 47/14 OF SEPTEMBER 16 2014.

12 "EARLY PARLIAMENTARY ELECTIONS, OSCE/ODIHR LIMITED ELECTION OBSERVATION MISSION FINAL REPORT", OSCE/ODIHR, 2014, STR. 17, [HTTP://WWW.OSCE.ORG/SR/ODIHR/ELECTIONS/SERBIA/119405?DOWNLOAD=TRUE](http://www.osce.org/sr/odihr/elections/serbia/119405?download=true)

13 SEE: BUREAU FOR SOCIAL RESEARCH, *MEDIJI U IZBORIMA: MONITORING MEDIJA: IZBORNA KAMPANJA 2012 (MEDIA IN ELECTIONS: MEDIA MONITORING: ELECTION CAMPAIGN 2012)*, PP. 53–54. [HTTP://WWW.BIRODI.RS/WP-CONTENT/UPLOADS/2013/08/MEDIJI-U-IZBORIMA.PDF](http://www.birodi.rs/wp-content/uploads/2013/08/MEDIJI-U-IZBORIMA.PDF)

countries that are on a lower level of democratic development. Four findings are of special concern: the first on unsigned articles as regular practice, the second on the growing percentage of headlines with positive connotation during the campaign, the third on a significant number of newspaper articles where the source is not clear, which may be an indication that the text was taken over from an agency or that it is a party proclamation in the form of PR-material, and fourth on respecting "party cameras", which are nothing else but the most banal way to control news programs on televisions. An indicator of low integrity of daily newspapers and televisions is their passive attitude toward the nomination of topics, that is, their willingness to embrace topics nominated by the political parties as the main election topics.

The Monitoring Center of the Human Rights and Democracy House<sup>14</sup> analyzed the writing of seven daily newspapers (Danas, Politika, Blic, Alo, Kurir, Informer and Večernje novosti) in the period between February 15 and February 23, 2014. The aim of this analysis was to determine the incidence of texts in which political parties express their standpoints and present themselves to the voters in the election campaign. Thus all articles in which journalists analyze the elections or some electoral aspects, as well as columns, commentaries and similar texts were omitted. Articles in tabloids communicating disputes among representatives of political parties on a personal basis were also not analyzed, as they essentially fail to send any message about the program and objectives of the political parties to the voters.

Based on the analysis, the Centre has concluded that the Serbian Progressive Party had by far the largest share in all monitored media, except for the daily newspaper Danas. This share ranged mainly around 40 percent. There was not a single negative article about the Serbian Progressive Party in this kind of articles. The share of the Democratic Party, then officially still the strongest parliamentary opposition party, in the articles ranged from 5 to 20 percent. The conclusion of the analysis was that four out of seven daily newspapers – Kurir, Informer, Večernje novosti and Politika – openly favored the SNS. As for the daily newspapers Blic and Alo, it could be said that they showed a slight favoritism of this party, within acceptable limits of balance between objective information and the right to exercise their own editorial policy. The daily Danas was the only one that did not favor any party.

The Center for Election Monitoring of the Human Rights and Democracy House demanded that the police, prosecutor's offices and security services discontinue the targeted placement of information from investigations that are used for the election campaign. Free and fair elections in Serbia are seriously threatened by placement of unverified information from investigations in the media with the aim of discrediting politicians.<sup>15</sup>

14 THE HUMAN RIGHTS AND DEMOCRACY HOUSE IS COMPOSED OF: CIVIC INITIATIVES, BELGRADE CENTRE FOR HUMAN RIGHTS, LAWYERS' COMMITTEE FOR HUMAN RIGHTS – YUCOM, HELSINKI COMMITTEE FOR HUMAN RIGHTS, AND THE PRACTICAL POLICY CENTRE.

15 [HTTP://KUCALJUDSKIHPRAVA.RS/NEPROVERENE-INFORMACIJE-IZ-ISTRAGA-UGROZAVAJU-SLOBODU-IZBORA/](http://kucaljudskihprava.rs/neproverene-informacije-iz-istraga-ugrozavaju-slobodu-izbora/)

## 1.5. FINANCING

The OSCE report on extraordinary parliamentary elections in the Republic of Serbia in 2014 does not circulate too many new objections related to the financing of political and electoral activities, but rather reiterates the shortcomings noticed earlier. The report draws attention to the necessity of limiting resource spending in the election campaign, with the aim of reaching greater equality in the electoral race for the different actors. In addition to that, it points to the necessity of clearer and supplementary delineation between the concepts of regular political activities and those within the framework of the campaign, in order to avoid, to the greatest extent possible, the abuse of gifts and services.

The findings of the organization Transparency Serbia speak to the problem of the existence of the officials' campaign. In the course of monitoring the pre-election campaign in 2014, this organization noted that "the number of promotional activities in relation to the same period a year earlier grew by 848%". As an additional argument that speaks to the existence of the officials' campaign, Transparency Serbia states that "a huge drop in activity was recorded in the period immediately after the elections – the number of promotional activities was five times smaller, and was reduced to 18 percent of the activities during the campaign period".<sup>16</sup>

After the last elections, modifications of the legal framework governing the financing of political parties and simultaneously the election campaign were carried out.

Transparency Serbia presented to the parliamentary groups in the Parliament of Serbia proposals for amendments to the adopted Draft Law on Amendments and Supplements that would regulate the financing of political activities. Some of the amendments proposed by Transparency were accepted. Thus an amendment was adopted that restricts political parties in using real estate funds from public sources exclusively for the implementation of political activities.

The Law on Amendments and Supplements to the Law on Financing Political Activities, which was passed on November 8, 2014, reduced the percentage of budget allocated to political parties. Amendments to the Law on Financing Political Activities envisage that in the future parties receive about 30 percent less funding from the budget. The percentage for the allocation of funds to political parties is reduced from 0.15 to 0.105 percent, as well as for the financing of pre-election activities from 0.1 percent to 0.07 percent. In this way, there will be a linear reduction of more than 30 percent in comparison to current funds for all political actors.

Although certain changes were assessed as positive, the opportunity to rectify all objections presented by OSCE was missed, especially regarding the separation of financing of the election campaign from the financing of regular political activities. According to the latest amendments to the Law on Financing Political Activities, funds for financing regular operation of political entities are also used for financing the costs of election

16 [HTTP://WWW.TRANSPARENTNOST.ORG.RS/IMAGES/STORIES/MATERIJALI/13062014/AKTIVNOSTI%20JAVNIH%20FUNKCIONERA%20TOKOM%20KAMPANJE%20ZA%20IZBORE%202014,%202013.06.2014.PDF](http://www.transparentnost.org.rs/images/stories/materijali/13062014/aktivnosti%20javnih%20funkcionera%20tokom%20kampanje%20za%20izbore%202014,%202013.06.2014.pdf)

campaigns.<sup>17</sup> Given that funds from real estate bought with money obtained from public sources will be used for political activities, statements of Serbian analysts are confirmed that the intentions of the already established parties exist to increase their advantage by ever more abundant (self) financing from public sources, and thus practically prevent the emergence of new political actors with a realistic chance of electoral success.<sup>18</sup>

Transparency Serbia finds that this situation leads to an illogical solution where the budget allocates money for the same purpose twice, which is contrary to the principles of the budget system. Namely, the provisions of the Law prescribe that a certain sum from the budget, in equal amounts, is distributed to all participants in the election campaign before the elections. After the elections, the lists that have won parliamentary seats receive additional funds to cover the costs of the campaign. As the money from the budget for financing regular operation of political entities is also used for financing campaigns, it means that the parliamentary political parties (especially those that have the largest number of MPs, deputies and councilors in an assembly) are extremely privileged in comparison to the remaining participants of the election race. Besides, parliamentary parties enjoy a certain advantage over non-parliamentary rivals by the nature of things, due to more opportunities to present themselves to the citizens beyond the election period as well.

The reduction of budget subsidies and the opening of opportunities for using funds received for the financing of regular operation of parties in the campaign further actualize the need to legally limit the costs of election campaigns.<sup>19</sup>

## 1.6. NATIONAL MINORITIES AND ELECTIONS

The Law on the Election of Members of Parliament restricted the right of participation of minority parties in the elections for MPs, since the confirmation of the election lists for minority parties requires the same number of signatures as for any other party. Shortly before the 2008 elections the Republic Electoral Commission adopted the Guidelines for the Implementation of the Law on the Election of Members of Parliament that relax the legal requirements for submitting electoral lists of national minorities. According to provision of Art. 28 Para. 8 of the Guidelines, submission of the electoral list of a political party of a national minority or coalition of political parties of national minorities requires at least 3,000 court certified statements of voters instead of 10,000 voters' signatures prescribed by the Law. However, the Constitutional Court of Serbia, on the basis of the constitutional provisions which explicitly provide that issues of the election of MPs, along with equality and representation of national minorities, are regulated by law, as well as on the basis of provisions of the Law on the Election of Members of Parliament, which regulates the jurisdiction and authority of the Republic Electoral Commission and

17 LAW ON FINANCING POLITICAL ACTIVITIES, RS OFFICIAL GAZETTE, NOS. 43/2011 AND 123/2014, ART. 19 PARA. 2.

18 SEE: ZORAN STOJILJKOVIĆ, *NOVAC I IZBORI (MONEY AND ELECTIONS)* IN „OKO IZBORA 19“ („ABOUT ELECTIONS 19“), CENTAR ZA SLOBODNE IZBORE I DEMOKRATIJU (CENTRE FOR FREE ELECTIONS AND DEMOCRACY), 2014, P. 46.

19 [HTTP://WWW.BLIC.RS/VESTI/POLITIKA/508888/TRANSPARENTNOST-SRBIJA-DOSTAVILA-PREDLOGE-AMANDMANA-NA-ZAKON-O-FINANSIRANJU-STRANAKA/PRINT](http://www.blic.rs/vesti/politika/508888/transparentnost-srbija-dostavila-predloge-amandmana-na-zakon-o-finansiranju-stranaka/print)

conditions for the establishment of election lists, suspended the enforcement of provisions of Art. 28 Para. 8 of the Guidelines.

Our legal system does not provide for measures enabling representatives of national minorities, under conditions which do not constitute an obstacle to the elections, to represent the interests of national minorities in representative bodies. The so-called "natural threshold" measure is not a standard affirmative measure, because it represents a real obstacle to the exercise of the right to political representation. It is, under certain conditions, available only to political parties of numerous and territorially homogeneously settled national minorities. Enabling an "affirmative" measure that would ensure realistic representation of the interests of minorities in representative bodies at all levels of government is a prerequisite for real removal of political parties from minority self-governments.

The Helsinki Committee for Human Rights in Serbia has criticized the legal uncertainty in which minority parties found themselves, "It is the obligation of the Republic Electoral Commission to interpret the electoral legislation in advance, thus enabling minority parties to prepare for the new rules and start collecting the 10,000 signatures that are now necessary on time, which is something many of them will not be able to do within such a short time limit, and will consequently be de facto excluded from the political life of Serbia. The Albanian minority is already announcing that it is not able to gather additional signatures in such a short period. Thus this latest move will be another indication that the Albanians in Serbia are not a welcome minority and that they are still being treated as part of the solution to the Kosovo issue."<sup>20</sup>

Finally, the Constitutional Court confirmed by its decision IUP-42/2008 of April 14, 2011, the standpoint that the provisions of the Law on the Election of Members of Parliament are in compliance with minority rights guaranteed by the Constitution. In this regard, the majority of non-governmental organizations and experts deem it necessary to change the Law on the Election of Members of Parliament regarding the number of signatures for the establishment of electoral lists of minority parties.

In late October 2014, the second elections for national councils of national minorities were held. National minorities elected members of 17 councils (Albanian, Ashkali, Bosniak, Bulgarian, Bunjevac, Vlach, Greek, Egyptian, Hungarian, German, Roma, Romanian, Ruthenian, Slovak, Slovene, Ukrainian and Czech national council) in direct elections, while members of the Macedonian, Montenegrin and Croatian national councils were elected at an electronic assembly. The elections were held without major irregularities. However, several incidents were recorded in the municipality of Tutin, which is why elections for members of the national council of the Bosniak national minority were repeated at three polling stations. The elections were also repeated at one polling station in the municipality of Bujanovac.

According to the Belgrade Center for Human Rights: "Except for the election day when they were reporting on the progress of the electoral process, elections for national councils, that is, the election campaign, were not a topic that the media with national

<sup>20</sup> [HTTP://WWW.B92.NET/INFO/VESTI/INDEX.PHP?YYYY=2008&MM=04&DD=10&NAV\\_CATEGORY=418&NAV\\_ID=293257](http://www.b92.net/info/vesti/index.php?yyyy=2008&mm=04&dd=10&nav_category=418&nav_id=293257)

coverage properly followed. It should be noted that Art. 39 of the Law on National Councils of National Minorities states that there is an obligation of the public media to follow the development of election activities. When it comes to media in minority languages, numerous irregularities were identified, including the participation of journalists and editors in the election campaign.”<sup>21</sup>

## RECOMMENDATIONS

**IMPROVE THE LEGAL FRAMEWORK TO ALLOW A** COURSE OF ACTION IN COMPLIANCE WITH OSCE STANDARDS, NAMELY THE HOLDING OF FREE ELECTIONS (IN LOCAL SELF-GOVERNMENT UNITS) AT REASONABLE INTERVALS, AND SECURING THAT CANDIDATES WHO RECEIVE ENOUGH VOTES ENTER INTO THEIR FUNCTION AND REMAIN THERE UNTIL THE EXPIRY OF THEIR MANDATES.

**IMPROVE THE RULES FOR THE ELECTION OF** NATIONAL COUNCILS OF NATIONAL MINORITIES, ESPECIALLY IN RELATION TO THE MONITORING OF THE ELECTIONS, THE COMPOSITION OF THE ELECTION COMMISSIONS AND INSIGHT INTO THE ELECTORAL ROLLS.

**IMPROVE THE LEGAL FRAMEWORK FOR PROTECTION SO** THAT DEADLINES FOR FILING LEGAL REMEDIES ARE EXTENDED TO ALLOW EFFECTIVE PROTECTION OF ELECTORAL RIGHTS.

**CONDUCT EFFICIENT INVESTIGATIONS INTO THE ASSAULTS DURING** THE ELECTIONS IN LOCAL SELF-GOVERNMENT UNITS.

**AMEND THE LAW ON THE ELECTION OF** MEMBERS OF PARLIAMENT REGARDING THE NUMBER OF VOTERS NECESSARY FOR VERIFYING ELECTORAL LISTS IN ORDER TO ENABLE THE EXERCISE OF CONSTITUTIONALLY GUARANTEED RIGHTS OF NATIONAL MINORITIES.

<sup>21</sup> [HTTP://WWW.AUTONOMIJA.INFO/NEPRAVILNOSTI-U-IZVESTAVANJU-MEDIJA-NA-MANJINSKIM-JEZICIMA.HTML](http://www.autonomija.info/NEPRAVILNOSTI-U-IZVESTAVANJU-MEDIJA-NA-MANJINSKIM-JEZICIMA.HTML)

## 2. COMMENTS MADE BY THE CIVIL SOCIETY ORGANIZATIONS' COALITION ON THE REPORT OF THE INSTITUTE FOR SOCIAL SCIENCES "THE RIGHT OF PUBLIC ASSEMBLY IN SERBIA IN LIGHT OF THE OSCE STANDARDS CONCERNING THE RIGHT OF PUBLIC ASSEMBLY"

LAWYERS' COMMITTEE FOR HUMAN RIGHTS (YUCOM)

### 2.1. GENERAL COMMENTS ON THE DRAFT OFFICIAL REPORT

The Republic of Serbia has commissioned the Institute of Social Sciences to compile a Report on the exercise of the right to public assembly in Serbia. The decision of the Republic of Serbia to engage an independent institution for the purpose of self-assessment is an initial sign of its commitment to this task. The Institute of Social Sciences has written a lengthy draft Report<sup>22</sup>, which was submitted to non-governmental organizations for consideration and possible comments in July 2015.

The salient feature of this state Report is that it contains information available to the public from several sources.

*"Documents and reports of the following independent institutions were used to compile this Report: the Constitutional Court, Commissioner for Protection of Equality and the Ombudsman; NGO reports helping the cause of human rights: Belgrade Human Rights Centre, Lawyers' Committee for Human Rights (YUCOM), and organizations for the protection of LGBT rights such as Labris and Gay-Straight Alliance; media reports on public assembly; and the published theoretical works authored by scholars."*

It is noticeable that the (state) Report does not incorporate the information available to governmental bodies, to which the Institute of Social Sciences had direct access in the reporting period, and in particular, it contains no information provided by the Ministry of Interior and the units of local self-government. This information is essential to ensure an insight into all the regulations and relevant provisions on the freedom of public assembly. Moreover, an insight into the information provided by the authorities of a unit of local self-government, makes it possible to pinpoint precisely the authorities that

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22 THE DRAFT DOCUMENT HAS 92 PAGES. THE FINAL REPORT WAS SUBMITTED ON 26 AUGUST 2015, WITH NEGLIGIBLE CHANGES.

can either curb freedom of assembly, or place restrictions on it, by their actions<sup>23</sup>. The list of problems and recommendations, compiled by the Institute of Social Sciences on the basis of the reports and the information obtained from the entities overseeing and monitoring in various ways the work performed by the direct regulators of freedom of assembly, is therefore incomplete. It is clear that **there is no transparency in the work of the Ministry of Interior and the work of local self-governments within the jurisdictions that affect the realization of freedom of assembly**. In the absence of an effective legal remedy in the event of a ban on public assembly, the relevant government bodies and local self-governments should inform the public of all regulations applied when the exercise of freedom of assembly is concerned.

The Coalition has no comment to make on the presented facts, and commends the effort to put them together in a comprehensive manner. Nevertheless, certain facts that have not been included are added here, since we consider these to be very important for a more comprehensive analysis of the implementation of OSCE/ODIHR guidelines.

## 2.2. COMMENTS ON THE PRESENTED LEGAL REGULATIONS CONCERNING THE RIGHT TO FREEDOM OF PUBLIC ASSEMBLY IN SERBIA AND THE INITIATIVES, PROJECTS AND ATTEMPTS AIMED AT AMENDING THE PUBLIC ASSEMBLY ACT

Apart from the general and legally confirmed comments on the unconstitutionality of the Public Assembly Act, and all its deficiencies, it is necessary to identify and analyse other regulations placing restrictions on OSCE/ODIHR guidelines. **Units of local self-government, within the scope of their jurisdictions delegated to them under the Public Assembly Act, may endanger the implementation of the guidelines through their regulations.**

An example illustrating how the standard of “**visibility and audibility**” can be jeopardized is the Decision adopted by the City of Zaječar concerning determination of venue of public assemblies (Official Gazette of the City of Zaječar No. 10/2015), preventing public assemblies from being held at the city’s square.

On the occasion, the legal team of the Zaječar City Committee of the Democratic Party submitted an initiative to the Constitutional Court of the Republic of Serbia, requesting the assessment of constitutionality of the decision. As the initiative states, “the venues envisaged under this enactment passed by the Zaječar Municipality are neither accessible, nor are they fit for the gathering of a large number of citizens, as provided for in the Public Assembly Act. When it comes to the Fairground and the Hippodrome, these areas are several kilometres away from the city’s centre, and are located outside its urban quarters<sup>24</sup>”.

23 MEDIA REPORTS ON THE JURISDICTIONS OF THE COMMUNAL POLICE AND THE PRACTICAL ACTIONS CONCERNING THE ACTIVISTS MAY BE ILLUSTRATIVE OF THE DEFICIENCIES OF THE REPORT IN LIGHT OF IDENTIFYING ALL THE AUTHORITIES THAT MIGHT POTENTIALLY CURB AND VIRTUALLY LIMIT FREEDOM OF ASSEMBLY. SEE [HTTP://RS.N1INFO.COM/A44522/VESTI/KOMUNALNA-POLICIJA-I-AKTIVISTI.HTML](http://RS.N1INFO.COM/A44522/VESTI/KOMUNALNA-POLICIJA-I-AKTIVISTI.HTML).

24 <http://www.ds.org.rs/medija-centar/aktivnosti-demokrata/19117-ds-zajecar-odluka-o-izmestanju-javnih-skupova-neustvna-i-nezakonita>.



Local self-governments have the authority to make decisions ensuring local law and order. Ensuring local **law and order sometimes affects the system of assembly registration**. To give an example, regardless of the Decision on the determination of spaces for public assembly of citizens ("Official Gazette of the City of Kraljevo", No. 10/09), the City of Kraljevo has, in a special Decision on the measures for noise protection, envisaged that the "organizer of public assemblies and activities has the duty, in line with this Decision and the Public Assembly Act, to submit a request to the relevant Department for environmental protection, at least 10 days before the scheduled date of the event"<sup>25</sup>.

**Bodies of local self-government may, by way of misinterpretation of their jurisdictions, impede freedom of assembly in practice.** In evidence are examples where the dissemination of written messages as flyers or leaflets at public gatherings was construed as advertising. In this regard, the relevant inspection authorities of units of local self-government and the communal police deem themselves to be authorized to prevent such actions in public assemblies, without going into the gist of the message, i.e. without deciding whether it is an advertisement, or expression of a position on a certain issue of public importance. Thus, five citizens belonging to the civic initiative "Let's not drown Belgrade", distributed in a public space, in front of the Belgrade City Administration, on 19 March 2015, without the permission of the relevant authority, a newsletter titled "Let us not drown Belgrade". The Communal Police patrolling the area established the identity of the persons committing the misdemeanour, through the production of their identification documents, and the city inspectors filed five reports on illegal advertising<sup>26</sup>. Such action is contrary to the guideline saying that *restrictions on the visual or auditory content of any message must be assessed according to strict criteria, and are implemented solely in the event of imminent danger of violence*.

The Coalition has detected certain decisions of units of local self-government that determine, in excruciating detail, and in line with the guidelines, the spaces fit for the holding of public assemblies<sup>27</sup>.

The harmonization of regulations and legal certainty in this area are highly significant, having in mind that misdemeanour proceedings might be maliciously instituted.

It is not uncommon in practice that the Public Order and Peace Act or the Road Traffic Safety Act<sup>28</sup> is treated as primary legislation, while the application of the Public Assembly Act is fully neglected. Illustration of this is the example of misdemeanour proceedings instituted against trade union representatives for chanting at a registered event. The municipal authority for minor offences in Novi Sad made a decision, Up. 05-6-600/09 of 12 November 2009, whereby it declared three persons responsible for the misdemeanour under Article 6, paragraph 1, of the Public Order and Peace Act, and fined them RSD 10.000 and RSD 15.000 for violating on 6 November, around 11:20 hours, public order and

25 DECISION ON THE MEASURES FOR NOISE PROTECTION ("OFFICIAL GAZETTE OF THE CITY OF KRALJEVO", NO. 20/2010), ARTICLE 7, PARAGRAPH 3)

26 CITY PRESS SERVICE STATEMENT BROADCAST ON N1 TV CHANNEL: [HTTP://RS.N1INFO.COM/A44522/VESTI/KOMUNALNA-POLICIJA-I-AKTIVISTI.HTML](http://rs.n1info.com/A44522/VESTI/KOMUNALNA-POLICIJA-I-AKTIVISTI.HTML).

27 DECISION ON THE DETERMINATION OF SPACES FIT FOR THE HOLDING OF PUBLIC ASSEMBLIES IN THE AREA OF THE CITY OF PANCEVO ("OFFICIAL GAZETTE OF THE CITY OF PANCEVO", NO. 24/2011).

28 ROAD TRAFFIC SAFETY ACT, OFFICIAL GAZETTE OF THE REPUBLIC OF SERBIA NOS. 41/2009, 53/2010, 101/2011, 32/2013 – DECISION OF THE CONSTITUTIONAL COURT AND 55/2014, ARTICLES 123–130.

peace and tranquillity and for disturbing the regular work of the AP Vojvodina Executive Council employees (main entrance), by chanting, exclaiming the name and calling out one of the officials of the AP Vojvodina Executive Council, at a protest rally that already lasted for three months or so, on workdays. It was a registered meeting. The authority responsible for misdemeanour offences maintained that whistling, use of whistles and the like might be the feature of a misdemeanour offence involving disturbance of public peace and order, or of indecent behaviour. The High Magistrates' Court of Belgrade, Novi Sad Department<sup>29</sup>, confirmed the first-instance Magistrates' Court decision in late 2010. The Constitutional Court of the Republic of Serbia subsequently found, upon constitutional appeal, that the interference of the state in the form of fining in misdemeanour proceedings those who lodged the constitutional appeal in this case, the participants of the trade union protest in question, basically led to the violation of freedom of public assembly<sup>30</sup>.

One part of the Report stresses the conflict between the Road Traffic Safety Act and the Public Assembly Act, but not in the context of the impact made upon the registration system. This Act introduces a system of consent by laying down consent as a requirement for holding sporting or other events on the road, which lends itself to many interpretations<sup>31</sup>. According to this Act, "the request for permission granting should be submitted not later than 15 days prior to holding a sporting or other event on the road. The request for permission should contain: business name of the event organizer, full name of the person responsible for safety in the course of the event, the road (route and venue) where the event will be held, the time of the event, the timetable of all the characteristic features of the event and the measures to be taken by the organizer to ensure the safety of the participants and onlookers, the programme of a sporting or other event, the calendar and the rules of the competition (elaboration). Apart from the request, a consent to the holding of the event issued by the road management authority is to be enclosed, a specimen of identification markings to be worn by the persons securing the event (stewards) and the markings on the vehicle following the event participants. The Ministry of Interior must issue a decision seven days from the day of request submission. The permission granted for holding a sports or any other event on the road will determine the time and venue, measures to be taken for the sake of safely holding the event and the expenses related to the event. The organizer must organize and implement the sports or any other event on the road safely, in the manner specified in the permission. The expenses incurred on governmental bodies, authorities of local self-government, or on the road manager as a result of holding the sports or other event shall be defrayed by the legal entity, i.e. the organizer<sup>32</sup>.

The state Report pays not enough attention to the conflict of the laws to be applied in the exercise of freedom of public assembly. When a new law governing freedom of assembly

29 DECISION OF THE HIGH MAGISTRATES' COURT OF BELGRADE, NOVI SAD DEPARTMENT, PRZ. 5061/2010, 7 SEPTEMBER 2010.

30 DECISION OF THE CONSTITUTIONAL COURT, UZ. NO. 5436/2010 OF 11 DECEMBER 2013, PUBLISHED IN THE "OFFICIAL GAZETTE OF THE REPUBLIC OF SERBIA, NO. 1/2014, 6 JANUARY 2014.

31 MISDEMEANOUR CHARGES FILED BY THE OFFICIALS OF THE MINISTRY OF INTERIOR AGAINST THE WOMEN IN BLACK ACTIVISTS ALSO POINT TO THE EXTENT OF POSSIBLE INTERPRETATIONS. SEE: THE REPORT OF THE INSTITUTE OF SOCIAL SCIENCES "THE RIGHT OF PUBLIC ASSEMBLY IN SERBIA IN LIGHT OF THE OSCE STANDARDS CONCERNING THE RIGHT OF PUBLIC ASSEMBLY", P. 45.

32 ROAD TRAFFIC SAFETY ACT, OFFICIAL GAZETTE OF THE REPUBLIC OF SERBIA, NOS. 41/2009, 53/2010, 101/2011, 32/2013, DECISION OF THE CONSTITUTIONAL COURT AND 55/2014, ARTICLE 123-130.

is passed, it is necessary to determine the status of such a law and its relationship to other laws having an indirect effect on whether freedom of assembly is exercised or not, so as to avoid a situation brought about by subsequent amendments to other laws derogating from the systemic law. By its nature, this Law is a systemic law, and other regulations that encroach upon freedom of assembly must be in harmony with it. In this regard, it is necessary to **identify all the regulations that may interfere, either at the registration stage or in the stage of subsequent action, with the exercise of this freedom**, in order to fully harmonize and implement the new law.

Even though the state Report provides an insight into legal status and conveys the assessments of the relevant institutions concerning the non-constitutionality of the Public Assembly Act, the rather lengthy state report lacks more detailed information on this year's efforts by the state aimed at establishing the legal framework in line with the guidelines, considering that this legal status has been in existence since 2006. It is not clear whether the task force responsible for the drafting of the new law was put together or no, and what efforts have been made in this regard by the state, after the Public Assembly Act was declared unconstitutional.

### 2.3. PUNISHMENTS FOR HINDRANCE OF THE FREEDOM OF ASSEMBLY

Freedom of assembly in Serbia is primarily threatened by the actions of violent groups. Therefore, the work done by the state on the prevention and punishment of actions taken by such groups is indispensable. First and foremost, high governmental officials must not use hate speech, and the relevant state bodies must censure it. Moreover, through their conduct, representatives of the state should support freedom of public assembly.

The policy of impunity has been prevalent in Serbia for a long time. Such a state of affairs was also noted in the rationale of one court ruling concerning hate speech. The wording of a ruling in the first-instance that was later overturned, handed down by the First Basic Court in Belgrade<sup>33</sup>, was as follows: "At the time when hate speech and unveiled calls to various forms of discrimination are frequent occurrences in the political life and media landscape of the Republic of Serbia, the Court is satisfied that the aforesaid statement does not comply with the conditions that need to be met to declare it discriminatory conduct, in the context of the Anti-Discrimination Law".

Of late, slight headway has been made in the penal policy, and we will present some examples to show it. The slow judiciary apparently hinders timely punishment and the necessary changes in this area.

The absolute ruling of the Appellate Court in Belgrade<sup>34</sup>, handed down in June 2014, established that Dragan Marković Palma, President of Jedinstvena Srbija (JS) practised an aggravated form of discrimination on the basis of sexual orientation or preference, when, on 15 August 2011, on the eve of the Pride Parade, he made known to media

33 RATIONALE OF THE RULING HANDED DOWN BY THE FIRST BASIC COURT IN BELGRADE, P15378/2012, 17 SEPTEMBER 2013, P7.

34 BELGRADE APPELLATE COURT RULING, GZ. 2426/14, 11 JUNE 2014.

representatives his positions on the LGBT population: "The position of Jedinstvena Srbija and my own is that we oppose any meeting that involves the march of homosexuals along the streets of Belgrade, aspiring to display sickness in the guise of normality".

In February 2015, Ivica Dačić apologized to the LGBT people, and followed the Recommendation of the Commissioner for the Protection of Equality, which established the presence of discriminatory behaviour in statements made on the occasion of the Pride Parade<sup>35</sup>.

Representatives of the Women in Black (WiB) were insulted and physically attacked during their gathering in Valjevo, when they voiced their support to the victims of Srebrenica massacre (8 July 2014). Despite the timely reaction of police officers, and filing of criminal charges to the Basic Prosecutorial Office in Valjevo, this Office has not instituted criminal proceedings for the attack perpetrated against the WiB representatives.

On the other hand, criminal proceedings for the offence of attacking an official on duty, were initiated. Following the event, the police submitted a request for instituting misdemeanour proceedings on 16 July 2014, to the Magistrates' Court in Valjevo, against several persons, for disturbance of public peace and order, rude and reckless behaviour, noise, verbal abuse and ill-treatment of others. No information is available as to whether or not these proceedings have been completed.

Following YUCOM's criminal charges, criminal proceedings were instituted against the then spokesman of the MoI Anti-Terrorist Unit Radomir Počuča, on 28 March, due to his public call to hooligans and supporters not to clash among each other, but to direct their "anger and fists" to those who deserve it, alluding to the Women in Black. Besides, he issued an overt and direct call to the members of all fans' groups to prevent, with the use of violence, the commemorative event on the occasion of the 15th anniversary of the crime committed against the Albanian civilians in Kosovo, organized by the Women in Black. Following the initial call issued by Počuča, many rightist activists, as well as the broader public, joined the initiative via the social networks.

Following the delay of the first main hearing, Počuča reiterated in his statement to the media all the allegations, saying that he was not sorry for his action, but that he was only sorry for the expressions he had used. Particularly worrying is his treatment of the Court, for Počuča appeared in the media, clarifying that he was on the frontline in Ukraine, despite the fact that his hearing before the High Court in Belgrade was scheduled for the following day.

#### 2.4. ADDITIONAL PROBLEMS AND RECOMMENDATIONS

The Civil Society Organizations' Coalition supports the list of the identified problems and recommendations and adds the following, based on the previously presented analysis and facts:

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<sup>35</sup> [HTTP://WWW.RTS.RS/PAGE/STORIES/SR/STORY/9/POLITIKA/1837073/DA%20C4%8D1%20C4%87+SE+IZVINIO+PREDSTAVNICIMA+LGBT+POPULACIJE++](http://www.rts.rs/page/stories/sr/story/9/politika/1837073/da%20c4%8d1%20c4%87+se+izvinio+predstavnicima+lgbt+populacije++).  
HTML

## PROBLEMS

**DISCREPANCY OF THE LEGAL FRAMEWORK WITH INTERNATIONAL STANDARDS,** THE CONSTITUTION OF THE REPUBLIC OF SERBIA AND WITH THE OSCE/ODIHR GUIDELINES.

**CONFLICT OF VARIOUS LAWS WITH THE APPLICABLE PUBLIC ASSEMBLY ACT.**

**NINE-YEAR FAILURE ON THE PART OF THE RELEVANT BODIES (MINISTRY OF INTERIOR)** TO ACT, IN CONTRAVENTION OF THE CONSTITUTIONAL LAW ON THE IMPLEMENTATION OF THE CONSTITUTION OF THE REPUBLIC OF SERBIA, WHEN IT COMES TO HARMONIZING THE PUBLIC ASSEMBLY ACT WITH CONSTITUTIONAL PROVISIONS BY WAY OF DRAFTING A LAW, ADOPTING A PROPOSAL, AND PASSING A NEW LAW.

**EXISTENCE OF A CONTINUED PRACTICE TO BAN ASSEMBLIES WITHOUT RATIONALE,** DESPITE THE VOICED GENERAL POSITIONS OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF SERBIA THAT SUCH ACTIONS ARE UNCONSTITUTIONAL (FEBRUARY 2012).

**THE PRACTICE OF IGNORING THE INITIATIVE OF THE CONSTITUTIONAL COURT TO INITIATE PROCEEDINGS TO DECLARE THE LAW UNCONSTITUTIONAL (2013) AND THE DECISION OF THE CONSTITUTIONAL COURT ON THE DISCREPANCY BETWEEN THE PUBLIC ASSEMBLY ACT AND THE CONSTITUTION (APRIL 2015).**

**INSUFFICIENTLY CLEAR COMPETENCES OF LOCAL GOVERNMENTS WHEN IT COMES TO REGULATING THE EXERCISE OF FREEDOM OF ASSEMBLY.**

## RECOMMENDATIONS

**IDENTIFY ALL THE REGULATIONS WHICH POSSIBLY INTERFERE WITH THE EXERCISE OF THIS FREEDOM,** EITHER IN THE REGISTRATION STAGE OR LATER THROUGHOUT THE PROCESS, WITH THE AIM OF HARMONIZING AND ENABLING FULL APPLICATION OF A NEW LAW.

**CLEARLY SPECIFY THE STATUS OF THE NEW LAW AND ITS RELATIONSHIP WITH OTHER LEGISLATION DEALING WITH THIS PROBLEMATIC.**

**INCREASE TRANSPARENCY OF THE WORK OF THE MINISTRY OF INTERIOR AND THE WORK OF LOCAL GOVERNMENTS IN TERMS OF THEIR MANDATE TO ENSURE THE EXERCISE OF FREEDOM OF ASSEMBLY.**

### **3. COMMENTS OF THE COALITION OF CIVIL SOCIETY ORGANIZATIONS ON THE COMMISSIONER FOR PROTECTION OF EQUALITY REPORT REVIEWING THE SITUATION IN THE GENDER EQUALITY FIELD**

AUTONOMOUS WOMEN'S CENTRE, IN CONSULTATION WITH ORGANIZATIONS: ASTRA – ACTION AGAINST TRAFFICKING IN HUMAN BEINGS, WOMEN'S SPACE, DEA DIA ASSOCIATION

#### **3.1 POLITICAL FRAMEWORK, LEGISLATIVE AND INSTITUTIONAL MECHANISMS FOR GENDER EQUALITY**

The 2010–2015 period saw significant changes in Serbia's political scene. After regular parliamentary elections (May 2012) and an early election (2014), the government led by the Serbian Progressive Party – the officials of which had been the chief promoters and participants in the wars in the 1990s – was consolidated, whereas opposition parties were marginalized. The year 2014 was lost in terms of reform processes for a number of reasons (a caretaker government was in charge due to the early elections, floods in May, a four-month strike of attorneys at law...) Another judicial reform (January 2014) following the failed one (2010); control over and shutting down of independent media outlets, assaults against independent institutions (Ombudsman), harsh austerity measures (cuts in pensions and salaries in the public sector, excise on electricity), growing poverty and stratification of the population, huge unemployment, strengthening of the role of the Serbian Orthodox Church, assaults against human rights defenders that went uncondemned testify of citizens' growing insecurity, particularly of women as major victims of transition.<sup>36</sup>

This review of the situation has been drawn up in accordance with the OSCE commitments and the recommendations made to the participating States concerning the political framework on the human rights of women.<sup>37</sup> Since the Report on the situation pertaining

<sup>36</sup> [HTTP://WWW.BLIC.RS/VESTI/TEMA-DANA/195543/ZENE-NAJVECE-ZRTVE-TRANZICIJE](http://www.blic.rs/vesti/tema-dana/195543/zene-najvece-zrtve-tranzicije) .

<sup>37</sup> OSCE ACTION PLAN FOR THE PROMOTION OF GENDER EQUALITY (MC.DEC/14/04); PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN (MC.DEC/15/05); WOMEN IN CONFLICT PREVENTION, CRISIS MANAGEMENT AND POST-CONFLICT REHABILITATION (MC.DEC/14/05); REPORT OF JUNE ZEITLIN, THE SPECIAL REPRESENTATIVE OF THE OSCE CHAIRPERSON-IN-OFFICE ON GENDER ISSUES , RECOMMENDATIONS, 2012,

to gender equality, submitted by the Commissioner for Protection of Equality extensively describes the situation *de iure*, these comments focus on the situation *de facto*.

### 3.1.1. LEGISLATIVE FRAMEWORK

Serbia has established a legislative and strategic framework related to prohibition of discrimination; gender equality and protection against gender-based violence. Nevertheless, an insufficient amount of attention has been given to the implementation of laws and measures, as well as to reporting on the achieved results. The situation of multiple marginalized groups of women (Roma women, women with disabilities, rural women, elderly women, lesbians, single mothers, etc.) is particularly sensitive, whereas anti-discrimination laws do not recognize the concept of multiple discrimination against women, as indicated by the UN Committee on the Elimination of Discrimination against Women (CEDAW) in its concluding comments (paragraph 10, sub-paragraphs (a), (b)).<sup>38</sup> Five years after its enactment, the Law on Gender Equality (LGE)<sup>39</sup> does not have a bearing on the actual equality of men and women, because there are no envisaged sanctions for most of the norms set out in the Law. Only the 2013 Report submitted by the Gender Equality Department (GED) on Monitoring the Implementation of the Law, is available to the public.<sup>40</sup> Only two legally effective judgments on violations of this Law were recorded in 2013, while in the previous year there were none. Inspection oversight of the Law's implementation resulted in the reaching of 83 decisions on the elimination of deficiencies (out of 4,564 oversights made), though there is no information on how many of these decisions have taken effect. The Ombudsman submitted a new draft law on gender equality (December 2014), while the newly created Gender Equality Coordination Body has initiated the setting up of a working group for amendments to the Law, irrespective of the existing model.

### 3.1.2. STRATEGIC FRAMEWORK

Although the Republic of Serbia (RS) has adopted all major roof and sector strategies, these documents are neither gender sensitive, properly coordinated, nor have budgetary funds been allocated for the implementation of most of them, we are nevertheless seeing their hyper-production and the lack of a coherent framework for their implementation and reporting on results of the measures<sup>41</sup> planned, as proved by CEDAW recommenda-

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ELEMENTS OF THE CONFLICT CYCLE, RELATED TO ENHANCING THE OSCE'S CAPABILITIES IN EARLY WARNING, EARLY ACTION, DIALOGUE FACILITATION AND MEDIATION SUPPORT, AND POST-CONFLICT REHABILITATION (MC.DEC/3/11).

38 CONCLUDING OBSERVATIONS ON THE SECOND AND THE THIRD REPORTS SUBMITTED BY THE REPUBLIC OF SERBIA, CEDAW/C/SRB/CO/2-3, 25 JULY 2013. AVAILABLE AT: [HTTP://WWW.GENDERNET.RS/FILES/DOKUMENTA/IZVESTAJI\\_UPRAVE/CEDAW\\_ZAKLJUCNA\\_ZAPAZANJA\\_2013\\_SRP.PDF](http://www.gendernet.rs/files/dokument/IZVESTAJI_UPRAVE/CEDAW_ZAKLJUCNA_ZAPAZANJA_2013_SRP.PDF).

39 "OFFICIAL JOURNAL OF RS", NO. 104/2009.

40 REPORT ON MONITORING THE IMPLEMENTATION OF THE LAW ON GENDER EQUALITY FOR 2013 (2014), DEPARTMENT OF GENDER EQUALITY, AVAILABLE AT [HTTP://WWW.GENDERNET.RS/FILES/DOKUMENTA/IZVESTAJI\\_UPRAVE/IZVESTAJ\\_O\\_NADZORU\\_NAD\\_SPROVODJENJEM\\_ZAKONA](http://www.gendernet.rs/files/dokument/IZVESTAJI_UPRAVE/IZVESTAJ_O_NADZORU_NAD_SPROVODJENJEM_ZAKONA). PDF ACCESSED ON 8.6.2015.

41 A SHADOW CAST OVER SERBIA – A REPORT FROM THE SHADOW OF NON-GOVERNMENTAL ORGANIZATIONS FOR THE 55TH SESSION OF THE CEDAW COMMITTEE, (2013), AUTONOMOUS WOMEN'S CENTRE, ASTRA, WOMEN IN BLACK, LABRIS AND THE VOICE OF DIFFERENCE, BELGRADE 2013. AVAILABLE AT:

[HTTP://WWW.WOMENNGO.ORG.RS/IMAGES/CEDAW/2013/SENKA\\_NAD\\_SRBIIOM.PDF](http://www.womenngo.org.rs/images/CEDAW/2013/SENKA_NAD_SRBIIOM.PDF).

tions (paragraph 17, sub-paragraphs (a), (b), (c) and (d)). Both strategies: the *National Strategy for Improving the Status of Women and Promoting Gender Equality* (2009), as well as the *National Strategy for Prevention and Elimination of Domestic Violence against Women and by Intimate Partners* (2011), expire in 2015.

### 3.1.3. INTERNATIONAL COMMITMENTS

Serbia is a party to relevant human rights conventions or instruments. Governmental reports submitted to international organizations focus on laws and by-laws adopted rather than on the state of affairs and the effects of the measures taken, civil society organizations have been insisting on in their reports. The main problem with the CEDAW Convention is that it is not directly implemented by the Serbian judiciary, as indicated by CEDAW (paragraph 8). The involvement of women civil society organizations in drawing up the state report for CEDAW has significantly increased since 2007. The Report on the first periodic review of CEDAW recommendations implementation, released in April 2014<sup>42</sup>, is not systematic; it lists activities without indicating the progress achieved in relation to the recommendations, which reflects low awareness on the part of state institutions of the reporting obligation based on international mechanisms recommendations. As of July 2015, Republic of Serbia has an obligation to inform CEDAW on the steps taken to implement recommendations under paragraphs 17 (national strategy harmonization, implementation and monitoring) and 23 (violence against women). In late 2014, the Council for monitoring the implementation of UN Human Rights mechanisms recommendations was set up and its rules of procedure were adopted, while civil society organizations were urged to make their contribution.

**Serbia's accession to the European Union** is an important political framework for enhancing the respect for human rights. Although the issue of gender equality and human rights of women is set out as an imperative in Chapter 23 (legislation and fundamental rights) and Chapter 24 (justice, freedom and security),<sup>43</sup> it has been absolutely disregarded in Chapter 24 (except in regard to the trafficking in human beings), due to which the Autonomous Women's Centre (AWC) addressed an appeal to the European Commission,<sup>44</sup> and the reply is pending.

### 3.1.4. INSTITUTIONAL MECHANISMS FOR GENDER EQUALITY

The Committee on Human and Minority Rights and Gender Equality in the National Assembly of the Republic of Serbia maintains continued cooperation with women's organizations. The Department of Gender Equality was closed down in 2014. The Government's Gender Equality Coordination Body<sup>45</sup> was established in October 2014 and

42 REPORT FOR THE PERIOD FROM 25 JULY 2013 TO 25 MARCH 2014; AVAILABLE AT: [HTTP://WWW.GENDERNET.RS/FILES/DOKUMENTA/IZVESTAJLUPRAVE/CEDAW\\_-\\_PRVI\\_CIKLUS.PDF](http://www.gendernet.rs/files/dokumenta/izvestajluprave/cedaw_-_prvi_ciklus.pdf) ACCESSED ON 8.6.2015

43 EU STRATEGIC FRAMEWORK ON HUMAN RIGHTS AND DEMOCRACY, COUNCIL OF THE EUROPEAN UNION, 11855/12

44 LETTER TO THE EUROPEAN COMMISSION (29 MAY 2015), AVAILABLE AT [HTTP://WWW.WOMENNGO.ORG.RS/IMAGES/VESTI-15/LETTER\\_TO\\_THE\\_EU\\_COMMISSION.PDF](http://www.womenngo.org.rs/images/vesti-15/letter_to_the_eu_commission.pdf).

45 DECISION ON THE ESTABLISHMENT OF A COORDINATION BODY FOR GENDER EQUALITY, *OFFICIAL JOURNAL RS*, NOS. 121/2014, 147/2014, 32/2015 AND 37/2015



currently comprises six members, including only one woman (16.7%), the Body's Chairperson. The Coordination Body adopted an Action Plan for 2015 and initiated cooperation with women's organizations. It is also to analyse the effects of its activity soon. Since there are no reports on the work of the Gender Equality Council of the Government of R. Serbia, it is not possible to evaluate its ongoing activities and the achieved results. In the Autonomous Province of Vojvodina (APV) gender equality bodies have been in place within the framework of executive and legislative authorities, continuously from 2003.<sup>46</sup> Though existing in most municipalities, local gender equality mechanisms did not have continued activity, clear programmes of work, allocated funds or publically available progress reports that would indicate their performance results.

The five-year term of office of the Commissioner for Protection of Equality expired in May 2015. The new Commissioner, appointed with undue attention to procedure by the National Assembly, was deemed by civil society organizations as unfit for the office. One of the deputies to the Ombudsman, as well as to the Provincial Ombudsman, was tasked with dealing with gender equality matters. These autonomous and independent state organs have drawn up separate reports on issues related to discrimination against women.

## RECOMMENDATIONS OF WOMEN ORGANIZATIONS

### 3.1 MECHANISMS FOR GENDER EQUALITY

**ENHANCE CITIZENS' AWARENESS ABOUT NON – DISCRIMINATION** BASED ON GENDER AND WOMEN'S AWARENESS ABOUT THEIR RIGHTS. ENSURE THAT INTERNATIONAL DOCUMENTS GUARANTEEING WOMEN'S RIGHTS BE DIRECTLY IMPLEMENTED BY JUDICIAL AUTHORITIES.

**COUNTERPOISE MEASURES AND ACTIVITIES ENVISAGED BY VARIOUS** NATIONAL STRATEGIES, SET UP BUDGETS FOR THEIR IMPLEMENTATION, ESTABLISH A SYSTEM OF MONITORING AND ASSESSING IMPACTS, AND ENSURE THAT REPORTS ON THEIR IMPLEMENTATION BE AVAILABLE TO THE PUBLIC.

**INCREASE THE RESPONSIBILITY OF GENDER EQUALITY MECHANISMS** AT ALL LEVELS FOR THE IMPLEMENTATION OF ANTI-DISCRIMINATORY LAWS AND POLICIES, INCLUDING INTERNATIONAL TREATIES RATIFIED BY R. SERBIA. BUILD CAPACITIES OF AUTONOMOUS AND INDEPENDENT STATE ORGANS AND ENSURE THEIR UNIMPEDED AND INDEPENDENT WORK.

**INCORPORATE THE CONCEPT OF MULTIPLE DISCRIMINATION INTO** RELEVANT LAWS AND BY-LAWS AND ENSURE INDEPENDENT MONITORING OF POLICIES BY AUTONOMOUS WOMEN'S ORGANIZATIONS.

<sup>46</sup> COMMITTEE ON GENDER EQUALITY, PROVINCIAL SECRETARIAT FOR ECONOMY, EMPLOYMENT AND GENDER EQUALITY, PROVINCIAL INSTITUTE OF GENDER EQUALITY (PROVINCIAL GOVERNMENT'S EXPERT BODY);

### 3.2. POLITICAL PARTICIPATION OF WOMEN

Political participation of women has been illustrated by using the recommendations contained in the OSCE documents.<sup>47</sup> Measures aimed at ensuring gender equality in political and public areas are included in election laws (a 30% quota for the less represented gender and improvement of the 2011 law), as a result of which the number of women in decision-making bodies increased from 1.6% in 1990 to 21.6% after the 2008 elections; 33% in 2012, and 34% in 2014. However, the situation reflected in percentages is still not conducive to gender equality, because the real influence of women continues to be relatively low and focused on traditional “women’s topics”, as indicated by the Commissioner for Protection of Equality<sup>48</sup>. Women’s parliamentary network should be formally provided with conditions for operation. There are only four women holding Ministerial positions in the incumbent Government (22.2%). Locally, women are still underrepresented in decision-making positions: only 29% women are deputies and only 5% are presidents of municipalities/mayors.<sup>49</sup> Not many young women are present in the political and public arenas, and those who bear the burden of prejudice against both their age and gender.<sup>50</sup>

The situation is not much dissimilar in political parties as the principal mechanisms ensuring participation of women in political life, although gender equality has been incorporated in the manifestoes of almost all major political parties. Nevertheless, these parties have not publicised their plans on measures promoting equitable representation of women in party bodies and those related to putting forward candidates (which they are obliged to do under the Law on Gender Equality); the obligation to improve the situation is also referred to in CEDAW (paragraph 27, sub-paragraphs (a) and (c)). The same obligation applies to trade unions as well, but such plans do not figure on the internet sites of major trade unions.

With regard to the judiciary, men dominated the Constitutional Court (67%), while women are prevalent in all general and special jurisdictional courts (60–75%). Among public prosecutors, men are predominant in all kinds of prosecutor’s offices (58–84%), although the Public Prosecutor of the Republic is a woman.<sup>51</sup>

## RECOMMENDATIONS OF WOMEN’S ORGANIZATIONS

### 3.2. POLITICAL PARTICIPATION OF WOMEN

**ENSURE FULL AND EQUAL PARTICIPATION OF WOMEN IN POLITICAL AND PUBLIC LIFE, INCLUDING IN EXECUTIVE BRANCHES AT ALL LEVELS. ENVISAGE SANCTIONS AGAINST POLITICAL PARTIES NOT COMPLYING WITH THE LAW ON GENDER EQUALITY.**

47 OSCE Ministerial Council Decision *Women’s Participation in Political and Public Life* (MC.DEC/7/09); Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area (MC.DEC/3/03 Annex); OSCE Ministerial Council Decision 4/13, Enhancing OSCE efforts to implement the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, with a Particular Focus on Roma and Sinti Women, Youth and Children available at <http://www.osce.org/mc/109340?download=true>.

48 REPORT ON THE SITUATION IN THE GENDER EQUALITY AREA;

49 *WOMEN AND MEN IN THE REPUBLIC OF SERBIA*, SERBIAN INSTITUTE OF STATISTICS, 2014 AVAILABLE AT: [HTTP://WEBZRS.STAT.GOV.RS/WEBSITE/USERFILES/FILE/STANOVNISTVO/ZENEIMUS/ZIM\\_SRPSKI\\_WEB.PDF](http://webzrzs.stat.gov.rs/website/userfiles/file/stanovnistvo/zeneimus/zim_srpSKI_WEB.PDF)

50 *YOUNG WOMEN – AGENTS OF POSITIVE CHANGE, RESEARCH: GENDER EQUALITY IN YOUTH ACTION PLANS*, CURE FOUNDATION, 2013

51 *WOMEN AND MEN IN THE REPUBLIC OF SERBIA*, RZS, 2014.

### 3.3. GENDER-BASED VIOLENCE

A large number of OSCE recommendations are related to measures to be taken by the participating States to eliminate all forms of gender-based violence.<sup>52</sup>

#### 3.3.1. STATE'S POLICY ON VIOLENCE AGAINST WOMEN

Although the Republic of Serbia has formally demonstrated an interest in addressing the problem of violence against women, the operational implementation of the measures adopted to that end is full of weaknesses (slowed implementation dependent upon international donations and poor coordination). An Implementation Action Plan on the *National Strategy for Prevention and Elimination of Domestic Violence against Women and by Intimate Partners* (2011) has never been developed nor are there any reports on the Strategy's implementation. The AP of Vojvodina is an exception in that respect, as it implemented and evaluated the *Strategy for Protection against Domestic Violence and Other Forms of Gender-Based Violence in APV* (2008–2012), and subsequently adopted a new strategic document *Programme for the Protection of Women from Domestic Violence and Violence by Their Intimate Partners in APV* (2014 – 2020). *The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* was ratified in October 2013<sup>53</sup> (with a reservation made in respect of two articles),<sup>54</sup> but thus far, no effort has been made to bring the national legislation in conformity with this Convention or to enable its implementation. AWC has drawn up a comprehensive analysis of the alignment of Serbia's legislative and strategic frameworks with the standards laid down in the Convention<sup>55</sup> and designed indicators for monitoring its implementation<sup>56</sup>, though the Ministry of Justice planned to carry out such activity by the end of 2015, and introduce legal amendments in 2016, notwithstanding CEDAW recommendation (paragraph 23, sub-paragraph (a)) that these activities be commenced as early as 2013. The Ministry of Interior has proved reluctant to agree to the AWC's proposal to impose "urgent protection measures"<sup>57</sup>, in line with Article 52 of the Convention, and CEDAW recommendations (paragraph 23, sub-paragraph (d)).

52 OSCE ACTION PLAN FOR THE PROMOTION OF GENDER EQUALITY (MC.DEC/14/04); OSCE GENDER EQUALITY REVIEW CONFERENCE, COMMITMENTS ON COMBATING VIOLENCE AGAINST WOMEN, JULY 2014; PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN (MC.DEC/15/05); COUNTRY VISIT TO SERBIA, REPORT OF JUNE ZEITLIN, THE SPECIAL REPRESENTATIVE OF THE OSCE CHAIRPERSON-IN-OFFICE ON GENDER ISSUES, RECOMMENDATIONS ON VIOLENCE AGAINST WOMEN, 2012; ENHANCING OSCE EFFORTS TO IMPLEMENT THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, WITH A PARTICULAR FOCUS ON ROMA AND SINTI WOMEN, YOUTH AND CHILDREN, (MC.DEC/04/13)

53 LAW ON THE RATIFICATION OF THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE, "OFFICIAL JOURNAL RS – INTERNATIONAL TREATIES", NO. 12/13;

54 [HTTP://CONVENTIONS.COE.INT/TREATY/COMMUN/LISTEDEDECLARATIONS.ASP?NT=210&CM=2&DF=&CL=ENG&VL=1](http://conventions.coe.int/Treaty/COMMUN/LISTEDEDECLARATIONS.ASP?NT=210&CM=2&DF=&CL=ENG&VL=1)

55 [HTTP://WWW.WOMENNGO.ORG.RS/IMAGES/VESTI-14/STUDIJA.PDF](http://www.womenngo.org.rs/images/VESTI-14/STUDIJA.PDF)

56 [HTTP://WWW.POTPISUJEM.ORG/D0C/62C0BD2C2F16F9F2586F711F45D3255B.PDF](http://www.potpisujem.org/d0c/62c0bd2c2f16f9f2586f711f45d3255b.pdf) .

57 MINISTER'S COMMUNICATION AND AWC'S REPLY (JUNE 2015) AVAILABLE AT: [HTTP://WWW.WOMENNGO.ORG.RS/VESTI/402-ODGOVOR-MINISTRU-ZASTO-SU-NAM-POTREBNE-HITNE-MERE-ZASTITE-OD-NASILJA](http://www.womenngo.org.rs/VESTI/402-ODGOVOR-MINISTRU-ZASTO-SU-NAM-POTREBNE-HITNE-MERE-ZASTITE-OD-NASILJA).

### 3.3.2. REDRESS AVAILABLE UNDER FAMILY LAW

Percentage-wise, the competent state bodies, centres for social services (CSS) and prosecution offices have initiated only very few procedures for protection against domestic violence,<sup>58</sup> as confirmed in the reports of the Republic's Welfare Institute<sup>59</sup>, reports received from basic public prosecutor's offices<sup>60</sup>, as well as in the Special Report compiled by the Ombudsman on the implementation of the General and Special Protocols on the Protection of Women from Violence (2014).<sup>61</sup> The imposed measures predominantly include an order not to harass the victim any more, whereas the number of measures requiring the eviction of the domestic abuser from the family's residence is quite inconsiderable. Although such proceedings call for urgent action, the hearings<sup>62</sup> are frequently delayed. Draft amendments are not in accordance with the standards provided under Article 53 of the Council of Europe Convention.

### 3.3.3. REDRESS AVAILABLE UNDER THE CRIMINAL CODE

The definition of family members under the Criminal Code (CC) contravenes the Family Law, the standards of the Council of Europe Convention (Article 3) and the CEDAW recommendation (sub-paragraph 23(a)), while the AWC initiative for modifying the definition, submitted on several occasions, was rejected. The Criminal Code does not provide the offences of stalking or tracking (by a family member or current/former partner), in accordance with Article 34 of the Council of Europe Convention, despite the fact that the phenomenon is rather widespread<sup>63</sup> and that it sometimes even leads to fatalities. AWC proposals (23 amendments) supported by the Ombudsman, were not adopted, although punishments for domestic violence became more severe and fines were abolished in 2009. There is an apparently high disparity between the total number of police interventions, reported crimes and sentenced persons,<sup>64</sup> as indicated by CEDAW (sub-paragraph 22 (b)), which calls for improvements (sub-paragraph 23 (c)). The situation did not change by 2014, as witnessed by the 2014 report of the Ombudsman.<sup>65</sup> Increasingly frequent announcements that domestic violence would be qualified as a

58 PETRUŠIĆ, N., S. KONSTATINOVIĆ VILIĆ, (2010). *LEGAL PROTECTION OF THE FAMILY AGAINST DOMESTIC VIOLENCE IN THE LEGISLATIVE PRACTICE OF SERBIA*, AUTONOMOUS WOMEN'S CENTRE, BELGRADE, WOMEN'S EDUCATION AND COMMUNICATION RESEARCH CENTRE, NIŠ.

59 *PROGRESS REPORT OF CENTRES FOR SOCIAL SERVICES IN SERBIA FOR 2011; SYNTHESIZED PROGRESS REPORT OF CENTRES FOR SOCIAL SERVICES IN SERBIA FOR 2012*, REPUBLIC INSTITUTE OF SOCIAL WELFARE, BELGRADE.

60 MACANOVIĆ, V., (2013) *THE RIGHT TO EQUAL FAMILY LEGAL PROTECTION OF ALL VICTIMS OF DOMESTIC VIOLENCE IN SERBIA – ANALYSIS OF THE PROCEDURES OF PASSING MEASURES ON PROTECTION AGAINST DOMESTIC VIOLENCE*, WOMEN'S NETWORK AGAINST VIOLENCE AND EUROPEAN WOMEN'S LOBBY NETWORK;

61 [HTTP://WWW.OMBUDSMAN.RS/INDEX.PHP/LANG-SR\\_YU/IZVESTAJI/POSEBNII-IZVESTAJI/3710-2015-02-24-13-35-38](http://www.ombudsman.rs/index.php/lang-sr_yu/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38).

62 PETRUŠIĆ, N., S. KONSTATINOVIĆ VILIĆ, (2010).

63 *RESEARCH ON THE CHARACTERISTICS AND PREVALENCE OF DOMESTIC VIOLENCE IN VOJVODINA*, (2009). VICTIMOLOGICAL SOCIETY OF SERBIA, BEOGRAD.

64 KONSTATINOVIĆ-VILIĆ, S., I N. PETRUŠIĆ, N. (2007). *CRIME OF FAMILY VIOLENCE – CURRENT JURIDICAL PRACTICE IN BELGRADE AND NIŠ*, AUTONOMOUS WOMEN'S CENTRE, BELGRADE, WOMEN'S RESEARCH CENTRE FOR EDUCATION AND COMMUNICATION, NIŠ; IGNJATOVIĆ, T., (2013) *ANALYSIS OF DATA AND PROTOCOLS ON POLICE CONDUCT AND THE CENTRE FOR SOCIAL SERVICES IN DOMESTIC VIOLENCE CASES*, WOMEN'S NETWORK AGAINST VIOLENCE AND EUROPEAN WOMEN'S LOBBY NETWORK;

65 *SPECIAL REPORT BY THE OMBUDSMAN ON THE IMPLEMENTATION OF THE GENERAL AND SPECIAL PROTOCOLS FOR THE PROTECTION OF WOMEN AGAINST VIOLENCE* (2014), BELGRADE, [HTTP://WWW.OMBUDSMAN.RS/INDEX.PHP/LANG-SR/IZVESTAJI/POSEBNII-IZVESTAJI/3710-2015-02-24-13-35-38](http://www.ombudsman.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38).

misdeed aroused serious concern of women's organizations, which was the reason for addressing an open letter to ministers of justice, interior and social protection.<sup>66</sup>

#### 3.3.4. RECORDS AND STATISTICS ON VIOLENCE AGAINST WOMEN

There is no uniform system of recording and documenting cases of domestic violence and other forms of violence against women, thus preventing data analysis and comparison. State statistics does not disaggregate information on the type of relationship between the victim and the abuser. The Provincial Secretariat of Economy, Employment and Gender Equality, in cooperation with AWC, developed in 2010, a model of uniform recording of domestic violence, but there is still no readiness for its acceptance.<sup>67</sup>

#### 3.3.5. COORDINATION OF SERVICES IN THE COMMUNITY AND A MULTIDISCIPLINARY APPROACH

In the 2011–2014 period, the General protocol on cooperation between institutions in the violence against women area and special protocols for four services (health, social services, police and legislation) have been adopted. In many communities, local services have signed agreements on cooperation, but this did not enhance their cooperation nor did it have a positive impact on the protection of victims from violence. Their implementation is not monitored, as also stated in the Special Report of the Ombudsman (2014).

#### 3.3.6. ACCESS TO JUSTICE

A comprehensive, functional and effective system of free legal assistance has not been put in place, although the existing one does not meet the current needs. The new law on free legal assistance has not yet been enacted<sup>68</sup>, despite the fact that CEDAW called for its soonest possible adoption (paragraph 11, sub-paragraph (c)). After persistent intervention by AWC and by a coalition of organizations, the draft law has recognized victims of domestic violence as recipients of free legal assistance.<sup>69</sup>

#### 3.3.7. SUPPORT SERVICES FOR WOMEN VICTIMS OF VIOLENCE

Since Serbia does not have a uniform system of recording social services, it is not possible to propose general and specialized services to be provided to women victims of violence. Furthermore, there is no system of specialized offices and services, nor is there a single victim support service. Women's organizations providing these services are neither recognized nor systematically supported by the state. Public sector providers of these services have neither the specialized skills required nor have they received training in

66 [HTTP://WWW.WOMENNGO.ORG.RS/VESTI/397-OTVORENO-PISMO-MINISTRIMA-SELAKOVICU-STEFANOVICU-I-VULINU](http://www.womenngo.org.rs/VESTI/397-OTVORENO-PISMO-MINISTRIMA-SELAKOVICU-STEFANOVICU-I-VULINU).

67 [HTTP://WWW.POTPISUJEM.ORG/SRB/954/ZA-RAZMATRANJE-MODELA-JEDINSTVENE-EVIDENCIJE-PODATAKA-O-NASILJU-U-PORODICI-I-NASILJU-PREMA-ZENAMA](http://www.potpisujem.org/srb/954/ZA-RAZMATRANJE-MODELA-JEDINSTVENE-EVIDENCIJE-PODATAKA-O-NASILJU-U-PORODICI-I-NASILJU-PREMA-ZENAMA)

68 *SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA – REVIEW OF PUBLIC EXCLUSION AND POVERTY STATUS FOR THE PERIOD 2011 – 2014, WITH PRIORITIES FOR THE COMING PERIOD*, (2014), GOVERNMENT OF RS.

69 MORE ON ADVOCACY, AVAILABLE AT: [HTTP://WWW.POTPISUJEM.ORG/SRB/677/PREDLOG-RESENJA-ZA-SPORNA-PITANJA-NACRTA-ZAKONA](http://www.potpisujem.org/srb/677/PREDLOG-RESENJA-ZA-SPORNA-PITANJA-NACRTA-ZAKONA).

this particular field.<sup>70</sup> A single SOS helpline has been established for the territory of AP Vojvodina, but it is absolutely uncertain when it will be operational (24/7) for the territory of the whole country, as required by the SE Convention (Article 24). Although the Law on Social Services (2011) foresees plurality of service providers, the public sector is favoured in practice, although centres for social services (CSS) may have a conflict of interests, as a result. The current process of standardizing services and licences for service providers disregarded the comments of women's organizations. Most centres sheltering women (and children) victims are run by the state: some of them are not specialized; none are available to women with disabilities; information on the capacity of these centres, their services, staff and budget is not available to the members of the public. There are no programmes for women after they have come out of the violence trauma, while removing children from the family after one parent (mother) failed to protect the child from the abuse of the other parent, without adequate CSS intervention, causes concern.<sup>71</sup> Programmes for abusers are being promoted and developed (by UNDP programmes), but for all the great optimism of their implementers (all persons involved in other matters in the public sector), no information on their scope and effects (delayed results) are publicly available.

### 3.3.8. FEMICIDE

There is no official information on femicide, because statistics compiled by the state do not classify information by the types of victims and perpetrators. . "Women against Violence" Network, which has followed up on the phenomenon since 2010, noted a continuing escalation of the number of women killed, which received no adequate social response<sup>72</sup>, as also indicated by the Ombudsman in his Special Report (2014)<sup>73</sup>. Proposals made by AWC advocating introduction of specialization for law enforcers and risk assessment and risk management standardization were tuned down on several occasions.

### 3.3.9. TRAINING OF PROFESSIONALS

There are accredited training programmes on domestic violence and violence against women, sexual violence and trafficking in human lives tailored to professionals from public services. AP Vojvodina has organised systematic employee education in the territory of all 45 municipalities. However, the growing number of trained professionals is no guarantee that the acquired knowledge will be applied in practice; it is therefore important to monitor systematically the work of these services and the results of the undertaken measures.

Sexual violence against women and girls continues to be a taboo topic in Serbia. In 2014, only 60 persons (all men) were convicted of rape and a total of 167 persons (including 9 women) were sentenced for all other acts violating gender freedom.<sup>74</sup> A criminal act is

<sup>70</sup> INFORMATION PROVIDED BY THE *WOMEN AGAINST VIOLENCE* NETWORK (REPORT AVAILABLE AT THE NETWORK'S WEBSITE).

<sup>71</sup> REPORT ON THE WORK OF CENTRES FOR SOCIAL SERVICES IN SERBIA (2011 AND 2012).

<sup>72</sup> [HTTP://WWW.ZENEPROTIVNASILJA.NET/FEMICID-U-SRBIJI](http://www.zeneprotivnasilja.net/femicid-u-srbiji).

<sup>73</sup> SPECIAL REPORT OF THE OMBUDSMAN (2014).

<sup>74</sup> *WOMEN AND MEN*, (2014), REPUBLIC INSTITUTE OF STATISTICS.

qualified as rape only if committed with the use or threat of use of force, which is not in line with Article 36 of the Council of Europe Convention. It is inappropriate that fines should serve as punishment for impermissible sexual acts (CC, Article 182, paragraph 1), including cases where the victims were children. The Criminal Code provides for prosecution of marital rape only if the victim joins in the prosecution, rather than doing so *ex officio*, even if there is corroborating evidence the act was committed. This represents discrimination against wives vis-à-vis partners and other women (AWC amendment in this regard was also dismissed). There are neither general nor specialized protocols concerning treatment of victims of violence, nor are there any specialized, free services to be provided to victims of rape and other sex crimes (AWC proposals addressed to the Ministry of Health since 2013, have not been successful).<sup>75</sup>

### 3.3.10. PREVENTION

There are no continued state-run awareness raising campaigns to stop the violence against women. The Provincial Secretariat for Labour, Employment and Gender Equality is conducting a campaign of raising public awareness “I want you to know!” Over the past few years, government institutions at all levels have joined the international campaign “16 Days of Activism against Gender-Based Violence”. There is no systematic youth education in this area, while school and university syllabi and curricula do not cover gender-based violence.

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75 [HTTP://WWW.POTPISUJEM.ORG/SRB/962/ZA-USPOSTAVLJANJE-CENTARA-ZA-ZRTVE-SEKSUALNOG-NASILJA-I-ZA-IZRADU-PROTOKOLA-0-POSTU-PANJU-U-SLUCAJEVIMA-SEKSUALNIH-DELIKATA](http://www.potpisujem.org/srb/962/za-uspostavljanje-centara-za-zrtve-seksualnog-nasilja-i-za-izradu-protokola-0-postu-panju-u-slucajevima-seksualnih-delikata) .

## RECOMMENDATIONS OF WOMEN'S ORGANIZATIONS

### 3.3. GENDER-BASED VIOLENCE

**ACCELERATE ADJUSTMENT OF THE LAW TO THE COUNCIL OF EUROPE CONVENTION ON PREVENTING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE, AND ENSURE IMPLEMENTATION OF THE STANDARDS UNDER THIS TREATY IN THE LEGISLATION OF R. SERBIA. ENSURE EFFICIENT INVESTIGATIONS AND JUDICIAL PROCEEDINGS, FULL PROTECTION OF VICTIMS, SANCTIONS COMMENSURATE WITH THE SEVERITY OF THE CRIME COMMITTED, AND EFFECTIVE IMPLEMENTATION OF MEASURES OF PROTECTION AGAINST DOMESTIC VIOLENCE.**

**IMPOSE URGENT MEASURES FOR THE PROTECTION OF VICTIMS IN DANGER, AND COMPULSORY RISK ASSESSMENT AND MANAGEMENT TO PREVENT CASES OF SERIOUS INJURY AND FEMICIDE.**

**AMEND THE DRAFT LAW ON FREE LEGAL ASSISTANCE TO AVOID PROBLEMS WITH ITS IMPLEMENTATION. IMPROVE INFORMATION OF THE VICTIMS OF VIOLENCE ON ALL PROCEDURES, MEASURES AND SERVICES.**

**DEVELOP ANTI-DISCRIMINATION POLICIES AND ENSURE (READILY) AVAILABLE SERVICES FOR WOMEN BELONGING TO GROUPS SUBJECTED TO MULTIPLE DISCRIMINATION. ENSURE LONG-TERM/SUSTAINABLE FUNDING FROM THE BUDGET (ON NATIONAL AND LOCAL LEVELS) FOR THE WORK OF WOMEN'S ORGANIZATIONS PROVIDING SPECIALIST SERVICES TO WOMEN (AND CHILDREN) VICTIMS OF VIOLENCE. ESTABLISH A FREE NATIONAL SOS LINE (24/7) FOR PROVIDING INFORMATION AND ANONYMOUS SUPPORT IN A CONFIDENTIAL MANNER.**

**ENHANCE INTER-SECTORAL COOPERATION AT LOCAL AND NATIONAL LEVEL, ESTABLISH A MODEL OF UNIFORM ADMINISTRATIVE RECORDING OF DOMESTIC VIOLENCE AND OTHER FORMS OF VIOLENCE AGAINST WOMEN, DRAWING UPON THE EXPERIENCES OF AP VOJVODINA.**



### 3.4. WOMEN TRAFFICKING

Major recommendations concerning women trafficking are contained in the OSCE documents.<sup>76</sup>

#### 3.4.1. COMPREHENSIVE APPROACH

Although the Strategy on Combating Trafficking in Human Beings was one of the first strategies to be adopted,<sup>77</sup> the latest version expired back in 2011, whereas a new strategic document has not been adopted (despite the fact that a Draft National Strategy for 2013–2018, and an Action Plan have been developed).<sup>78</sup>

The Action Plan for Chapter 24 envisages adoption of these two documents by September 2015. In addition to the existing Council for Combating Trafficking in Human Beings and coordinators (2008), the Government also created a Centre for Protecting the Victims of Human Trafficking (2012), as an institution within the welfare system whose major activity is focused on comprehensive victims' protection<sup>79</sup>.

#### 3.4.2. FUNDING

One of the fundamental problems in combating human trafficking in Serbia is the lack of sustainable and predictable budgetary funding.<sup>80</sup> Direct victim assistance continues to depend primarily upon the support of foreign donors, whereas state assistance is sporadic and unsystematic. Victim assistance provided within the framework of the existing system of social protection<sup>81</sup> and the state health system<sup>82</sup> is insufficient, inappropriate and not always available to all victims. New Strategy Drafts and Action Plans have been designed without ensuring a reliable flow of budgetary funding for their implementation. Some non-governmental organizations (mostly those not having a critical attitude towards the Government) receive *ad hoc* financial assistance.

#### 3.4.3. SCOPE

Different services have differently registered and reported on the numbers of victims of human trafficking. In 2014, there were 125 identified victims of trafficking in human

76 OSCE ACTION PLAN TO COMBAT TRAFFICKING IN HUMAN BEINGS (PC.DEC/557), OSCE ACTION PLAN TO COMBAT TRAFFICKING IN HUMAN BEINGS (MC.DEC/2/03 ANNEX), ENHANCING EFFORTS TO COMBAT TRAFFICKING IN HUMAN BEINGS, INCLUDING FOR LABOUR EXPLOITATION, THROUGH A COMPREHENSIVE AND PROACTIVE APPROACH (MC.DEC/14/06), COMBATING TRAFFICKING IN HUMAN BEINGS (MC.DEC/3/06).

77 STRATEGY OF COMBATING TRAFFICKING IN HUMAN BEINGS IN THE REPUBLIC OF SERBIA, "OFFICIAL JOURNAL OF RS", NO. 111/2006,

78 AVAILABLE AT: [HTTP://WWW.MUR.GOV.RS/CMS\\_CIR/SADRZAJ.NSF/NACRT-STRATEGIJE-PREVENCIJE-SUZBIJANJA-TRGOVINE-LJUDIMA.H](http://www.mur.gov.rs/cms_cir/sadrzaj.nsf/nacrt-strategije-prevencije-suzbijanja-trgovine-ljudima.h)

79 GOVERNMENT OF SERBIA, REGULATION CONCERNING THE NETWORK OF SOCIAL WELFARE INSTITUTIONS, "OFFICIAL JOURNAL OF RS", NO. 16/12. CENTRE FOR THE PROTECTION OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS, ESTABLISHED AS A WELFARE INSTITUTION, MAKES ASSESSMENTS OF THE SITUATION, NEEDS, STRENGTHS AND RISKS OF THE VICTIMS OF HUMAN TRAFFICKING, IDENTIFIES AND PROVIDES ADEQUATE ASSISTANCE AND SUPPORT TO VICTIMS OF HUMAN TRAFFICKING, FOR THE PURPOSE OF THEIR RECOVERY AND REINTEGRATION. MORE INFORMATION ON THE WORK OF THE CENTRE AVAILABLE AT: [HTTP://WWW.CENTARZZTLJ.RS/](http://www.centarzztlj.rs/)

80 A SHADOW OVER SERBIA – REPORT FROM THE SHADOW OF NON-GOVERNMENTAL ORGANIZATIONS FOR THE 55TH SESSION OF THE 2013 CEDAW COMMITTEE

81 LAW ON SOCIAL PROTECTION, "OFFICIAL JOURNAL OF RS", NO. 24/2011.

82 LAW ON HEALTH CARE IN THE REPUBLIC OF SERBIA, "OFFICIAL JOURNAL OF RS", NO. 57/2011.

beings, out of which number 19 victims were underage and 106 were of age, indicating an increase of 26% as compared to the previous year.<sup>83</sup> A new development compared to the previous years is that the male population accounts for 80% of the identified victims, most of whom were subjected to labour exploitation (78%). According to ASTRA<sup>84</sup> reporting, “the cases of labour exploitation are still at the stage of investigation and indictments have not been brought in any of the cases”, while only one previously identified case of trafficking for the purpose of labour exploitation has been proceeded against in Serbia. It is necessary to modify criminal legislation without delay in order to be able to hear the cases of labour exploitation not containing all elements of human trafficking under Article 388 of the Criminal Code and to bring the perpetrators to justice. Currently, there are some instances where impunity has been granted to persons organizing exploitation of construction workers. Additionally, other forms of exploitation have been neglected in terms of investigation and identification. In 2014, only some fifteen victims of other forms of exploitation were identified, accounting for a serious drop compared to the previous year. It is considered that official figures do not reflect the actual situation on the ground, particularly regarding sexual exploitation and women trafficking”.

#### 3.4.4. LEGISLATION

Legal regulations in the human trafficking area constitute solid grounds for protection<sup>85</sup>, but their implementation is weak in practice. There are many obstacles standing in the way of exercising victims’ rights.<sup>86</sup> Victim’s privacy protection (excludes publicity and institutions such as witness protection and protection of wronged parties) has not been much visible in practice, mostly because of lack of understanding for the sensitive position of the victims of human trafficking by judges and prosecutors. In terms of legal assistance, victims of human trafficking are dependent on NGOs. In 2012, the Ministry of Justice adopted a Special Protocol concerning action taken by judicial bodies in the protection of persons who are victims of human trafficking in R. Serbia, which underlines the role of judicial authorities, particularly the prosecutor’s office, in the observance and exercise of the victims’ rights in criminal proceedings. According to the prevalent practice, victims of human trafficking are heard at hearings in the presence of the defendant, although this can be avoided. Proceedings in courts are time-consuming, whereas victims are summoned to give evidence after a considerable lapse of time, which acts as a serious obstacle to their rehabilitation efforts. Sentences passed on traffickers are within the scope of the legally prescribed minimum and only a small number of traffickers is sentenced to imprisonment. On the other hand, there are cases when the victims were prosecuted and convicted for acts perpetrated by them while they were victims of human

83 CENTRE FOR PROTECTION AGAINST TRAFFICKING IN HUMAN BEINGS, 2014 PROGRESS REPORT, (2015), BELGRADE, [HTTP://WWW.CENTARZZTLJ.RS/IMAGES/DOWNLOAD/IZVESTAJ%20O%20RADU%202014.PDF](http://www.centarzztlj.rs/images/download/izvestaj%20o%20radu%202014.pdf)

84 PREUGOVOR, REPORT ON SERBIA’S PROGRESS ON CHAPTERS 23 AND 24 (MAY 2015)

85 ARTICLES 388, 389 AND 390 OF THE CRIMINAL CODE OF THE REPUBLIC OF SERBIA, “OFFICIAL JOURNALRS”, NO. 72/09; AND CRIMINAL PROCEEDINGS CODE, “OFFICIAL JOURNALRS”, NO. 72/2009, 76/2010 AND 121/2012.

86 STATUS OF VICTIMS OF HUMAN TRAFFICKING IN COURT PROCEEDINGS – ANALYSIS OF JURIDICAL PRACTICE FOR 2014, (2015) ASTRA, AVAILABLE AT:

[HTTP://WWW.ASTRA.ORG.RS/WP-CONTENT/UPLOADS/2015/06/ASTRA-PRAVNA-ANALIZA-2014.PDF](http://www.astra.org.rs/wp-content/uploads/2015/06/ASTRA-PRAVNA-ANALIZA-2014.pdf).

trafficking,<sup>87</sup> resulting in unsatisfactory identification of victims and lack of an effective system to protect them. The present laws still do not incorporate provisions against prosecution and penalization of victims of human trafficking.<sup>88</sup> There is no free legal assistance, either, for victims of human trafficking. Compensation for damages continues to be the weakest link in the access to justice by victims of human trafficking, because there is no state fund or a similar compensation mechanism to reimburse the victim and compensate him/her for court expenses, if funds to that end cannot be collected from the perpetrator. Since criminal courts are not keen on reaching compensation decisions, they advise victims to file civil lawsuits, which are expensive and time-consuming, imply further traumatization, and the outcomes of which are uncertain.

**Specialized assistance to women** is offered by civil society organizations. CSS lack specialized programmes, skills and sensitivity for working with victims of human trafficking. In the last 14 years, the only SOS line for the assistance to victims of human trafficking is operated by ASTRA with the support of foreign donors. Sometimes there is only a one-way exchange of information (NGOs give inputs to the police without getting any feedback). Although a large number of victims identified in Serbia are children, Serbian nationals, programmes of specialist assistance to, and reintegration of children are still lacking. There are no procedures for monitoring the provided services and their quality control. Accommodation of victims of human trafficking in Serbia has been a problem for years. The only safe house available at present is run by a civil society organization. Its accommodation capacity (5–6 persons) is insufficient for providing adequate assistance to victims.

#### 3.4.5. EDUCATION OF PROFESSIONALS

Despite numerous trainings, professionals in the legislation area have not yet grasped the phenomenon of human trafficking. Judges are frequently insensitive to victims' vulnerability and pay no attention to secondary victimization. In several cases, victims were put on trial for acts committed during their exploitation or in connection with it.

#### 3.4.6. PREVENTION

All preventive activities are carried out by civil society organisations, with the support of foreign donors and cooperation of state institutions. Primary and secondary schools syllabi and curricula do not include topics related to trafficking in human beings. Cooperation has been established between the Police Academy and ASTRA organization, at an informal level.

<sup>87</sup> [HTTP://WWW.ASTRA.ORG.RS/WP-CONTENT/UPLOADS/2011/11/LEGALANALYSISASTRA.PDF](http://www.astro.org.rs/wp-content/uploads/2011/11/legalanalysisastra.pdf).

<sup>88</sup> RELIMINARY DRAFT AGREEMENT (MAY 2015).

## RECOMMENDATIONS OF WOMEN'S ORGANIZATIONS

### 3.4. WOMEN TRAFFICKING

**ADOPT, WITHOUT DELAY, A NEW STRATEGY AND ACTION PLAN ON COMBATING TRAFFICKING IN HUMAN BEINGS.** ESTABLISH A MECHANISM OF THE NATIONAL RAPPORTEUR ON HUMAN TRAFFICKING. IMPROVE THE IDENTIFICATION PROCESS. AMEND THE CRIMINAL CODE OF R. SERBIA AND CLEARLY STIPULATE BY THE PROVISIONS OF THE NEW LEGISLATION THAT VICTIMS OF HUMAN TRAFFICKING SHALL NOT BE DETAINED, PROSECUTED OR PUNISHED.

**ENHANCE PROTECTION MECHANISMS FOR VICTIMS OF TRAFFICKING** IN COURT PROCEEDINGS TO THE EFFECT OF EXERCISING THE GUARANTEED RIGHTS AND AVOIDING SECONDARY VICTIMIZATION. PROMPTLY RATIFY THE COUNCIL OF EUROPE CONVENTION ON THE COMPENSATION OF VICTIMS OF VIOLENT CRIMES AND ADOPT AMENDMENTS TO THE LAW IN ORDER TO ENCOURAGE INTRODUCTION OF AN EFFECTIVE AND SUSTAINABLE MECHANISM OF COMPENSATING VICTIMS OF TRAFFICKING AND OTHER CRIMINAL ACTS CONTAINING ELEMENTS OF VIOLENCE.

**DEVELOP AND IMPLEMENT STANDARDS FOR PROCEDURES IN** ALL PHASES OF VICTIM PROTECTION – FROM IDENTIFICATION TO REINTEGRATION/VOLUNTARY RETURN, AS WELL AS AGREEMENTS ON COOPERATION WITH CIVIL SOCIETY ORGANISATIONS.

**DEVELOP AND IMPLEMENT PROGRAMMES OF LONG-TERM REINTEGRATION** OF VICTIMS OF TRAFFICKING, IN ACCORDANCE WITH DIRECTIVES 2012/29/EU AND 2011/36/EU, TO BE CARRIED OUT BY THE STATE AND WHICH WOULD BE ADJUSTED TO THE EXISTING REINTEGRATION PROGRAMMES AND MADE AVAILABLE TO ALL MIXED/COMBINED CASES.

### 3.5. GENDER AND SECURITY

A large number of OSCE commitments provides for a framework integrating the gender perspective or gender mainstreaming in the security architecture.<sup>89</sup><sup>54</sup>

The National Action Plan for the implementation of UNSC Resolution 1325 – Women, peace and security in the Republic of Serbia (2010–2015) (NAP 1325) was adopted in 2010.<sup>90</sup> This document focused on establishing institutional mechanisms for the implementation and surveillance of the implementation of NAP 1325, and increased participation of women in military missions. Although, in the security sector, there has been an increase in women's participation and leadership positions, as confirmed also in the report of the Commissioner for Protection of Equality, more attention will be devoted to the state's attitude towards CSO participation in the processes of creation and implementation of women's organizations, in particular. They underlined as one of system-related obstacles to the implementation of the human rights of women, the militarisation of NAP 1325.<sup>91</sup>

The entire process of drawing up NAP 1325 has been entrusted to the Defence Ministry and the major goals and priorities are focused on the security sector – primarily national security, whereas the human security concept was side-tracked. The Reports on the implementation of NAP 1325 were designated as confidential and were not available to the public, due to which Women in Black filed a complaint to the Commissioner, requesting free access to information of public importance, whereupon the Ministry declassified these documents. Currently, all reports are available on the Defence Ministry's website.<sup>92</sup> Women's CSOs neither influenced the process of NAP 1325 elaboration or its implementation, nor was their years-long experience taken into consideration, as a result of which it was assessed as an undemocratic, non-inclusive and non-transparent process and document.<sup>93</sup> The establishment of institutional mechanisms for NAP 1325 implementation had a delayed start and was accompanied by many obstacles (they were neither fully developed nor did they become fully operational before May 2013). The Commission for monitoring NAP 1325 implementation was set up only in February 2013, despite many limitations in the monitoring process (the report's uncoordinated indicators, structure and form). Modified composition of the document implementation body reduced the effect of investment into human resources in the gender equality area).

Independent follow-up to the NAP 1325 implementation was carried out by civil society organizations (2011–2013). The Women in Black report<sup>94</sup> focused on the protection of

89 OSCE ACTION PLAN FOR THE PROMOTION OF GENDER EQUALITY (MC.DEC/14/04), WOMEN IN CONFLICT PREVENTION, CRISIS MANAGEMENT AND POST-CONFLICT REHABILITATION (MC.DEC/14/05), COUNTRY VISIT TO SERBIA, REPORT OF JUNE ZEITLIN, THE SPECIAL REPRESENTATIVE OF THE OSCE CHAIRPERSON-IN-OFFICE ON GENDER ISSUES, 2012, OSCE GENDER EQUALITY REVIEW CONFERENCE COMMITMENTS, JULY 2014.

90 [55HTTP://WWW.CARINA.RS/CYR/INFORMACIJE/DOCUMENTS/AKCIONIPLANNOVI/NACIONALNI\\_AKCIONI\\_PLAN\\_ZA\\_PRIMENU\\_REZOLUCIJE\\_1325\\_SB.PDF](http://WWW.CARINA.RS/CYR/INFORMACIJE/DOCUMENTS/AKCIONIPLANNOVI/NACIONALNI_AKCIONI_PLAN_ZA_PRIMENU_REZOLUCIJE_1325_SB.PDF).

91 A *SHADOW OVER SERBIA* – REPORT FROM THE SHADOW OF NONGOVERNMENTAL ORGANIZATIONS FOR THE 55TH SESSION OF THE CEDAW COMMITTEE 2013.

92 [57HTTP://WWW.MOD.GOV.RS/SADRZAJ.PHP?ID\\_SADRZAJA=4352](http://WWW.MOD.GOV.RS/SADRZAJ.PHP?ID_SADRZAJA=4352)

93 RESOLUTION *WOMEN, PEACE, SECURITY* – 10 YEARS ON, WOMEN IN BLACK, BELGRADE

94 [59HTTP://ZENEUCRNOM.ORG/PDF/NEZAVISNI\\_MONITORING\\_PRIMENE\\_REZOLUCIJE1325\\_U\\_SRBII.PDF](http://ZENEUCRNOM.ORG/PDF/NEZAVISNI_MONITORING_PRIMENE_REZOLUCIJE1325_U_SRBII.PDF) AND [ANDHTTP://ZENEUCRNOM.ORG/PDF/NEZAVISNI\\_MONITORING\\_PRIMENE\\_REZOLUCIJE1325\\_U\\_SRBII2013.PDF](http://ZENEUCRNOM.ORG/PDF/NEZAVISNI_MONITORING_PRIMENE_REZOLUCIJE1325_U_SRBII2013.PDF).

women who were victims of gender-based violence; inclusion of women in peace negotiations, post-conflict reintegration processes; rehabilitation and disarmament; impact of women on decision-making in defence and security areas, as well as the inclusion of civil society organizations in discussions on security topics. The monitoring report released by the Belgrade Centre for Security Policy<sup>95</sup> centred on the position and protection of women from discrimination in the security sector, employee gender-equality education, media reporting on women in the security sector and the role of CSOs in the implementation of documents and the monitoring thereof. Both organizations concluded that effective independent monitoring and reporting was hampered by an inadequate amount of transparency in NAP 1325 implementation. Women in Black reported that post-conflict problems, such as those related to the implementation of transitional justice mechanisms aimed at preventing impunity for crimes committed by Serbian nationals against women and girls during the wars in the former SFRY, and NAP implementation on the local level, have not been addressed by the institutions throughout the process of implementing this document.<sup>96</sup> Not only that women other than those in the security sector were not recognized as actors in the peace and security decision-making process, but women's organizations were also not included even in the negotiations between Serbia and Kosovo, despite that fact that women's organizations from Serbia and from Kosovo created "Women's Peace Coalition" back in 2006. Lack of cooperation between the negotiation team and women's organizations in the dialogue between Belgrade and Pristina (2011/12) was indicated in CEDAW's concluding remarks (paragraph 29, subparagraph (b)). Ever since 2010, Women in Black have been urging the state to sign the Convention on Cluster Bomb Ban, referred to in NAP 1325. Disarmament is a precondition for the security of women, including security against family violence (most murders were committed with the use of firearms).<sup>97</sup>62

The remaining Hague Tribunal (ICTY) fugitive war criminals were arrested in 2011, whereby Serbia fulfilled its obligations in this respect, but it is not widely known that it was owing to women's activism in the former SFRY territory that rape in war-time was recognized as a war crime under international criminal law. Out of a total of 161 trials held before the ICTY, 78 included charges for acts of sexual violence (committed also against men, in some cases). Serbia has not taken any action to provide victims of sexual crimes with any compensation for the harm they had suffered, or legal or any other assistance.<sup>98</sup> The last five years have seen a number of assaults against human rights defenders, while the state has not taken adequate measures to protect them, thus creating an environment where assaults can go unpunished and where it is possible to disseminate hate speech or to make "lists" of not grata women and men human rights defenders.

95 60[HTTP://WWW.BEZBEDNOST.ORG/UPLOAD/DOCUMENT/NEZAVISNI\\_IZVESTAJ\\_O\\_SPROVODJENJU\\_NAP\\_1325\\_U\\_SRBII.PDF](http://www.bezbednost.org/upload/document/nezavisni_izvestaj_o_sprovodjenju_nap_1325_u_srbiji.pdf) AND [HTTP://WWW.BEZBEDNOST.ORG/UPLOAD/DOCUMENT/2013\\_NEZAVISNI\\_IZVESTAJ\\_SPROVOENJE\\_NAP\\_1325\\_U\\_SRBII.PDF](http://www.bezbednost.org/upload/document/2013_nezavisni_izvestaj_sprovoenje_nap_1325_u_srbiji.pdf).

96 A SHADOW OVER SERBIA – REPORT OF NONGOVERNMENTAL ORGANIZATIONS FOR THE 55TH SESSION OF CEDAW COMMITTEE 2013.

97 LACMANOVIĆ, V., (2013), *FEMICIDE – KILLING WOMEN IN SERBIA* – REPORT FOR 2012, WOMEN AGAINST VIOLENCE NETWORK, BELGRADE.

98 INDEPENDENT MONITORING OF THE IMPLEMENTATION OF RESOLUTION 1325 IN SERBIA (2011), WOMEN IN BLACK, BELGRADE, AVAILABLE AT: [HTTP://ZENEUCRNOM.ORG/PDF/NEZAVISNI\\_MONITORING\\_PRIMENE\\_REZOLUCIJE1325\\_U\\_SRBII.PDF](http://zeneucrnom.org/pdf/nezavisni_monitoring_primene_rezolucije1325_u_srbiji.pdf).

Even courts of law have been tolerant of the activities of nationalist groups by passing decisions not banning the activity of these organizations.<sup>99</sup><sup>64</sup>

The Political Council of the Government of R. Serbia organized a conference in May 2005, inviting the public at large to participate in the dialogue aimed at assessing the NAP 1325 results achieved so far, and at defining the priorities for the next five years.

## RECOMMENDATIONS OF WOMEN'S ORGANIZATIONS

### 3.5. GENDER AND SECURITY

**CREATE A MECHANISM FOR SUBSTANTIVE (NOT ONLY FORMAL) INCLUSION OF** WOMEN'S ORGANIZATIONS AND GROUPS IN THE NAP 1325 REVIEW, POLICYMAKING AND WORK ON ITS IMPLEMENTATION. INCLUDE IN THE NEW NAP ISSUES OF HUMAN SECURITY AND SUBSTANTIVE WOMEN'S PARTICIPATION IN POST-CONFLICT SITUATIONS RESOLUTION (ISSUES OF TRANSITION JUSTICE, NEGOTIATIONS CONCERNING KOSOVO, DEMILITARIZATION).

**RATIFY WITHOUT FURTHER DELAY THE CONVENTION ON** CLUSTER BOMB BAN. DEVELOP REPARATION MECHANISMS FOR ALL VICTIMS OF SEXUAL AND GENDER-BASED VIOLENCE, AND OTHER CRIMES AGAINST HUMANITY, COMMITTED BY THE CITIZENS OF R. SERBIA, DURING THE WARS IN THE FORMER SFRY.

**ENSURE STATE RESPONSIBILITY FOR FULL PROTECTION OF** WOMEN AND MEN HUMAN RIGHTS DEFENDERS.

**„LOCALIZE” NAP 1325 AND MAKE IT COMMENSURATE** WITH THE REAL NEEDS OF WOMEN AND THE LOCAL COMMUNITY IN THE SECURITY AREA, FOCUSING ON HUMAN, AND NOT ON NATIONAL SECURITY.

**PROVIDE FOLLOW UP TO THE WORK OF** BODIES (AND PERSONS) IN CHARGE OF NAP 1325 IMPLEMENTATION AND MONITORING DURING THE DOCUMENT'S VALIDITY PERIOD. DEFINE IMPACT INDICATORS AND PROVIDE REPORTS ON ACTIVITIES AND EFFECTS, AVAILABLE TO THE PUBLIC.

<sup>99</sup> IBID.

### 3.6. EMPLOYMENT

Although the Republic of Serbia recorded growth in employment in 2013, the employment rate for adult population accounted for 37.7%, which is 47.5% of the population of working age, whereas the difference between women and men was 14.8% in favour of employed men. The unemployment rate for women (24.6%) is higher than that for men (21.7%), and continues to rise. The long-term unemployment rate was 17.5% in 2013, i.e. it exceeded fourfold the EU average, and was 2.5% higher for women than for men. The share of long-term joblessness in the overall number of jobless is very high, accounting for a sharp rise to 76% in 2013, witnessing the fact that the status of a large number of persons who had lost their jobs at the outbreak of the crisis, remained unchanged. Women also account for a higher percentage of inactive population (46.8%) as compared to men (29.9%), as a result of their family duties (most often related to childcare or care for adult persons with disabilities) and their lower-paying jobs potential when joining the labour market.<sup>100</sup> There is an enormous difference between men and women in the exercise of leave of absence entitlements for family reasons.<sup>101</sup> There is a higher unemployment rate for women coming from marginalized social groups compared to those of the general population. Families with women breadwinners, particularly those less educated, run a higher risk of poverty. Elderly, unemployed women and single mothers having finished elementary schools only, women in underdeveloped areas, Roma women, women with disabilities, countrywomen are the biggest losers of transition, since they are least likely to get jobs<sup>102</sup>67.

Informal employment is relatively high in Serbia, whereas work „in the grey-area zone” goes hand-in-hand with low pay and low level of protection at the place of work, poor working conditions, absence of health and social security benefits, with a higher risk of lay-offs, accounting for 19.3% of the population.<sup>103</sup> The number of self-employed men is twice as high as the number of self-employed women (29% men and 14% women in the age group of 15–64). The situation of rural women is particularly hard. Women appear to head agricultural holdings (only 17.3%) less frequently than men, whereas this number increases only in the age group of over 65 (47%). There is a significant majority of women among family members actively working in agricultural holdings (62.9%), though they are a distinct minority among those working full-time on those holdings (only 14.8%), which has a negative impact on their self-sustenance, as well as on their social security, health and retirement benefits. An additional burden for rural women is an inefficient services system (healthcare, childcare and care of the elderly). A small number of women participate in programmes of farm support and subsidies, the reasons for this should be found not only in the lack of information, but also inadequate subsidy application requirements as compared to their potentials and needs.

100 SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA (2014), GOVERNMENT OF RS.

101 ON AVERAGE, APPROX. 33,000 WOMEN ANNUALLY EXERCISED THEIR RIGHT TO MATERNITY LEAVE OF ABSENCE, AND ONLY 10–15 MEN HAVE TAKEN THEIR PATERNITY LEAVE (DATA OBTAINED FROM THE MINISTRY OF LABOUR AND SOCIAL POLICY, 9. 2. 2012).

102 GENDER IN TRANSITION, UNDP, 2007.

103 SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA (2014), GOVERNMENT OF RS.



Gender-based segregation persists on the labor market according to qualifications and branches of economy, though less so when highly-skilled labour is concerned. Gender-based differences in choosing an occupation, lack of technical preparedness and inability of women to accept jobs requiring frequent travel and longer absence from home make it more difficult for women to opt for quality and well-paid jobs. Women mostly take up low-paid jobs, leaving them enough free time for the family.

Gender-based average employee earnings can be indicated only for persons employed by legal entities, and not for those employed by individuals, whereas the gender pay gap of 12% is the balance between gross average earnings per hour of work received by women and that received by men (this does not include earnings of persons employed by individuals nor does it reflect an average hourly pay).<sup>104</sup>69 Aside from earnings issue, the working environment is a frequent source of frustration and discrimination for women, including their possible abuse and harassment at the work post or their layoffs because of maternity leave; however, there is no information on reactions to such occurrences. Many employers are reluctant to employ women at positions traditionally held by men; they look for attractive appearance, require fulfilment of tasks not included in job description, request information on family and maternity planning, because of which the Women against Violence Network filed charges, on several occasions, with the Commissioner for Protection of Equality. There are no systematic records of the prevalence of sexual harassment of women at work. Measures related to the principle of flexy security (particularly flexible working hours and work from home) and their popularization for women may have long-term effects (on earning levels, career development, promotion prospects and the amount of pension benefit). Almost half the number of old age pension recipients are women, while the recipients of almost two thirds of disability pensions are men. The pensions received by women in both categories are much lower, i.e. their age pensions are 20%, and disability pensions 16% lower.<sup>105</sup>70

CEDAW expressed concern over discrimination against women at workplaces and recommended measures of improvement to the state (paragraphs 30 and 31).

104 *WOMEN AND MEN*, (2014), REPUBLICAN INSTITUTE OF STATISTICS.

105 *IBID.*

## RECOMMENDATIONS OF WOMEN'S ORGANIZATIONS

### 3.6. EMPLOYMENT

**PROVIDE FOR LEGAL AMENDMENTS TO ENSURE BETTER** EMPLOYEE PROTECTION, AS WELL AS MEASURES AIMED AT CONSISTENT COMPLIANCE WITH LAWS. ADOPT MEASURES DESIGNED TO APPLY THE PRINCIPLE OF EQUAL PAY FOR WORK OF EQUAL QUALITY. DEVELOP INDICATORS AND ENSURE REGULAR MONITORING OF MEASURES AIMED AT REDUCING GENDER SEGREGATION ON THE LABOUR MARKET, THE GAP BETWEEN THE WAGES OF MEN AND WOMEN, VERTICAL MOBILITY OF WOMEN.

**INCREASE ACCESS OF WOMEN TO EMPLOYMENT AND** ENTREPRENEURIAL JOBS, PARTICULARLY OF WOMEN BELONGING TO GROUPS THAT ARE SUBJECTED TO MULTIPLE DISCRIMINATION. (ROMA WOMEN, WOMEN WITH DISABILITIES, ELDERLY WOMEN, SINGLE MOTHERS, COUNTRYWOMEN, UNSKILLED WOMEN, , ETC.). ADJUST THE PROGRAMMES OF THE NATIONAL EMPLOYMENT OFFICE TO CATER TO THE NEEDS OF SPECIFIC GROUPS OF WOMEN. IMPOSE HIGHER QUALITY ASSESSMENT MEASURES AIMED AT ACTIVE EMPLOYMENT POLICY. CLOSELY MONITOR THE EFFECTS OF PRINCIPLE OF „FLEXY SECURITY“ TO PREVENT LONG-TERM NEGATIVE EFFECTS.

**FACILITATE BLENDING OF PROFESSIONAL AND PRIVATE LIFE** FOR BOTH WOMEN AND MEN, INCLUDING THE IMPROVEMENT OF SOCIAL AND INTEGRATED SERVICES, AND ENCOURAGE MEN TO PARTICIPATE ON EQUAL TERMS WITH WOMEN ON THE LABOUR MARKET.

**RAISE CITIZENS' AWARENESS ABOUT DISCRIMINATION AGAINST WOMEN** IN THE CONTEXT OF EMPLOYMENT, SEXUAL HARASSMENT AND ABUSE IN THE PLACE OF WORK, ENHANCE MEASURES TO PREVENT SUCH PHENOMENA (INCLUDING THE ROLE AND THE POWERS OF INSPECTION) AND ESTABLISH AN EFFECTIVE MECHANISM TO PROTECT WOMEN REPORTING ON IT.

### 3.7. ROMA WOMEN, TOLERANCE AND NON-DISCRIMINATION

A large number of OSCE recommendations are related to the status of Roma women in all areas of social life.<sup>106</sup><sup>71</sup>

It is an overall assessment that the Roma population in Serbia is one of the most vulnerable categories and most severely affected by discrimination and hate speech, whereas the status of Roma women is particularly unfavourable, as reflected in the progress reports by the European Commission, independent regulatory bodies and by researchers. The Commissioner for Protection of Equality stated: “The status of the Roma national minority in Serbia is a source of greatest concern, as it is the target of overt, omnipresent and widespread hate speech, including frequent assaults.<sup>107</sup> Both CEDAW and the UN Committee on Economic, Social and Cultural Rights urge the state to undertake measures aimed at eliminating discrimination against Roma and enabling them to exercise their rights.<sup>108</sup> The Decade of Roma Inclusion has expired and the period starting January 2015 is referred to as the new “Second Decade”<sup>109</sup> process.

#### 3.7.1. STRATEGIC DOCUMENTS

Issues related to Roma men and women have been dealt with in a number of individual strategies,<sup>110</sup> whereas the *Strategy for Improving the Status of the Roma and NAP* (2009–2011) incorporated a chapter on the status of Roma women. Implementation of these measures is fraught with numerous problems including lack of coordination between the competent authorities, lack of monitoring and reporting mechanisms, lack of harmonization with local documents, non-inclusion of Roma women in the process of local strategy adoption, lack of budgetary funding for NAP implementation, lack of a consistent policy on affirmative action measures (except for specific measures in education and employment areas),<sup>111</sup> while measures, envisaged by these documents for inclusion of Roma women and other groups of women subjected to multiple discrimination in the decision-making processes were hardly implemented at all.<sup>112</sup><sup>77</sup>

106 ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA (MC.DEC/3/03 ANNEX); OSCE MINISTERIAL COUNCIL DECISION 4/13, ENHANCING OSCE EFFORTS TO IMPLEMENT THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, WITH A PARTICULAR FOCUS ON ROMA AND SINTI WOMEN, YOUTH AND CHILDREN, OSCE ACTION PLAN TO COMBAT TRAFFICKING IN HUMAN BEINGS (MC.DEC/2/03ANNEX), OSCE STRATEGIC FRAMEWORK FOR POLICE-RELATED ACTIVITIES (PC.DEC/1049 ANNEX), 2004 OSCE ACTION PLAN FOR THE PROMOTION OF GENDER EQUALITY (MC.DEC/14/04)

107 REGULAR ANNUAL REPORT OF THE COMMISSIONER FOR PROTECTION OF EQUALITY FOR 2011 (2012), BELGRADE.

108 CONCLUDING OBSERVATIONS ON THE SECOND PERIODIC REPORT OF SERBIA (MAY 2014), UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS [HTTP://WWW.LJUDSKAPRAVA.GOV.RS/INDEX.PHP/LJUDSKA-PRAVA/KONVENCIJE/54-PAKT-O-EKONOMSKIM-SOCIJALNIM-KULTURNIM-PRAVIMA](http://www.ljudskaprava.gov.rs/index.php/ljudska-prava/konvencije/54-pakt-o-ekonomskim-socijalnim-kulturnim-pravima).

109 SOURCE: [HTTP://WWW.LIGAROMA.ORG.RS/IMAGES/STORIES/SAOPSTENJA/SKRUG\\_SECOND\\_DECADE.PDF](http://www.ligaroma.org.rs/images/stories/saopstenja/skrug_second_decade.pdf)

110 STRATEGY OF ENHANCING THE STATUS OF ROMA IN THE REPUBLIC OF SERBIA, “OFFICIAL JOURNAL RS, 27/09”, STRATEGY OF POVERTY REDUCTION, NATIONAL STRATEGY FOR REFUGEES AND DISPLACED PERSONS, STRATEGY ON MIGRATION MANAGEMENT, NATIONAL STRATEGY FOR IMPROVING THE STATUS OF WOMEN AND ENHANCING GENDER EQUALITY, STRATEGY ON REINTEGRATION OF RETURNEES UNDER THE READMISSION AGREEMENT, STRATEGY ON COMBATTING TRAFFICKING IN HUMAN BEINGS OF THE REPUBLIC OF SERBIA, ETC.

111 ROMA WOMEN NEGOTIATE – SHADOW REPORT ADDRESSED TO THE COMMITTEE ON ELIMINATION OF DISCRIMINATION AGAINST WOMEN, FOR CONSIDERATION AT THE 55TH SESSION, (2013) ROMA WOMEN’S NETWORK OF SERBIA, BIBIJA, ROMA WOMEN’S CENTRE.

112 MONITORING PUBLIC POLICIES: EFFECTS OF THE ROMA DECADE ON THE STATUS OF ROMA WOMEN IN THE REPUBLIC OF SERBIA, (2014), BIBIJA ROMA WOMEN’S CENTRE, BEOGRAD.

### 3.7.2. PARTICIPATION OF ROMA WOMEN IN THE DECISION-MAKING PROCESS

Roma women have been almost entirely cut out of the decision-making process and the political life of Serbia. Nevertheless, being involved in activism at the ‘grassroots’ level and empowered as part of the “women’s movement” – they established the Roma Women’s Network of Serbia, in December 2004.<sup>113</sup><sup>78</sup>

Since most of the state institutions’ reports indicate that employee records are not held according to ethnic origin, it is difficult to draw conclusions on the representation of Roma men and women in the public sector. The Interior Ministry (MUP) did follow the recommendations of the Ombudsman on undertaking measures to enable persons belonging to national minorities, as well as persons of other ethnic backgrounds in addition to having the nationality of the Republic of Serbia, to apply for police training programmes and be employed by this Ministry.<sup>114</sup><sup>79</sup> Positive activities of the Office for Human and Minority Rights and MUP have been observed in recent time.<sup>115</sup> In the Ministry of Defence and the Serbian Armed Forces there are 0.19% employed Roma men, and no Roma women.<sup>116</sup><sup>81</sup>

### 3.7.3. EDUCATION

The Roma Women’s Network underlined that many Roma women, and girls in particular, are not exercising their rights to pre-school and elementary education. Roma children continue to be discriminated against in the education area, while cases of segregation have also been observed in previous years. A mere 6% of children from Roma settlements, who are 3–4 years old, attend pre-school programmes; only 69% children of school beginning age attend the first grade of elementary school, while only 22% children aged 14–18 attend secondary school.<sup>117</sup> A particular problem is posed by “the dropping out of the education process” by Roma girls (usually of age 11–12), their early marriages and childbirth (half of them give birth before the age of 18). Competent institutions have not developed an adequate strategy for addressing this problem: punishing parents whose children do not attend school regularly has proved to be ineffective and counterproductive, although active participation of Roma families in the education of girls should be one of the basic measures to be taken, including provision of adequate funding.<sup>118</sup><sup>83</sup> Roma women have expressed concern about care and raising of children, and the related threats (security of children at schools and peer violence/bullying at

113 IBID.

114 REGULAR ANNUAL PROGRESS REPORT OF THE OMBUDSMAN FOR 2014 (2015), BELGRADE.

115 PROJECT SUPPORTED BY THE OFFICE FOR HUMAN AND MINORITY RIGHTS, IMPLEMENTED BY POLICE ASSOCIATION “EUROPEAN POLICEMEN OF ROMA NATIONALITY AND PUBLIC POLICIES RESEARCH CENTRE.

116 THIS PERCENTAGE IS RELATED TO EMPLOYEES BOTH OF THE DEFENCE MINISTRY AND THE ARMED FORCES AND EXCEEDS THE PERCENTAGE OF PROFESSIONAL MILITARY PERSONNEL WHO DECLARED THEMSELVES AS ALBANIANS, BOSNIAKS, VLACHS, BUNJEVCI, SLOVENIANS, ROMANIANS, ITALIANS, GERMANS.

117 MULTIPLE INDICATOR CLUSTER SURVEYS (MICS) – SERBIA 2014, UNICEF AND REPUBLICAN INSTITUTE OF STATISTICS: [HTTP://WWW.UNICEF.ORG/SERBIA/SRBIJA\\_2014\\_MICS\\_REZIME.PDF](http://www.unicef.org/serbia/srbijsa_2014_mics_rezime.pdf).

118 MONITORING PUBLIC POLICIES, (2014), BIBIJA ROMA WOMEN CENTRE.

school), as well as the attitude of the school faculty and staff who either reacts inappropriately or discriminates against Roma children.<sup>119</sup><sup>84</sup>

#### 3.7.4. EMPLOYMENT OPPORTUNITIES

At the end of 2013, the National Employment Office (NSZ) registered a total of 22,102 Roma children, 46% of whom were women (2.9% of the total number of employed persons). Out of the total number of registered persons, 89.8% are unskilled; 9.8% have secondary school education, while only 85 persons (0.4%) have a college or university degree.<sup>120</sup><sup>85</sup> The unfavourable status of the Roma population on the labour market (offered low-paid and temporary jobs) is the result not only of the low level of their education and vocational training, but also of their discrimination by potential employers. Most NSZ programmes require a specific level of training and professional skills, so even when they are given priority, Roma women fail to fulfil the conditions necessary for joining these programmes. An increase in grey-economy jobs has stepped up exploitation of, and discrimination against, women including Roma women.

#### 3.7.5. HEALTH CARE

The level of Roma women's access to health care continues to be inappropriate,<sup>121</sup><sup>86</sup> including professional assistance in child delivery and prenatal healthcare, due to which infant mortality in Roma settlements by far exceeds that of the population in general, especially in the case of uneducated mothers. The use of contraceptives is on a low level.<sup>122</sup> From 2008 onwards, the Ministry of Health has recruited (within a donor-funded project activity) 75 women health facilitators in 59 municipalities in Serbia, tasked with acting as intermediaries between the Roma community and health institutions, which brought about significant improvements in the health status of the Roma population (health records, home visits, health insurance, choice of physician, gynaecologist, child and adult immunisation), while families were provided assistance from welfare funds, child allowance, one-time aid or from other sources.<sup>123</sup><sup>88</sup> Roma women's organizations are concerned about the unpredictability of the status of Roma women health facilitators (their contracts are fixed term and their jobs are project funded), the fact that the number of these facilitators falls far short of the needs (some municipalities with a large Roma population do not even have such facilitators), as well as about the need for them to undergo additional training on gender-related issues.

119 ROMA WOMEN AND MEN AND THE SECURITY SECTOR REFORM IN THE REPUBLIC OF SERBIA: HOW ROMA WOMEN AND MEN PERCEIVE THEIR OWN SECURITY AND THE WORK OF SECURITY SECTOR INSTITUTIONS, (2014), CENTRE FOR PUBLIC POLICY RESEARCH, BELGRADE

120 SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA, (2014), GOVERNMENT OF RS.

121 REGULAR ANNUAL PROGRESS REPORT OF THE OMBUDSMAN FOR 2014 (2015), BELGRADE.

122 ROMA WOMEN NEGOTIATE- SHADOW REPORT ADDRESSED TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN FOR CONSIDERATION AT THE 55TH SESSION, (2013).

123 FOURTH SYMPOSIUM OF WOMEN AS HEALTH MEDIATORS – CHALLENGES AND ACHIEVEMENTS IN THE WORK OF WOMEN AS HEALTH MEDIATORS (2014), MINISTRY OF HEALTH RS.

### 3.7.6. HOUSING

Living conditions are most inappropriate in many Roma settlements in Serbia, lacking even basic infrastructure (heating and insulation, sewerage, tap water). From the legal point of view, housing for a large number of Roma is not of a permanent nature, while their communities are frequently remote from public services, education facilities and employment opportunities. Women who spend more time at home are affected by poor living conditions more than men, as a result of which their health is more at risks.<sup>124</sup> Between April 2009 and May 2012, there were 17 Roma (including girls, the elderly, pregnant and ill women) were evicted from informal settlements in Belgrade to segregated and isolated locations.<sup>125</sup>

### 3.7.7. VIOLENCE AGAINST ROMA WOMEN

Roma women are not only victims of domestic violence, but also of other “custom-related practices” such as early and prearranged marriages, bride sales. There has been no extensive research on the prevalence of violence against Roma women, whereas the information provided by CSOs indicates that 75% Roma women stated that they had been victims of domestic violence at some point in their life,<sup>126</sup> which is seldom reported to institutions that hardly offer any support, as they do not believe the accounts given by women victims, attributing violence to “Roma tradition and way of life”. Roma women do not trust institutions (particularly centres for social services) and are ill-informed about the services and types of assistance provided.<sup>127</sup> Roma women’s organizations provide a specialized SOS phone line in the Roma language, but it is questionable for how long it will be operated, because of the lack of permanent funding either by the state or local government, but also due to complex licensing procedures. Information on underage and prearranged marriages, and the bride sale practices is worrying: 43% women between 15 and 19 years old are married, while these numbers are even higher for women coming from the poorest families and those with poor education (52%).<sup>128</sup> Despite the fact that the National Strategy has envisaged provision of an effective mechanism for identifying, preventing and addressing this problem, no progress has been achieved, while this practice (often) continues to be institutionally accepted as „Roma tradition” which cannot and should not be prevented.<sup>129</sup>

124 WRITTEN COMMENTS BY THE EUROPEAN ROMA RIGHTS CENTRE, BIBIJE, EUREKA AND WOMEN'S SPACE FOR CONSIDERATION AT THE 38TH CEDAW COMMITTEE SESSION, 2007, AVAILABLE AT [HTTP://WWW.ERRC.ORG/CMS/UPLOAD/MEDIA/03/7D/M0000037D.PDF](http://WWW.ERRC.ORG/CMS/UPLOAD/MEDIA/03/7D/M0000037D.PDF) .

125 *SHADOW OVER SERBIA – REPORT FROM THE SHADOW OF NONGOVERNMENTAL ORGANIZATIONS FOR THE 55TH SESSION OF CEDAW COMMITTEE 2013.*

126 *MONITORING PUBLIC POLICIES (2014), BIBIJA ROMA WOMEN'S CENTRE.*

127 *IBID.*

128 *MULTIPLE INDICATOR CLUSTER SURVEYS (MICS) – SERBIA 2014, UNICEF AND REPUBLICAN INSTITUTE OF STATISTICS.*

129 *ROMA WOMEN NEGOTIATE – SHADOW REPORT ADDRESSED TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, FOR CONSIDERATION AT THE 55TH SESSION, 2013.*

## RECOMMENDATIONS OF WOMEN'S ORGANIZATIONS

### 3.7. ROMA WOMEN, TOLERANCE AND NON-DISCRIMINATION

**INCREASE THE PARTICIPATION OF ROMA WOMEN IN** PUBLIC AND POLITICAL LIFE, AT ALL LEVELS.

**THERE IS A NEED FOR ENSURING COORDINATION** OF MEASURES AND THE WORK OF COMPETENT AUTHORITIES AND INSTITUTIONS ON NATIONAL AND LOCAL LEVELS, AS WELL AS IMPLEMENTATION IN PRACTICE OF REGULATIONS AND STRATEGIC DOCUMENTS, IN ORDER TO ACHIEVE BETTER RESULTS IN THEIR IMPLEMENTATION. IT IS ALSO NECESSARY TO PROVIDE BUDGETARY FUNDS FOR THE IMPLEMENTATION OF MEASURES AND ACTIVITIES AIMED AT IMPROVING THE STATUS OF ROMA WOMEN.

**DEVELOP MEASURES TO INCREASE ACCESS TO EDUCATION** BY ROMA CHILDREN AND ADULTS, INCLUDING EXPANSION OF PROGRAMMES AND TRAINING FOR „PEDAGOGICAL ASSISTANTS“ CONCERNING THE TOPICS OF GENDER EQUALITY AND SPECIFIC PROBLEMS OF ROMA WOMEN AND GIRLS. DEVELOP STRATEGIES AIMED AT PREVENTING DISCRIMINATION AGAINST AND SEGREGATION OF ROMA CHILDREN IN THE EDUCATION SYSTEM. ORGANIZE SYSTEMATIC MONITORING OF BENEFICIARIES OF AFFIRMATIVE ACTION IN EDUCATION. PROVIDE BY WAY OF EXTERNAL, INDEPENDENT EVALUATION THE ANALYSIS OF ALL MEASURES AND THEIR EFFECTS.

**ADJUST THE PROGRAMMES OF ACTIVE EMPLOYMENT MEASURES** TO BETTER MEET THE NEEDS OF ROMA WOMEN AND ESTABLISH AN EFFECTIVE SYSTEM OF MONITORING AND EVALUATION OF THE IMPACT OF THESE MEASURES.

**ENSURE CONTINUED ENGAGEMENT AND INCREASE THE NUMBER** OF ROMA HEALTH FACILITATORS. ORGANIZE ADDITIONAL TRAINING FOR FACILITATORS RELATED TO THE GENDER EQUALITY ISSUE. ORGANIZE AWARENESS RAISING PROGRAMMES FOR ROMA WOMEN AND GIRLS ON THE RIGHTS OF REPRODUCTION AND FAMILY PLANNING.

**IMPROVE INFORMATION AND ESTABLISH SERVICES AVAILABLE IN** THE ROMA LANGUAGE, INCLUDING THE RAISING OF AWARENESS OF ALL SERVICE PROVIDERS IN THE PUBLIC SECTOR CONCERNING THE SPECIFIC PROBLEMS FACING ROMA WOMEN WHO WERE VICTIMS OF VIOLENCE.

**ENSURE THE ESTABLISHMENT OF MECHANISMS BY COMPETENT** NATIONAL AND LOCAL INSTITUTIONS FOR MONITORING AND PREVENTING INSTANCES OF FORCED AND PREARRANGED MARRIAGES, BETROTHAL OF MINORS, „BRIDE SALES“ AND THE PRACTICE OF OTHER HARMFUL CUSTOMS, IN ACCORDANCE WITH THE STANDARDS EMBODIED IN THE COUNCIL OF EUROPE CONVENTION ON THE PREVENTION AND COMBATING OF VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE.

### 3.8. MEDIA

Media are dominated by a highly stereotyped role of women, reflecting not only the perception of women by the society, but the manner of establishing cultural values and social relations, as well. The deeply rooted traditional, patriarchal stereotypes of the role and duties of a woman and man in the family and the community are revitalized by the return of retrograde political powers.<sup>130</sup> When portraying women, the media resort to stereotypes ranging from “symbolic exclusion” to “ghettoization” of women’s experiences and interests.<sup>131</sup> Print media are still strictly divided into serious (men’s) press (important political and social themes) and entertainment magazines (light social themes and family). Women’s major public engagement is to entertain. Women must justify their appearance and success beyond the expected women’s themes (a way of balancing between “career and family”).<sup>132</sup>

Reporting on cases of violence against women is characterized by non-recognition of “hegemonic masculinity as the main cause of gender-based violence”.<sup>133</sup> There have been attempts at relativizing responsibility/guilt and reducing the scale of crimes committed by men, as well as seeing the victim’s “contribution”. The sources of information used for media reporting are more frequently family and neighbours than competent institutions, and even when the latter are involved, their responsibility is overlooked. Thus, media are missing their opportunity to participate in continued monitoring of the work of public services, as well as to put public pressure in order to promote state responsibility.<sup>134</sup> There was a recent case (2015) where after the showing of a reality DNA programme (on Television Pink with national frequency) when paternity of a person’s minor children was being established at the initiative of programme participants, that person beat his wife to death – the two of them were guests in the programme. Many CSOs filed a petition requesting that the programme be taken off air, while the Women against Violence Network registered a complaint with the Serbian Broadcasting Agency (RRA), demanding that the programme be suspended and that the national frequency licence of the broadcaster be revoked. The Agency failed to reply even after three months passed. The media informally released information that the complaint had been dismissed.<sup>135</sup>

There are widespread negative stereotypes against women in positions of power, as well as against women from marginalized social groups, such as Roma women, women with disabilities, those living with HIV/AIDS, gay women, single women and childless ones. Accordingly, CEDAW recommended Serbia to improve the situation with respect to

130 VIŠNJIĆ, J., (2012), “KILLING ME SOFTLY”: PRINT MEDIA REPORTING ON WOMEN VICTIMS OF VIOLENCE, GENERO – MAGAZINE FOR FEMINIST THEORY AND CULTURAL STUDIES, 16/2012, CENTRE FOR WOMEN STUDIES AND FACULTY OF POLITICAL SCIENCES, BELGRADE.

131 MILIVOJEVIĆ, S., WOMEN AND MEDIA: EXCLUSION STRATEGIES, AVAILABLE AT: [HTTP://WEB.FMK.EDU.RS/FILES/BLOGS/2010-11/MI/MED\\_KUL\\_RAZL/SNJEZANA\\_MILIVOJEVIC.PDF](http://web.fmk.edu.rs/files/blogs/2010-11/mi/milivojevic.pdf).

132 IBID.

133 MRŠEVIĆ, Z., (2014). MEDIA REPORTING ON VIOLENCE AGAINST WOMEN IN 2013. ANNUAL REPORT OF THE OBSERVATORY FOR MONITORING VIOLENCE AGAINST WOMEN 2013, WOMEN AGAINST VIOLENCE NETWORK AND EUROPEAN WOMEN’S LOBBY NETWORK, BELGRADE.

134 VIŠNJIĆ, J., (2012).

135 WOMEN AGAINST VIOLENCE NETWORK, [HTTP://WWW.ZENEPROTIVNASILJA.NET](http://www.zeneprotivnasilja.net).



stereotypes against women, as a prerequisite for enabling them to exercise their rights (paragraphs 20 and 21).

## RECOMMENDATIONS OF WOMEN'S ORGANIZATIONS

### 3.8. MEDIA

**ENSURE EFFECTIVE IMPLEMENTATION OF THE EXISTING LEGISLATION** AND CODE OF JOURNALISTIC REPORTING, IN ORDER TO PREVENT DISCRIMINATION AGAINST AND EXCLUSION OF WOMEN, PARTICULARLY THOSE FROM GROUPS MARGINALIZED ON MULTIPLE BASIS.

**ENCOURAGE MEDIA – THROUGH ACTIVE COOPERATION BETWEEN** MEDIA EDITORS, JOURNALISTS, GENDER-EQUALITY MECHANISMS AND CIVIL SOCIETY ORGANIZATIONS – TO PROMOTE NON-STEREOTYPED ROLES OF WOMEN AND MEN, AND TO USE GENDER-SENSITIVE LANGUAGE.

**ENSURE, IN REPORTS ON VIOLENCE AGAINST WOMEN,** FULL PROTECTION OF THE PRIVACY OF THE VICTIM AND WITNESSES OF CRIMINAL ACTS, AND PROMOTE UNDERSTANDING OF THE PHENOMENON IN ORDER TO AVOID PREJUDICES AND JUSTIFICATION OF VIOLENCE AND SECONDARY VICTIMIZATION OF THE VICTIM.

## 4. COMMENTS OF THE COALITION OF CIVIL SOCIETY ORGANIZATIONS ON THE REPORT "THE RIGHTS OF ROMA IN SERBIA IN RELATION TO THE OSCE STANDARDS" BY THE INSTITUTE OF SOCIAL SCIENCES

PUBLIC POLICY RESEARCH CENTRE<sup>136</sup>

### 4.1. INTRODUCTION

Although the obligations assumed by OSCE member countries are political and not legal, they have a long history during which they contributed to a significant extent to the raising of numerous questions concerning human rights and democracy, and improvement of their achievement. However, the implementation of the assumed obligations was not systematically monitored, so that the practice established by Switzerland during its OSCE chairmanship in 2014 was welcomed for the demonstration of one's commitment to the actual implementation of decisions, recommendations and guidelines in the field of the OSCE human dimension.

The executive authorities selected the problems associated with the situation of Roma in Serbia as one of the four areas where the self-evaluation of the fulfilment of Serbia's obligations had to be made in the year of its chairmanship, taking into account the existence of the relevant reports prepared by the OSCE bodies over the past five years. The Institute of Social Sciences (ISS) of Belgrade, a research institution financed by the Ministry of Education, Science and Technological Development, was assigned as an independent institution to prepare the basic report. The report, which was submitted to civil society organizations on 2 November 2015, gives credit to the OSCE as the source of ideas for a specific political action and for developing a network of activities by which it contributes, both on a political plane and in practice, to the reduction of prejudice, elimination of discrimination and improvement of the situation of Roma in the member countries. However, although it emphasizes the significance of the 2003 Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area and cites some evaluations from the Report on the Implementation of the 2013 OSCE Action Plan, the

<sup>136</sup> THE TEAM OF THE PUBLIC POLICY RESEARCH CENTRE, WHICH IS RESPONSIBLE FOR THIS REPORT, ALSO INCLUDED THE CENTRE'S ASSOCIATE ON BEHALF OF THE WORKING GROUP OF ORGANIZATIONS FOR MONITORING SERBIA'S OSCE CHAIRMANSHIP, UNDER ROMA PROFESSIONAL DEVELOPMENT PROGRAMME WITHIN CENTRAL EUROPEAN UNIVERSITY, WHILE THE COMMENTS WERE ALSO SUBMITTED BY THE ROMANI CIKNA ASSOCIATION FROM KRUŠEVAC.

problem concerning the situation of Roma in Serbia is primarily perceived from the viewpoint of the relevant European Union's policies. The Report does not mention other relevant OSCE documents and findings, as well as important themes which surpass, that is, running across the sectoral policies related to education, housing and employment, the presentation of which is dominant in the SSI report, in addition to the problems concerning the possession of identity documents, participation in political life and discrimination. Therefore, these comments made by civil society organizations are actually a more detailed report, based on a number of findings by the OSCE bodies and domestic institutions and organizations, and supplement other issues of significance for the position of Roma in Serbia, such as security problems, including the relations with the police, problems of asylum seekers and human trafficking, and the position of women and youth, in addition to offering a number of recommendations for the further improvement of the position of Roma in accordance with the obligations within the OSCE and good practices.

#### 4.2. OBLIGATIONS ARISING FROM THE OSCE HUMAN DIMENSION BEING SIGNIFICANT FOR THE SITUATION OF ROMA

The significance of the situation of Roma was recognized for the first time in the Document of the Meeting of the Conference on the Human Dimension of the OSCE in Copenhagen (1990) where it was stated that the participating states would clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination, and that in this context they also recognized the problems of Roma.<sup>137</sup> One of the first initiatives was also the meeting of OSCE experts on national minorities which was held in Geneva in 1991. On that occasion, it was emphasized that the participating states were ready to take effective measures with a view to achieving full equality between persons belonging to Roma ethnicity and the rest of the population, and that they would encourage research on the problems faced by Roma. The following year, the institution of the High Commissioner on National Minorities was created as an OSCE ethnic conflict prevention instrument, which recognized the specific problems of the Roma population within the OSCE area.<sup>138</sup> In 1994, within the OSCE Office for Democratic Institutions and Human Rights (ODIHR), specific competencies on Roma and Sinti issues were established (through the so-called focal point, which is practically an independent unit) with a view to helping the participating states to effectively implement the CSCE obligations by sharing their expertise with them and assessing the improvement of the position of Roma and Sinti within the region which is regularly visited.<sup>139</sup> An important competency is the preparation of the report on the implementation of the Action Plan on Improving the Situation of Roma and Sinti, which is a crucial document for acting upon and following the progress made in the implementation of

137 EXCERPTS FROM THE COPENHAGEN DOCUMENT, P.2, INTERNET, [HTTP://WWW.OSCE.ORG/ODIHR/19394](http://www.osce.org/odihr/19394).

138 REPORT ON THE SITUATION OF ROMA AND SINTI IN THE OSCE AREA, OSCE, HIGH COMMISSIONER ON NATIONAL MINORITIES, THE HAGUE, 2000, INTERNET, [HTTP://WWW.OSCE.ORG/HCNM/42063](http://www.osce.org/hcnm/42063).

139 ODIHR AND ROMA AND SINTI ISSUES, JANUARY 2015, INTERNET, [HTTP://WWW.OSCE.ORG/ODIHR/102598](http://www.osce.org/odihr/102598).

the assumed obligations. OSCE Human Dimension Meetings and OSCE Supplementary Human Dimension Meetings contribute to the raising of the member countries' awareness about the position of Roma and Sinti in the CSCE region, enable a dialogue between governments and civil society, while at the same time providing an opportunity for Roma organizations and activities to exchange their experiences on national programmes and activities.

The obligations arising from the OSCE human dimension which are significant for the position of Roma can be classified into several groups: the protection of human rights and fundamental freedoms, including equal opportunities and non-discrimination, effective participation in public and political life, access to education, socio-economic issues, racism and discrimination (the fight against racism and stereotypes, protection against hate crimes), crisis and post-crisis situations.<sup>140</sup>

The Action Plan contains the recommendations concerning the establishment of a normative framework, formation of special bodies to be responsible for the implementation of this framework and inclusion of Roma and Sinti representatives in their work, provision of access to justice for these groups and decisive combat against violence.<sup>141</sup> It also offers a significant number of recommendations concerning the improvement of living and housing conditions, combatting unemployment and economic problems (including the development of training programmes to prepare Roma representatives for employment in institutions), health improvement and access to health services, improvement of access to education, enhancement of the participation in public and political life (which especially refers to the possession of identity documents), as well as the prevention of any form of discrimination in crisis and post-crisis situations.<sup>142</sup> The recommendations of the Action Plan on Improving the Situation of Roma also refer to the media, including the encouragement of the media to cover positive examples from the Roma community. In this connection, a special role is held by the OSCE Representative on Freedom of the Media.

The participating states were empowered by the Action Plan recommendations incorporated into the Documents of the Meetings of the OSCE Ministerial Council in Helsinki (2008), Athens (2009) and Kiev (2013). The Helsinki Meeting emphasized the commitment to the provision of equal access to education and promotion of early education for Roma children; in Athens emphasis was laid on raising public awareness about an increase in all forms of violence and intolerance against Roma and Sinti. In Kiev the participating states assumed the obligation to promote the participation of Roma and Sinti, especially women and youth, in political and public life, and the creation of relevant policies.<sup>143</sup> In this regard, the OSCE Plan for the Promotion of Gender Equality<sup>144</sup> and

140 OSCE HUMAN DIMENSION COMMITMENTS, VOL. 1, THEMATIC COMPILATION, THIRD EDITION, OSCE/ODIHR, WARSAW 2011, PP. 164-80.

141 ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, ODIHR, 2003, PP. 4-5.

142 IBID, PP. 6-15.

143 DECISION OF THE OSCE MINISTERIAL COUNCIL NO. 4/2013.

144 OSCE ACTION PLAN FOR THE PROMOTION OF GENDER EQUALITY, [HTTP://WWW.OSCE.ORG/MC/23295](http://www.osce.org/mc/23295).

OSCE Plan to Combat Trafficking in Human Beings<sup>145</sup> are also significant because they explicitly touch on Roma issues.

Special attention is devoted to the security issues in the context of relations with the police. The OSCE documents concerning the work of the police in a multiethnic context include the Recommendations on Policing in Multi-Ethnic Societies by the High Commissioner on National Minorities (2006) and the Police and Roma and Sinti – Good Practices in Building Trust and Understanding by the Strategic Police Matters Office and the ODIHR Contact Point for Roma and Sinti Issues.<sup>146</sup> The policing recommendations include the raising of awareness among police officers, development of training programmes to prevent excessive use of force and promotion of respect for human rights, improvement of relations between the police and Roma and Sinti communities, and the encouragement of Roma and Sinti people to work in the police as a long-term and sustainable means of promoting tolerance and diversity.<sup>147</sup>

The Special Representative of the OSCE Parliamentary Assembly on Combatting Racism, Xenophobia and Discrimination is also concerned with the position of Roma. His latest reports points to discriminatory policing within OSCE member countries which is manifested in various ways, such as: police lists of members of a community, especially due to their ethnic identity, raids on communities (e.g. Roma, migrants), racial/ethnic profiling/unlawful treatment, excessive use of force, wrongful imprisonment and/or detention, and even death.<sup>148</sup>

In the self-evaluation made by the Swiss OSCE Chairmanship there is also mention of the position of Roma, that is, the need for the promotion of Roma culture. The problems faced by Roma people in Switzerland include stereotypes and prejudice reflected in their treatment by courts and public authorities, as well as an inadequate media coverage of Roma issues.<sup>149</sup>

The civil society recommendations to the participants of the OSCE Ministerial Council meeting in Basel in December 2014 point to the rise of racism, xenophobia and discrimination across the OSCE region, which is manifested by numerous cases of hate speech and hate crimes, targeting the LGBT population, migrants, Roma and Sinti, and religious minorities. The position of Roma also forms part of the Basel Declaration dealing with rising intolerance, discrimination and hate crimes, adopted by the Parallel Civil Society Conference in December 2014. On that occasion, attention was also devoted to the problem concerning the gathering of personal data on Roma.<sup>150</sup> According to this report, especially important areas to be monitored during Serbia's OSCE Chairmanship

145 OSCE ACTION PLAN TO COMBAT TRAFFICKING IN HUMAN BEINGS, [HTTP://WWW.OSCE.ORG/ACTIONPLAN](http://www.osce.org/actionplan).

146 POLICE AND ROMA AND SINTI: GOOD PRACTICES IN BUILDING TRUST AND UNDERSTANDING, 2010, [HTTP://WWW.OSCE.ORG/ODIHR/67843](http://www.osce.org/odihr/67843).

147 *IBID.*, P. 6.

148 2015 ANNUAL SESSION REPORT BY THE SPECIAL REPRESENTATIVE ON ANTI-SEMITISM, RACISM AND INTOLERANCE [HTTPS://WWW.OSCEPA.ORG/PUBLICATIONS/VARIOUS-REPORTS/SPECIAL-REPRESENTATIVES/ANTI-SEMITISM-RACISM-AND-INTOLERANCE/REPORT-27/2954-2015-ANNUAL-SESSION-REPORT-BY-THE-SPECIAL-REPRESENTATIVE-ON-ANTI-SEMITISM-RACISM-AND-INTOLERANCE-5-JULY-2015/FILE](https://www.oscepa.org/publications/various-reports/special-representatives/anti-semitism-racism-and-intolerance/report-27/2954-2015-annual-session-report-by-the-special-representative-on-anti-semitism-racism-and-intolerance-5-july-2015/file).

149 SELF-EVALUATION SWISS OSCE CHAIRMANSHIP, NGO FEEDBACK, SWISS NGO WORKING GROUP OSCE, BERN/SWITZERLAND, 2014.

150 CIVIL SOCIETY RECOMMENDATIONS TO THE PARTICIPANTS OF THE OSCE MINISTERIAL COUNCIL, CIVIC SOLIDARITY, 2014, P.55.

include discrimination against national minorities and their status, while Roma people have been recognized as one of the most vulnerable groups.<sup>151</sup>

Among the OSCE crucial analyses relevant for the situation of Roma in Serbia mention should be made of the 2013 ODIHR Regional Report, which provides recommendations concerning the anti-discrimination and participation of Roma in local decision making,<sup>152</sup> as well as a number of other analyses under the project „Best Practices for Roma Integration in the Western Balkans”.<sup>153</sup>

#### 4.3. EVALUATION OF MEASURES TAKEN BY SERBIA FOR SOLVING THE PROBLEMS OF THE ROMA POPULATION

##### 4.3.1. GENERAL INDICATORS

According to the 2011 Population Census, there are 147,604 Roma in Serbia (51 per cent male and 49 per cent female), constituting about 2.1 per cent of the total population.<sup>154</sup> According to some sources, the number of Roma is much higher – from 250,000 to 500,000, or even up to 800,000.<sup>155</sup> These figures point to the problem of inadequate registration, as well as the possibility that a considerable number of Roma do not declare their ethnicity. The largest number of Roma was registered in the region of Southern and Eastern Serbia (39 per cent) and the lowest number in Šumadija and Western Serbia. As for the municipalities, the largest number of Roma was registered in Kostolac – 19.5 per cent.<sup>156</sup>

Out of the total Roma people registered in Serbia more than one third accounts for migrants, while about 65 per cent live in the place of permanent residence; their spatial mobility is actually confined to interregional movement – from a municipality in one region to a municipality in another. Roma are a relatively young population. Their average age is about 28 years, as contrasted to the average age of the rest of the population in Serbia – 42 years. The infant mortality rate among Roma children is more than twice the national average, while malnutrition among Roma children is also several times more common than in the rest of the population. Only 13 per cent of Roma children were vaccinated on time. About one fourth of Roma women aged 15–19 had already given birth; 95 per cent of children entered in birth registers and living in Roma settlements are under 5 years of age.<sup>157</sup>

151 IBID, P. 71.

152 REGIONAL REPORT ON ANTI-DISCRIMINATION AND PARTICIPATION OF ROMA IN LOCAL DECISION-MAKING, BEST PRACTICES OF ROMA INTEGRATION, OSCE/ODIHR, WARSAW, 2013.

153 PARTICULARLY THE REGIONAL REPORT ON HOUSING LEGALIZATION, SETTLEMENT UPGRADING AND SOCIAL HOUSING FOR ROMA IN THE WESTERN BALKANS, BEST PRACTICES OF ROMA INTEGRATION, OSCE/ODIHR, WARSAW, FEBRUARY 2014. [HTTP://WWW.OSCE.ORG/ODIHR/115737](http://www.osce.org/odihr/115737), AS WELL AS SHORTER CASES STUDIES PREPARED BY YOUNG ROMA RESEARCHERS.

154 SVETLANA RADOVANOVIĆ, ALEKSANDAR KNEŽEVIĆ, *ROMI U SRBIJI* (ROMA IN SERBIA), REPUBLICAN STATISTICAL OFFICE, BELGRADE, 2014.

155 STRATEGIJA ZA UNAPREĐIVANJE POLOŽAJA ROMA U REPUBLICI SRBIJI (STRATEGY FOR IMPROVING THE POSITION OF ROMA IN THE REPUBLIC OF SERBIA), MINISTRY FOR HUMAN AND MINORITY RIGHTS, UNHCR, OSCE MISSION TO SERBIA, UNDP SERBIA, BELGRADE, 2010, P. 9; IZVEŠTAJ O SPROVOĐENJU STRATEGIJE ZA UNAPREĐENJE POLOŽAJA ROMA SA PREPORUKAMA (REPORT ON THE IMPLEMENTATION OF THE STRATEGY FOR IMPROVING THE POSITION OF ROMA WITH RECOMMENDATIONS), PROTECTOR OF CITIZENS, BELGRADE, 2014, P. 41.

156 S. RADOVANOVIĆ, A. KNEŽEVIĆ, *ROMI U SRBIJI* (ROMA IN SERBIA), OP. CIT.

157 ISTRAŽIVANJE VIŠESTRUKIH POKAZATELJA – SRBIJA 2014 (MULTIPLE INDICATOR CLUSTER SURVEY – SERBIA 2014), UNICEF, REPUBLICAN

According to the World Bank, social assistance is received by only one-fourth of Roma households in Serbia.<sup>158</sup> In 2012, 15,447 Roma (including 6,680 women) were covered by active employment measures.<sup>159</sup> According to the latest data, the poverty indicators are on the increase; although the position of Roma related to poverty risk improved, the number of Roma living in absolute poverty increased. The Roma inclusion index shows that about 40 per cent of Roma experienced discrimination.<sup>160</sup>

According to the Report on the Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area in 2013, Serbia adopted and standardized the policies dealing with these groups, while the EU provided more funding for the Roma and Sinti programmes. Despite apparent progress, the Report also points to the negative trends that deepen the differences between these groups and the rest of the population. This especially refers to housing, employment and access to social services.<sup>161</sup> The Report was prepared on the basis of the questionnaire submitted by the ODIHR to the participating states,<sup>162</sup> as well as on the data collected by the ODIHR from other sources, or field missions.

Serbia reported successful projects to legalize and reconstruct Roma housing;<sup>163</sup> in addition, the existence of health mediators is also important for improving the health status of Roma.<sup>164</sup> Thanks to affirmative action, 238 Roma enrolled at faculties and 367 in secondary schools in school year 2012–2013.<sup>165</sup> It must also be noted that 25.3 million euros were spent on the implementation of the Strategy for Improving the Situation of Roma in Serbia.<sup>166</sup>

In the European Commission's 2014 Progress Report on Serbia the significance of the measures taken so far and their results were recognized. On the other hand, it was emphasized that the measures for improving the situation of Roma must be additionally strengthened just in the fields of education, housing and employment.<sup>167</sup> The two-year project „European Support for Roma Inclusion” (*The Technical Assistance for Roma Inclusion, 2013–2015*) is currently underway. It is implemented by the OSCE Mission to Serbia as support to the implementation of the Strategy for Improving the Situation of Roma.<sup>168</sup>

STATISTICAL OFFICE, INTERNET, [HTTP://WWW.UNICEF.ORG/SERBIA/SRBIJA\\_2014\\_MICS\\_REZIME.PDF](http://www.unicef.org/serbia/srbija_2014_mics_rezime.pdf).

158 IMPLEMENTATION OF THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, 2013, P. 39.

159 OPCIT, P. 41. ACCORDING TO SERBIA'S REPORT SUBMITTED TO THE ODIHR; THIS IS THE RESULT OF THE WORK OF THE YOUTH EMPLOYMENT FUND (AMONG ITS 2,716 BENEFICIARIES 39% WERE ROMA) AND THE MIGRATION MANAGEMENT PROJECT INVOLVING FOUR UN AGENCIES.

160 ROMA INCLUSION INDEX 2015 [HTTP://WWW.ROMADECAD.EORG/CMS/UPLOAD/FILE/9810\\_FILE1\\_ROMA-INCLUSION-INDEX-2015-S.PDF](http://www.romadecade.org/cms/upload/file/9810_file1_roma-inclusion-index-2015-s.pdf) ACCORDING TO THE REPORT BY THE COMMISSIONER FOR EQUALITY PROTECTION, ROMA ARE THE MOST DISCRIMINATED ETHNIC MINORITY GROUP: 40 PER CENT OF ALL DISCRIMINATION COMPLAINTS ACCOUNT FOR DISCRIMINATION AGAINST ROMA PEOPLE.

161 IMPLEMENTATION OF THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, STATUS REPORT 2013, OSCE/ODIHR, 2013, P. 9.

162 THE QUESTIONNAIRE WAS RESPONDED BY 40 OUT OF 57 MEMBER COUNTRIES, INCLUDING SERBIA.

163 IMPLEMENTATION OF THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, 2013, P. 31.

164 OP. CIT, P. 35.

165 OPCIT, P. 50.

166 OPCIT, P. 86.

167 SERBIA PROGRESS REPORT, EUROPEAN COMMISSION, OCTOBER 2014.

168 INTERNET, [HTTP://WWW.OSCE.ORG/SR/SERBIA/119613?DOWNLOAD=TRUE](http://www.osce.org/sr/serbia/119613?download=true). THE PROJECT HAS SIX COMPONENTS: ACCESS TO BASIC RIGHTS,

Due to the end of the 2005–2015 Decade of Roma Inclusion as well as the unfavourable analyses of the success and effectiveness of the strategic measures anticipated by the Strategy for Improving the Situation of Roma in Serbia,<sup>169</sup> a study was prepared with a view to documenting the problems in the implementation of the assumed obligations, considering the aims set out in the previously adopted national documents, which is presented in detail in the ISS Report.<sup>170</sup>

#### 4.3.2. DISCRIMINATION

Although anti-discrimination legislation in Serbia has already been adjusted to the European standards, hate-motivated offences have not always been adequately investigated and sanctions. The OSCE/ODIHR Hate Crime Report for 2013 indicates that in the course of the year various NGOs from Serbia reported a number of different types of incidents involving Roma – desecration of the monument to a Roma musician, organized assaults on Roma settlements, physical assaults, threatening to take away property and even murders.<sup>171</sup> The European Commission's 2014 Serbia Progress Report points out that the most discriminated groups are Roma, sexual minorities and persons with HIV/AIDS.<sup>172</sup> Roma children are especially in a difficult position. Apart from children with disabilities, they represent the most vulnerable group.

The recommendations of the Regional Report on Anti-discrimination include the establishment of local offices of government anti-discrimination bodies, improvement of Roma access to legal remedies for anti-discrimination and, in particular, more resolute response to the multiple types of discrimination faced by Roma women and girls. Also, the report on housing problems in 2014 points out that the common characteristic of forced evictions was the failure to provide those evicted with adequate alternative accommodation and compensation or legal remedies.<sup>173</sup>

In 2014, the greatest number of complaints sent to the Commissioner for Equality Protection referred to discrimination based on ethnicity (18 per cent). On the basis of these complaints it is evident that the representatives of ethnic minorities constantly

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ESTABLISHMENT OF MOBILE TEAMS AT THE LOCAL LEVEL, EMPOWERMENT OF CIVIL SOCIETY ORGANIZATIONS, SCHOOL DROP-OUT PREVENTION PROGRAMME, IMPROVEMENT OF HOUSING CONDITIONS AND SUSTAINABLE EMPLOYMENT OPPORTUNITIES. THE FORMULATION OF THIS PROJECT WAS ALSO BASED, ON THE EVALUATION OF THE EFFECTS OF THE EXISTING MEASURES IN LOCAL COMMUNITIES, WHICH WAS MADE BY THE PUBLIC POLICY RESEARCH CENTRE IN 2012: BRANKA ANĐELKOVIĆ, MARKO OBRADOVIĆ AND JELENA RADOMAN, PROCENA EFIKASNOSTI LOKALNIH MECHANIZAMA ZA SOCIJALNO UKLJUČIVANJE ROMKINJA I ROMA U REPUBLICI SRBIJI (EVALUATION OF EFFICIENCY OF THE LOCAL MECHANISMS OF SOCIAL INCLUSION OF ROMA IN THE REPUBLIC OF SERBIA), SOCIAL INCLUSION AND POVERTY REDUCTION UNIT OF THE GOVERNMENT OF THE REPUBLIC OF SERBIA AND PUBLIC POLICY RESEARCH CENTRE, BELGRADE, JANUARY 2013.

169 A DETAILED ANALYSIS IN THE REPORT OF THE PROTECTOR OF CITIZENS SUBMITTED TO THE NATIONAL ASSEMBLY ON 10 DECEMBER 2013 AS WELL AS IN THE BASELINE STUDY FOR PREPARATION OF THE STRATEGY FOR INCLUSION OF ROMA IN SERBIA UNTIL 2025.

170 G. BAŠIĆ ET AL., POLAZNA STUDIJA ZA IZRADU STRATEGIJE ZA INKLUZIJU ROMA U SRBIJI USAGLAŠENA SA STRATEGIJOM EVROPA 2020 (BASELINE STUDY FOR PREPARATION OF THE STRATEGY FOR INCLUSION OF ROMA IN SERBIA, ADJUSTED TO THE EUROPE 2020 STRATEGY), PP.18–19.

171 IN 2013, THE POLICE REGISTERED 64 HATE CRIME CASES. OSCE/ODIHR HATE CRIME REPORTING, INTERNET, [HTTP://HATECRIME.OSCE.ORG/SERBIA](http://hatecrime.osce.org/serbia).

172 SERBIA PROGRESS REPORT, EUROPEAN COMMISSION, OCTOBER 2014. P. 86.

173 REGIONAL REPORT ON HOUSING LEGALIZATION, SETTLEMENT UPGRADING AND SOCIAL HOUSING FOR ROMA IN THE WESTERN BALKANS, BEST PRACTICES FOR ROMA INTEGRATION, OEEBS-ODIHR, FEBRUARY 2014.



feel discriminated against when applying for jobs, at work and before institutions.<sup>174</sup> Of the total number of complaints about discrimination based on ethnicity, the majority of then referred to discriminatory treatment by the bodies of public authority – the ministries, local government bodies, health institutions and police.<sup>175</sup> A drastic example of public institutions' discriminatory treatment of Roma, mentioned in the Report of the Protector of Citizens, was the accommodation of Roma families with children in a fall-out shelter during the floods in 2014, because the reception centre did not approve their accommodation.

There is a widespread perception of institutional discrimination within the Roma community. This especially refers to more difficult access to social protection, racist speech by public officials and the failure of school staff to act when Roma children are endangered.<sup>176</sup> The survey conducted among law enforcement officers in five police departments in 2014 shows that this group of public officials in the security sector also perceives Roma as the most discriminated-against group in Serbia. However, they also maintain a significantly greater social distance towards Roma compared to the rest of the population. In addition, they do not sufficiently recognize hate speech against Roma.<sup>177</sup>

According to the population census, more than 13,000 Roma stated that they had returned from abroad, predominantly Germany and Austria. Most of them had returned to Southern and Eastern Serbia, while 6 per cent of the total number had returned under the Readmission Agreement.<sup>178</sup> Due to poverty and systemic and institutional discrimination resulting in high levels of unemployment, as well as due to their forced evictions from informal settlements without any offer of alternative accommodation, many members of the Roma community hold that they have no other option but to leave the country. In the period from the liberalization of the EU's visa regime in 2010 until the end of 2014, asylum in Germany was sought by 71,740 Serbian citizens most of whom (85 per cent) were Roma.<sup>179</sup> However, the number of asylum seekers from the Republic Serbia whose asylum applications were rejected by EU member countries is increasing. Until October 2015, only three out of about 24,500 applications for asylum in Germany were accepted.<sup>180</sup> In August, Germany announced plans to return about 90,000 Serbian citizens with

174 REPORT BY THE COMMISSIONER FOR EQUALITY PROTECTION, PP. 24–26. THE DATA CONTAINED IN THE SSI REPORT WILL NOT BE PRESENTED IN THIS TEXT.

175 ACCORDING TO THE WRITTEN RESPONSE OF THE MINISTRY OF DEFENCE TO THE PUBLIC POLICY RESEARCH CENTRE, THERE ARE NO DATA ON ANY COMPLAINTS ABOUT DISCRIMINATION BASED ON NATIONALITY OR ETHNICITY, WHICH WERE SUBMITTED BY THE MEMBERS OF THE ROMA MINORITY EMPLOYED IN THE MINISTRY OF DEFENCE (MD) OR THE SERBIAN ARMED FORCES.

176 JELENA RADOMAN, MARINA TADIĆ, ROMKINJE I ROMI I REFORMA SEKTORA BEZBEDNOSTI U REPUBLICI SRBIJI (ROMA WOMEN AND MEN AND SECURITY SECTOR REFORM IN THE REPUBLIC OF SERBIA), PUBLIC POLICY RESEARCH CENTRE, 2014. [HTTP://WWW.PUBLICPOLICY.RS/DOCUMENTS/0328335C7C758E5C80C3D25057B4269BAF18D2A1.PDF](http://www.publicpolicy.rs/documents/0328335c7c758e5c80c3d25057b4269baf18d2a1.pdf).

177 RADOMIR ZEKAVICA, SPROVOĐENJE ANTIDISKRIMINACIONIH POLITIKA I MINISTARSTVO UNUTRAŠNJIH POSLOVA REPUBLIKE SRBIJE, 2014 (IMPLEMENTATION OF ANTI-DISCRIMINATION POLICIES AND THE MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF SERBIA, 2014). FOR EXAMPLE, ONE HALF OF THE RESPONDENTS DID NOT THINK THAT THE STATEMENT "GIPSIES STINK" WAS HATE SPEECH. ONLY 16 PER CENT OF RESPONDENTS HELD THAT DISCRIMINATION POSED A SIGNIFICANT PROBLEM THAT SHOULD BE REGARDED AS A PRIORITY ONE. A HIGH PERCENTAGE OF POLICE STAFF DID NOT KNOW WHO SHOULD BE CONTACTED IN THE CASE OF DISCRIMINATION.

178 S. RADOVANOVIĆ, A. KNEŽEVIĆ, *ROMI U SRBIJI* (ROMA IN SERBIA), OP. CIT., PP. 51–56.

179 AMNESTY INTERNATIONAL: VUČIĆ'S PROMISE DRIVES ROMA DEEPER INTO POVERTY, [HTTP://WWW.B92.NET/INFO/VESTI/INDEX.PHP?YYYY=2015&MM=09&DD=11&NAV\\_CATEGORY=12&NAV\\_ID=1038040](http://www.b92.net/info/vesti/index.php?yyyy=2015&mm=09&dd=11&nav_category=12&nav_id=1038040).

180 STATEMENT BY THE GERMAN AMBASSADOR TO SERBIA, AXEL DITTMANN, 6 NOVEMBER 2015, B92.

irregular status in the context of solving the migration crisis, that is, the inflow of refugees from Syria and other countries affected by armed conflict. On 7 September 2015, Prime Minister Aleksandar Vučić said that Serbia would pass a law under which „those who seek asylum and are rejected – or, in other words, fake asylum seekers – will be stripped of social assistance in Serbia”. Such a measure would be considered discriminatory in accordance with Article 21 of the Serbian Constitution. Amnesty International holds that in the absence of any effective support or reintegration package for people deported from EU member states to Serbia many returnees – especially Roma – will find themselves homeless, without access to basic services and – if the proposed measures are introduced – without any financial support.<sup>181</sup>

The Protector of Citizens has warned that, in the absence of special attention to media programmes in minority languages, the implementation of new media laws may aggravate the status of minority rights to information. In addition, particularly vulnerable groups, including Roma, are mostly covered by the majority of media in a sensational way instead of being a regular topic or getting a newspaper column.<sup>182</sup> The findings of the Public Policy Research Centre show that the print media in Serbia are increasingly and more correctly reporting on the problems faced by Roma. However, reporting is confined to a factographic information transmission without considering the context of events. Hence the number of media and media texts devoted to Roma issues depends primarily on the already created events that are regularly reported in the media within their coverage of government agencies, international organizations and the like. They do not engage in independent reporting nor do they enter any additional data into their texts, thus putting an event in the Roma context.<sup>183</sup>

## RECOMMENDATIONS

### 4.3.2. DISCRIMINATION

**CONTINUE TO IMPROVE THE POSITION OF THE ROMA ETHNIC MINORITY THROUGH THE CONSISTENT AND FULL IMPLEMENTATION OF THE CURRENT LEGAL AND REGULATORY FRAMEWORK.**

**PREVENT DISCRIMINATORY PRACTICES AND COMBAT HATE SPEECH BY A CLEAR RESPONSE FROM THE RELEVANT JUDICIAL, SECURITY AND POLITICAL STRUCTURES.**

**IN ACCORDANCE WITH THE OSCE RECOMMENDATIONS, PROVIDE FURTHER IMPETUS TO THE ESTABLISHMENT OF NEW LOCAL OFFICES OF ANTI-DISCRIMINATION INSTITUTIONS.**

**ENSURE INFORMATION DELIVERY IN THE ROMA LANGUAGE.**

**COMBAT SENSATIONAL AND DISCRIMINATORY MEDIA REPORTING ON ROMA.**

181 AMNESTY INTERNATIONAL: VUČIĆ'S PROMISE DRIVES ROMA DEEPER INTO POVERTY, 11 SEPTEMBER 2015.

182 ONE EXAMPLE OF SUCH MEDIA PRACTICE IS REPORTING ON THE DEATH OF SEVEN CHILDREN IN A FIRE IN UNHYGIENIC SETTLEMENTS IN NEW BELGRADE, GORNJI MILANOVAC AND MALI RIT.

183 TANJA JAKOBI, IZVEŠTAVANJE MEDIJA O ROMKINJAMA I ROMIMA: FAKTOGRAFIJA BEZ KONTEKSTA (MEDIA COVERAGE OF ROMAN WOMEN AND MEN: FACTOGRAPHY WITHOUT CONTEXT), PUBLIC POLICY RESEARCH CENTRE, 2014; [HTTP://WWW.PUBLICPOLICY.RS/PUBLIKACIJE/FF8A-B7E8985EC3463EA00FF36F52730791F4D512.PDF](http://www.publicpolicy.rs/publikacije/ff8a-b7e8985ec3463ea00ff36f52730791f4d512.pdf).

#### 4.3.3. RELATIONS WITH THE POLICE AND SECURITY ISSUES

In the latest report of the OSCE PA's Special Representative on Anti-Semitism, Racism and Intolerance it is stated that the discriminatory approach of the police in OSCE member countries is manifested in various ways, such as: police lists of members of a community, especially due to their ethnic identity, raids on communities, racial/ethnic profiling/unlawful treatment, excessive use of force, wrongful imprisonment and/or detention, and even death.<sup>184</sup>

In the context of upgrading the security of the Roma population in Serbia several surveys were conducted, involving the perception of the Roma population itself and among law-enforcement personnel. The first survey on the feeling of security among Roma in Serbia shows that in some communities the Roma minority is exposed to racist attacks and direct threats to its physical integrity. This especially refers to internally displaced Roma or newcomers, who moved to a community for some other reason.<sup>185</sup> Bearing in mind the cases of raids on Roma settlements, intimidation and arrogant behaviour of some security structures, the conclusion that imposes itself is that police officers, who are engaged in implementing the „community policing” approach, deal mostly with „soft” security threats to the Roman community, such as the lack of identity documents, even if the community in question is faced with direct physical threats and attacks by half-organized groups.<sup>186</sup> In perceiving their security, gender differences also hold a significant place. Namely, Roma women are primarily concerned over the security of their children and peer violence, that is, over the denial that Roma children are exposed to intimidation and insults, and even physical violence.<sup>187</sup>

The possession of identity documents is a requirement not only for exercising the right to self-protection, but also for personal security.<sup>188</sup> The legal provisions concerning the registration of „legally invisible persons” are implemented at a very slow pace, but still produce encouraging results.<sup>189</sup> However, it is necessary to further strengthen cooperation and work coordination between local governments and all relevant ministries in order to systemically solve the problem of legally invisible persons and ensure the implementation of the regulations facilitating residence registration in social welfare centres.

184 2015 ANNUAL SESSION REPORT BY THE OSCE PA'S SPECIAL REPRESENTATIVE ON ANTI-SEMITISM, RACISM AND INTOLERANCE; [HTTPS://WWW.OSCEPA.ORG/PUBLICATIONS/VARIOUS-REPORTS/SPECIAL-REPRESENTATIVES/ANTI-SEMITISM-RACISM-AND-INTOLERANCE/REPORT-27/2954-2015-ANNUAL-SESSION-REPORT-BY-THE-SPECIAL-REPRESENTATIVE-ON-ANTI-SEMITISM-RACISM-AND-INTOLERANCE-5-JULY-2015/FILE](https://www.oscepa.org/publications/various-reports/special-representatives/anti-semitism-racism-and-intolerance/report-27/2954-2015-annual-session-report-by-the-special-representative-on-anti-semitism-racism-and-intolerance-5-july-2015/file).

185 SLUČAJ KORIŠĆENJA PROGRAMA SOCIJALNOG STANOVANJA U ZEMUN POLJU, BEOGRAD. (THE CASE OF USING THE SOCIAL HOUSING PROGRAMME IN ZEMUN POLJE, BELGRADE), J. RADOMAN, M. TADIĆ, ROMKINJE I ROMI I REFORMA SEKTORA BEZBEDNOSTI (ROMA WOMEN AND MEN AND SECURITY SECTOR REFORM), 2014.

186 J. RADOMAN AND M. TADIĆ, ROMKINJE I ROMI I REFORMA SEKTORA BEZBEDNOSTI U REPUBLICI SRBIJI (ROMA WOMEN AND MEN AND SECURITY SECTOR REFORM IN THE REPUBLIC OF SERBIA), PUBLIC POLICY RESEARCH CENTRE, 2014, [HTTP://WWW.PUBLICPOLICY.RS/DOCUMENTS/0328335C7C758E5C80C3D25057B4269BAF18D2A1.PDF](http://www.publicpolicy.rs/documents/0328335C7C758E5C80C3D25057B4269BAF18D2A1.PDF).

187 IBID. P. 29.

188 IBID.

189 MARINA SIMEUNOVIĆ, POSEDOVANJE LIČNIH DOKUMENATA KAO USLOV SOCIJALNE INTEGRACIJE MLADIH ROMA U NASELJU „VELIKI RIT” U NOVOM SADU (POSSESSION OF IDENTITY DOCUMENTS AS A REQUIREMENT OF SOCIAL INTEGRATION OF YOUNG ROMA IN THE SETTLEMENT OF VELIKI RIT IN NOVI SAD), ODIHR BPRI, 2013.

The survey on understanding anti-discrimination policies in the Ministry of Internal Affairs (MIF), among law enforcement personnel, points to a rather widespread belief that the police is not responsible for incidents of discrimination and that it is not the institution that can influence its reduction.<sup>190</sup> In addition, the respondents do not widely support the measures to employ a certain percentage of discriminated groups in public services.<sup>191</sup>

The obligation that the structure of employed in the government administration must reflect the population structure is often interpreted as being contrary to the obligation that one should not be asked about nationality in the employment process. This precludes more systematic measures or, in other words, measures are taken on an ad hoc basis. A good example represents the attempt of the Ministry of Internal Affairs to provide additional information and preparations for Roma's passing the entrance exam for basic police training, at the initiative of the Fraternal Association of European Roma Law Enforcement Officers and the Public Policy Research Centres, with the support of the Office for Human and Minority Rights. Such initiatives enable the increased presence of Roma police officers and contribute to an increase in the level of employment of young Roma, while at the same time strengthening the confidence of this population in the work of the Ministry of Internal Affairs and its security.<sup>192</sup>

Serbia is increasingly becoming the country of origin of human trafficking victims, whereby the structure of human trafficking victims is changing: the share of victims of sexual exploitation has declined from 89 per cent (2004) to 41 per cent (2013), while the share of victims of labour exploitation, begging and forced marriages has increased. The members of the Roma population are exposed to a greater risk of becoming victims of human trafficking than the rest of the population. Women aged 20–30, poorly educated and jobless, and girls aged 14–18 are significantly more likely exposed to the risk factors characteristic of human trafficking. Potential victims of human trafficking are recruited in the communities in which they live and most frequently by persons they know. This raises the question of how local communities and institutions at the local level can address this problem. The response of the system – including social welfare centres, police, schools, National Employment Service, prosecutor's offices, courts, local governments – depends on its understanding of human trafficking and the development level of the victim identification system. The relevant studies show that the response of the system in the local community relative to the discovery of human trafficking victims is primarily reactive and that the local community lacks enough knowledge to perceive the problem and take preventive action. Victims of human trafficking face prejudice by both professionals and citizens: nearly one third of professionals (31.7 per cent) and one half of the

190 RADOMIR ZEKAVICA, *SPROVOĐENJE ANTIDISKRIMINACIONIH POLITIKA I MINISTARSTVO UNUTRAŠNJIH POSLOVA REPUBLIKE SRBIJE (IMPLEMENTATION OF ANTI-DISCRIMINATION POLICIES AND THE MINISTRY OF INTERNAL AFFAIRS OF THE REPUBLIC OF SERBIA)*, 2014.

191 *IBID.* SUCH SUPPORT WAS SMALLER COMPARED TO SUPPORT AMONG THE GENERAL POPULATION: 34 PER CENT.

192 THE PROJECT "INKLUZIJA ROMA U SEKTOR BEZBEDNOSTI: KA VEĆOJ PROLAZNOŠTI NA OSNOVNU POLICIJSKU OBUKU" (INCLUSION OF ROMA IN THE SECURITY SECTOR: TOWARDS GREATER ENROLMENT IN BASIC POLICE TRAINING) WAS IMPLEMENTED BY THE FRATERNAL ASSOCIATION OD EUROPEAN ROMA LAW ENFORCEMENT OFFICERS AND THE PUBLIC POLICY RESEARCH CENTRE, WITH THE SUPPORT OF THE OFFICE FOR HUMAN AND MINORITY RIGHTS;

[HTTP://WWW.PUBLICPOLICY.RS/PROJEKTI/12\\_INKLUZIJA-ROMKINJA-I-ROMA-U-SEKTOR-BEZBEDNOSTI#.VFAXOPDLF5Q](http://www.publicpolicy.rs/projekti/12_inkluzija-romkinja-i-roma-u-sektor-bezbednosti#.vfaxopdlf5Q).

surveyed citizens (50.5 per cent) hold that the victims themselves are partially responsible for what has happened to them.<sup>193</sup> Social distance, or open resistance to having a human trafficking victim, after leaving the human trafficking chain, as a neighbour was expressed by one fifth of citizens (20.3 per cent).

## RECOMMENDATIONS

### 4.3.3. RELATIONS WITH THE POLICE AND SECURITY ISSUES

**ELIMINATE THE POSSIBILITY OF THE IMPUNITY AND UNLAWFUL BEHAVIOUR OF LAW ENFORCEMENT AND OTHER OFFICERS.**

**DEVELOP THE APPROPRIATE PROGRAMMES TO INCREASE THE LEVEL OF INFORMATION SUPPLY FOR LAW ENFORCEMENT OFFICERS AND OTHER PUBLIC OFFICERS CONCERNING THE ISSUES SUCH AS THE ESSENCE OF DISCRIMINATION AND THE AREAS IN WHICH IT IS MOST FREQUENTLY PRESENT.**

**CONTINUE TO IMPLEMENT THE MEASURES TAKEN WITH A VIEW TO INCREASING THE NUMBER OF ROMA IN THE MIF EDUCATION AND TRAINING SYSTEM, THUS INCREASING THE LEVEL OF EMPLOYMENT OF ROMA IN THE POLICE AND CONTRIBUTING TO DISCRIMINATION REDUCTION AND GREATER SECURITY.**

**STRENGTHEN THE ADMINISTRATIVE CAPACITY OF THE COMMISSION FOR MONITORING THE VISA-FREE TRAVEL REGIME WITH A VIEW TO ADDRESSING THE FACTORS THAT INFLUENCE THE TRAVEL OF THE CITIZENS OF THE REPUBLIC OF SERBIA TO EUROPEAN COUNTRIES IN ORDER TO SEEK ASYLUM.**

**INTENSIFY THE WORK ON THE PREVENTION AND IDENTIFICATION OF VICTIMS OF HUMAN TRAFFICKING.**

**ESTABLISH MECHANISMS FOR THE PROTECTION AND INTEGRATION OF HUMAN TRAFFICKING VICTIMS AND RETURNEES UPON READMISSION AT THE LOCAL LEVEL.**

**IMPROVE THE CAPACITY OF THE READMISSION OFFICE IN ORDER TO PROVIDE COUNSELLING AND PSYCHOLOGICAL SUPPORT TO RETURNEES TO THE REPUBLIC OF SERBIA UNDER THE READMISSION AGREEMENT.**

<sup>193</sup> UNAPREĐENJE PREVENCIJE, ZAŠTITE I INTEGRACIJE ŽRTAVA TRGOVINE LJUDIMA KROZ RAZVOJ LOKALNIH SOCIJALNIH POLITIKA (IMPROVING PREVENTION, PROTECTION AND INTEGRATION OF VICTIMS OF HUMAN TRAFFICKING THROUGH THE DEVELOPMENT OF LOCAL SOCIAL POLICIES), PUBLIC POLICY RESEARCH CENTRE AND CENTRE FOR HUMAN TRAFFICKING VICTIMS PROTECTION; [HTTP://PUBLICPOLICY.RS/FILES/121514\\_CENTAR\\_ZA\\_ISTRAZIVANJE\\_JAVNIH\\_POLITIKA\\_SAZETAK%281%29.PDF](http://PUBLICPOLICY.RS/FILES/121514_CENTAR_ZA_ISTRAZIVANJE_JAVNIH_POLITIKA_SAZETAK%281%29.PDF).

#### 4.3.4 PARTICIPATION AT THE LOCAL LEVEL AND THE POSITION OF WOMEN AND YOUTH

According to the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area, national policies and strategies for its implementation should address the real problems, needs and priorities of Roma and Sinti, be comprehensive and based on a sustainable approach combining the protection of human rights and social policy, and enable the full participation of Roma and Sinti in the creation of the policies concerning them and their "ownership of this process".

According to the report on the implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area, the local authorities in Serbia have also been engaged in the preparation of local APs and their implementation. It is necessary, however, to increase the participation of Roma in the decision-making process at the local level. In the light of the adoption of a new strategy, it is necessary to ensure transparency and responsibility in the conduct of the strategy and adjust the activities and measures spelled out in the action plan to their implementation at the local level.

A positive example of the efforts to act at the local level represents the establishment of the Network for Roma Issues within the Permanent Conference of Cities and Municipalities, as well as an initiative for strengthening the role of local coordinators for Roma issues.<sup>194</sup>

According to the European Commission's 2014 Progress Report on Serbia, a significant number of measures and activities spelled out in the action plans for the implementation of the strategies for improving the position of women and Roma in Serbia have not been carried out. The Report also states that Roma girls are still faced with numerous reproductive health risks as well as early marriages. Roma women and children are frequently exposed to domestic violence, which usually goes unreported.<sup>195</sup> The creation of the Strategy for Improving the Situation of Roma involves a significant number of Roma associations, whereby at least 40 per cent of them account for women's organizations and Roma women activists.<sup>196</sup> In the preparation of their strategic documents, however, local governments do not consult Roma women sufficiently.<sup>197</sup> The Report of the Bibia Roma Women Centre emphasizes the significance of introducing gender budgeting at the local and national levels in such a way as to contain clear measures for improving the status of Roma women.

Local civil society organizations acknowledge the problem of arranged and forced marriages, which takes on even greater proportions with the deepening of poverty. Apart from the problem of legally invisible persons due to the difficulties in obtaining necessary documents, young girls are deprived of the right to choose and even the right to live the life worthy of man. Due to marriage, they leave school at the age of 13 or 14, while the

194 [HTTP://WWW.LJUDSKAPRAVA.GOV.RS/INDEX.PHP/VESTI/1421-SKGO-MREZA-ZA-ROMSKA-PITANJA](http://www.ljudskaprava.gov.rs/index.php/vesti/1421-skgo-mreza-za-romska-pitanja).

195 SERBIA PROGRESS REPORT, EUROPEAN COMMISSION, OCTOBER 2014. P. 86.

196 *MONITORING JAVNIH POLITIKA: EFEKTI DEKADE ROMA* (MONITORING OF PUBLIC POLICIES: THE EFFECTS OF THE ROMA DECADE), BIBIJA ROMA WOMEN CENTRE, BELGRADE, 2014, P. 14.

197 *IBID.*, P. 15.

risk of their experiencing violence or being trafficked by the families into which they have been married is great.<sup>198</sup>

Research on the perception of security shows that Roma women are concerned over their own physical security and the security of their families, which are directly threatened by hooligan and racist groups.<sup>199</sup> The problem of domestic violence among Roma has not been sufficiently explored, but the empowerment of Roma women has been supported by the Roma Women's Network of Serbia.

Roma women face many obstacles in accessing education, employment and health care, not to mention their absence from the decision-making process, while symbolic and direct physical violence is also experienced. Thus, for example, the structure of illiterate persons is dominated by women (69 per cent), so that there are more than two illiterate women for every man. The programmes of the National Employment Service mostly require a certain degree of professional skills which Roma women do not have because they often give up education. Thus, they do not meet the basic requirements for inclusion in these programmes.<sup>200</sup> Detailed recommendations for improving the situation of Roma women are given in the section on gender equality, prepared by women's civil society organizations within the arrangement on the self-evaluation of the implementation of the obligations arising from the OSCE human dimension.

As for children and youth, the important problem is associated with the absence of alternative programmes to strengthen the family potential to monitor the development of its children, as well as the absence of the enhanced efforts of the community to increase the coverage level of Roma children in kindergarten in order to make up for deficiencies in their families and implement inclusion in their early age. Emphasis is laid on the problem of monitoring and recognizing the significance of the early development of children due to the fact that Roma children do not have those stimuli within their families which influence their motivation to be included in the educational programme, that is, the preparatory pre-school programme to be followed by enrolment in primary school.<sup>201</sup> The possession of identity documents is a prerequisite for the integration of young Roma, so that the efforts to register „legally invisible persons” are very significant for them.<sup>202</sup> The relevant measures are implemented at a slow pace, but they still produce promising results.

In December 2014, within Serbia's OSCE Chairmanship, Belgrade was the venue of the OSCE/ODIHR Youth Conference, which was attended by more than 40 young activists from the OSCE region. The participants discussed the solutions for the strengthening

198 COMMENTARY OF THE ROMANI CIKNA ASSOCIATION.

199 J. RADOMAN, M. TADIĆ, ROMKINJE I ROMI I REFORMA SEKTORA BEZBEDNOSTI U REPUBLICI SRBIJI (ROMA WOMEN AND MEN AND SECURITY SECTOR REFORM), 2014.

200 THE NATIONAL EMPLOYMENT SERVICE HAS STARTED TO KEEP THE DATA CLASSIFIED ACCORDING TO ETHNICITY SINCE 2009. THIS IS NECESSARY FOR THE IMPLEMENTATION OF AFFIRMATIVE ACTION MEASURES TO INCREASE THE EMPLOYMENT OF ROMA. *MONITORING JAVNIH POLITIKA: EFEKTI DEKADE* (MONITORING OF PUBLIC POLICIES: THE EFFECTS OF THE ROMA DECADE), OPCIĆ, PP. 19–21.

201 COMMENTARY OF THE ROMANI CIKNA ASSOCIATION, KRUŠEVAC.

202 MARINA SIMEUNOVIĆ, POSEDOVANJE LIČNIH DOKUMENATA KAO USLOV SOCIJALNE INTEGRACIJE MLADIH ROMA U NASELJU "VELIKI RIT" U NOVOM SADU (POSSESSION OF IDENTITY DOCUMENTS AS A REQUIREMENT OF SOCIAL INTEGRATION OF YOUNG ROMA IN THE SETTLEMENT OF VELIKI RIT IN NOVI SAD), ODIHR BPRI, 2013.

and social inclusion of the Roma/Sinti community through the enhanced activism of young people and the participation of the Roma/Sinti community in the political and democratic process, as well as youth security issues.<sup>203</sup>

## RECOMMENDATIONS

### 4.3.4 PARTICIPATION AT THE LOCAL LEVEL AND THE POSITION OF WOMEN AND YOUTH

**FORMULATE LOCAL ACTION PLANS FOR ROMA ISSUES**, INCLUDING ALSO ROMA THEMSELVES IN THE PROCESS OF THEIR PREPARATION AND PROVISION OF STABLE SOURCES OF FUNDS FOR THEIR IMPLEMENTATION.

**THE ACTIVITIES FOR IMPROVING THE SITUATION OF** THE ROMA POPULATION IN ALL AREAS SHOULD BE BASED ON A LOCAL CONTEXT, IN ACCORDANCE WITH THE NEED FOR "PASSING DOWN TO THE LOCAL LEVEL"; LOCAL GOVERNMENTS SHOULD BE ENCOURAGED TO CONSIDER THE NEEDS OF MINORITY GROUPS, ESPECIALLY ROMA, IN FORMULATING LOCAL ACTION PLANS FOR DIFFERENT AREAS.

**LOCAL GOVERNMENTS SHOULD BE ENCOURAGED TO MAKE** A COMPREHENSIVE ANALYSIS OF THE EXISTING RESOURCES IN THEIR LOCAL COMMUNITIES – THE CURRENT SUPPORT PROGRAMMES, ACTIVE ROMA AND OTHER CIVIL SOCIETY ORGANIZATIONS WHICH ALREADY IMPLEMENT EFFECTIVE PROGRAMMES AND PROJECTS. THE PLANNING OF FUTURE ACTIVITIES AND DISTRIBUTION OF RESOURCES MUST BE BASED ON RESULTS.

**IN ORDER TO ENHANCE PARTICIPATION IT IS** NECESSARY TO ENSURE THE REGULAR INCLUSION OF ROMA IN THE INITIATIVES RELATED DIRECTLY TO THEM (SUCH AS, FOR EXAMPLE, THE EMPLOYMENT OF ROMA IN LOCAL GOVERNMENTS AS CONTACT PERSONS ON ROMA ISSUES) AND, IN PARTICULAR, THE ACTIVE INCLUSION OF ROMA WOMEN IN THE DECISION-MAKING PROCESS AT THE LOCAL LEVEL.

**INCLUDE ROMA WOMEN IN LOCAL MECHANISMS FOR** ACHIEVING GENDER EQUALITY.

**ACTIVATE YOUNG MEMBERS OF THE ROMA COMMUNITY** IN THE PUBLIC POLICY CREATION AND DECISION-MAKING PROCESS AT THE NATIONAL AND LOCAL LEVELS, E.G. IN LOCAL YOUTH OFFICES.

**IT IS DESIRABLE TO ESTABLISH THE NETWORK** OF ROMA NON-GOVERNMENTAL ORGANIZATIONS DEALING WITH YOUNG PEOPLE.

**ENCOURAGE VOLUNTEERISM AMONG PEOPLE, AS WELL AS** THE ACQUISITION OF ADDITIONAL SKILLS AND EDUCATION FOR WORK IN THEIR LOCAL COMMUNITY.

203 ROMA AND SINTI YOUTH CAN OVERCOME THE BARRIERS TO THEIR INCLUSION THROUGH GRASSROOT MOVEMENTS, SAY, THE PARTICIPANTS OF THE OSCE CONFERENCE IN BELGRADE [HTTP://WWW.OSCE.ORG/ODIHR/130531](http://www.osce.org/odihr/130531).



#### 4.3.5. EDUCATION

The educational level of the Roma population is significantly more unfavourable compared to the rest of the population. So, 87 per cent of Roma have primary or lower education, while less than 1 per cent of them have a college or university degree. Although the share of illiterate persons in the total Roman population declined from about 19 per cent to 15 per cent, it is still much higher than the share of illiterate persons in the total population, which is 2 per cent. The data collected within the population census also point out that not all children aged 7–14 are covered by education and that only 502 persons attend first and second-level studies, while 10 attend doctoral studies. The level of computer literacy is also low: about 77 per cent of Roma aged 14 or older are computer illiterate;<sup>204</sup> 69 per cent of school-age children from Roma settlements attend the first grade in primary school, while only 22 per cent of secondary-age children attend secondary school.<sup>205</sup> In school year 2013/2015, thanks to affirmative action measures, 347 Roma candidates enrolled at faculties and 402 in secondary schools. On the other hand, the problem of Roma girls dropping out of school is especially pronounced, but has not been sufficiently explored.<sup>206</sup>

According to the Report of the Protector of Citizens, the implementation of affirmative action measures in the education of Roma students has never been systematically dealt with. On one side, Roma students had to prove their ethnicity on the basis of a special voters' register of the Roma ethnic minority. On the other side, however, there are cases that students belonging to some other ethnicity declare themselves as Roma.<sup>207</sup> Such a situation has led to the misunderstanding of affirmative action measures in education for the Roma population and, thus, to negative reactions of both teachers and students, so that in some communities the security of Roma students has been called into question.<sup>208</sup> On the other hand, misuses of these measures and insufficient information available to the general population in some communities result in the conviction that such solutions endanger the future and, thus, the security of youth belonging to the majority population.<sup>209</sup>

Also, some faculties still reject to discharge the obligation to set a 2 per cent quota for the enrolment of Roma students out of the percentage of budget-financed students. For the enrolment competition in school year 2015/16, prior to enrolling at a faculty in Serbia, the potential beneficiaries of affirmative action measures were requested to sign the statement that they belong to Roma ethnicity and obtain the recommendation from the

204 S. RADOVANOVIĆ, A. KNEŽEVIĆ, *ROMI U SRBIJI* (ROMA IN SERBIA), OP. CIT., PP. 69–75.

205 REPORT BY THE COMMISSIONER FOR GENDER EQUALITY, P. 26.

206 *MONITORING JAVNIH POLITIKA: EFEKTI DEKADE ROMA NA POLOŽAJ ROMKINJA U REPUBLICI SRBIJI* (MONITORING OF PUBLIC POLICIES: THE EFFECTS OF THE ROMA DECADE ON THE POSITION OF ROMA WOMEN IN THE REPUBLIC OF SERBIA), BIBIJA, BELGRADE, 2014, P. 18.

207 REPORT OF THE PROTECTOR OF HUMAN RIGHTS, P. 58.

208 RADOMAN AND TADIĆ, OP. CIT.

209 COMMENTS BY SECONDARY-SCHOOL STUDENTS WITHIN THE RESEARCH PROJECT "LOKALNA BEZBEDNOST MLADIH I DEMOKRATSKA KONTROLA SEKTORA BEZBEDNOSTI" (YOUTH'S LOCAL SECURITY ISSUES AND DEMOCRATIC CONTROL OF THE SECURITY SECTOR), PUBLIC POLICY RESEARCH CENTRE, 2015; [HTTP://WWW.PUBLICPOLICY.RS/PROJEKTI/15\\_MLADI-I-DEMOKRATSKA-KONTROLA-SEKTORA-BEZBEDNOSTI#.VKRF-BERTVU](http://www.publicpolicy.rs/projekti/15_mladi-i-demokratska-kontrola-sektora-bezbednosti#.vkrf-bertvu).

National Council of the Roma National Minority.<sup>210</sup> In military education institutions there are no incentive measures for the enrolment of Roma in the Military High School and at the University of Defence.<sup>211</sup>

Research on the effects of introducing teaching assistants into 22 primary schools in Serbia points to a positive impact on educational achievements of Roma children, regularity of school attendance, increased number of students engaging in extracurricular activities and improved school-parent cooperation. However, the drop-out rate among Roma children is still high. According to the official data, 178 teaching assistants, who are paid from the state budget, have been registered in pre-school and primary school institutions. Drop-out prevention programmes are carried out under the TARI Project. There are also the scholarship programme covering 1,000 Roma secondary-school students for the duration of two school years, mentorship programme for 1,000 scholarship holders and training programme for teaching assistants.

According to an analysis of the achievements under the previous Strategy the progress made in the field of education is not sufficient; there are no clear criteria for the implementation of affirmative action measures for the enrolment of Roma in secondary schools and at faculties; the teaching of Roma language with elements of Roma culture could not be organized in the way it was done for representatives of other ethnic minorities due to the lack of staff and developed programme; the segregation of Roma children in education is still present.<sup>212</sup> The latest indicators within the Roma Inclusion Index show that the situation of Roma has slightly improved in primary and secondary education, but the gap still remains significant. The percentage of Roma completing tertiary education is almost zero. Roma representation in special education is still high. Positive developments can be noted in preschool education and literacy.<sup>213</sup> Directing Roma children towards special schools, where textbooks and food are free, contributes to the narrowing of the opportunities for their further education and employment.

210 THE RECOMMENDATION OF THE NATIONAL COUNCIL OF THE ROMA NATIONAL MINORITY IS COMPULSORY FOR STUDENTS IF THEY WISH TO BE ENROLLED AT A SERBIAN UNIVERSITY UNDER THE AFFIRMATIVE ACTION PLAN, ROMAWORLD, 22 JUNE 2015, INTERNET, [HTTP://ROMAWORLD.RS/BLOG/PREPORUKA-NSRNM-0-NACIONALNOJ-PRIPADNOSTI-OBAVEZNA-ZA-KORISCENJE-AFIRMATIVNIH-MERA-NA-UNIVERZITETIMA-U-SRBIJI/](http://romaworld.rs/blog/preporuka-nsrnm-0-nacionalnoj-privadnosti-obavezna-za-koriscenje-afirmativnih-mera-na-univerzitetima-u-srbiji/).

211 SVETLANA ĐURĐEVIĆ-LUKIĆ, JELENA RADOMA, MARINA TADIĆ, MAPIRANJE (NE)DISKRIMINACIJE U SISTEMU VOJNOG OBRAZOVANJA RS (MAPPING /NON/DISCRIMINATION IN THE MILITARY EDUCATION SYSTEM OF THE REPUBLIC OF SERBIA), PUBLIC POLICY RESEARCH CENTRE, 2013.

212 THE SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA, OPCIT.

213 ROMA INCLUSION INDEX 2015, OPCIT.

## RECOMMENDATIONS

### 4.3.5. EDUCATION

**INCREASE THE EDUCATIONAL LEVEL OF THE ROMA** POPULATION AND ENSURE FULL INTEGRATION OF ROMA CHILDREN INTO THE EDUCATIONAL SYSTEM.

**WORK CONTINUOUSLY ON THE THE ESTABLISHMENT OF** NEW SUPPORT MECHANISMS AND IMPROVEMENT OF EXISTING ONES (TEACHING ASSISTANTS), AS WELL AS ON THE ESTABLISHMENT OF AN EFFICIENT SYSTEM OF COORDINATION AMONG DIFFERENT SECTORS AT THE LOCAL AND NATIONAL LEVELS.

**SUPPORT THE DEVELOPMENT OF EDUCATIONAL CAMPAIGNS IN** SCHOOLS IN ORDER TO REDUCE SOCIAL DISTANCE AMONG CHILDREN AND MAKE A CLEAR AND ARGUMENTED EXPLANATION OF THE ESSENCE OF AFFIRMATIVE ACTION MEASURES FOR THE ROMA POPULATION.

**CONTINUE WITH THE PROCESS OF REDUCING THE** NUMBER OF SPECIAL SCHOOLS AND THE INCLUSION OF THE REMAINING PARTS OF THE EDUCATION SYSTEM, SUCH AS THE MILITARY EDUCATION SYSTEM, INTO AFFIRMATIVE ACTION MEASURES.

#### 4.3.6. EMPLOYMENT

The general evaluation of the employment situation is that gaps for all employment indicators decreased, except for no-employment experience. Rates of Roma without employment experience and young Roma that are not in education, employment or training are very high, especially for Roma women.<sup>214</sup>

Only about 29 per cent of the working-age Roma population participate in the labour market, while those employed earn 48 per cent of the average wage; more than 60 per cent of Roma have no income.<sup>215</sup> About 28 per cent of Roma households, registered within the population census, live on social assistance.<sup>216</sup> Although the number of dependent persons at the national level decreased during the inter-census period, the number of dependent Roma increased by even 69 per cent, while the number of Roma with personal income was halved. The predominant Roma occupations are cleaners, auxiliary workers and collectors of secondary raw materials – 60 per cent, while drivers, craftsmen and farmers account for 10–11 percent. In addition, in the structure of gainfully occupied Roma men account for about 77 per cent and women for only 22 per cent, which also points to the aggravated situation of Roma women.<sup>217</sup>

In the register of the National Employment Service (NES), at the end of 2013, there were 22,102 persons of Roma ethnicity, including 10,150 women, or 46 per cent, which means that in the total number of unemployed in the NES register Roma accounted for 2.9 per cent. According to their age, most Roma in the NES register are 15–30 years old (34 per cent of the total number of registered Roma), which means that one third of unemployed Roma belongs to the youth category. The poor educational structure of Roma poses a great challenge: 89.8 per cent of the total number of Roma registered at the NES are unskilled, 9.8 per cent have secondary vocational education and only 85 Roma men and women registered at the NES have college or university education (0.4 per cent). Despite some improvements, the Roma population, especially women, remains the most discriminated against in the labour market.

The NES also announces special public calls for granting subsidies to Roma for self-employment and to employers hiring them. Roma are also included in other programmes and measures of active employment policy pursued by the NES. In 2013, they constituted 33 per cent of all participants in the functional adult education programme.

One component of the TARI project, funded by the EU and implemented by the OSCE, aims to support enterprises with the potential for sustainable Roma employment with equipment, mentoring and training for new employees.<sup>218</sup>

214 ROMA INCLUSION INDEX 2015, OP. CIT.

215 BRANKA ANĐELKOVIĆ, MARKO OBRADOVIĆ, JELENA RADOMAN, *PROCENA EFIKASNOSTI LOKALNIH MEHANIZAMA SOCIJALNOG UKLJUČIVANJA ROMKINJA I ROMA* (EVALUATION OF EFFICIENCY OF THE LOCAL MECHANISMS OF SOCIAL INCLUSION OF ROMA WOMEN AND MEN), SOCIAL INCLUSION AND POVERTY REDUCTION UNIT AND PUBLIC POLICY RESEARCH CENTRE, 2013; INTERNET, [HTTP://PUBLICPOLICY.RS/PUBLIKACIJE/DAF725E70691BF26E5EF8D2B73D074CF98D4B9A6.PDF](http://PUBLICPOLICY.RS/PUBLIKACIJE/DAF725E70691BF26E5EF8D2B73D074CF98D4B9A6.PDF).

216 S. RADOVANOVIĆ, A. KNEŽEVIĆ, *ROMI U SRBIJI* (ROMA IN SERBIA), OP. CIT., P. 94.

217 *IBID.*, PP. 78–80.

218 THE SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA, OPCIT.

The examples of good practice are donor funded programmes within internship for educated young Roma in state institutions<sup>219</sup> and civil society organizations,<sup>220</sup> as well as the mentioned work on increasing the number of Roma in the police in accordance with the recommendations of the Protector of Citizens and at the civil society initiative.<sup>221</sup> Namely, although Roma people are interested in employment in the MIF system, one of the major obstacles to their greater enrolment in basic police training is insufficient information on the enrolment requirements and passing the entrance exam with a high score. Information sessions have so far been held in six cities in order to acquaint interested young Roma with the possibility of enrolling in the training programme and all entrance exam details. Additional testing preparations were also made as a prerequisite for increasing the level of enrolment in basic police training.<sup>222</sup>

So far, decision makers within the military education system have not considered the implementation of affirmative action measures in order to increase the number of Roma in the system. At present, the number of members of the Roma minority in military education institutions is extremely low: in 2014, there was only one Roma student at the Military Academy.<sup>223</sup> This implies decreased employment opportunities in the parts of the defence system.

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- 219 THE OFFICE FOR HUMAN AND MINORITY RIGHTS – WITH THE SUPPORT OF THE BRITISH AND DUTCH EMBASSIES, SWEDISH AGENCY FOR INTERNATIONAL DEVELOPMENT (SIDA) AND OSCE MISSION TO SERBIA – IMPLEMENTED THE PROJECT INVOLVING PAID SIX-MONTH INTERNSHIP IN STATE INSTITUTIONS IN THE REPUBLIC OF SERBIA FOR YOUNG MEMBERS OF THE ALBANIAN, BOSNIAN AND ROMA ETHNIC MINORITIES.
- 220 THE PUBLIC POLICY RESEARCH CENTRE AND CENTRE FOR ETHICS, LAW AND APPLIED PHILOSOPHY ARE THE ORGANIZATIONS HOSTING AND SUPPORTING THE PROGRAMME OF EMPLOYING EDUCATED YOUNG ROMA IN CIVIL SOCIETY ORGANIZATIONS IN THE REPUBLIC OF SERBIA, AT THE INITIATIVE OF THE CENTRAL EUROPEAN UNIVERSITY (CEU) AND NATIONAL ENDOWMENT FOR DEMOCRACY.
- 221 PROJECT "INKLUZIJA ROMA U SEKTOR BEZBEDNOSTI: KA VEĆOJ PROLAZNOŠTI NA OSNOVNU POLICIJSKU OBUKU" (INCLUSION OF ROMA IN THE SECURITY SECTOR: TOWARDS GREATER ENROLMENT IN BASIC POLICE TRAINING), *OP. CIT.*
- 222 [HTTP://WWW.LJUDSKAPRAVA.GOV.RS/INDEX.PHP/VESTI/1435-INKLUZIJA-ROMA-I-ROMKINJA-U-SEKTOR-BEZBEDNOSTI](http://www.ljudskaprava.gov.rs/index.php/vesti/1435-inkluzija-roma-i-romkinja-u-sektor-bezbednosti).
- 223 J. RADOMAN, M. TADIĆ, ROMKINJE I ROMI I REFORMA SEKTORA BEZBEDNOSTI U REPUBLICI SRBIJI (ROMA WOMEN AND MEN AND SECURITY SECTOR REFORM IN THE REPUBLIC OF SERBIA), 2014, *OP. CIT.*

## RECOMMENDATIONS

### 4.3.6. EMPLOYMENT

**ENSURE THE CONSISTENT IMPLEMENTATION OF ANTI-DISCRIMINATION POLICY**

INSTRUMENTS IN THE FIELD OF EMPLOYMENT IN THE PREPARATION OF LABOUR LEGISLATION.

**SUPPORT THE PROGRAMMES EMPOWERING YOUNG ROMA FOR** EMPLOYMENT IN STATE INSTITUTIONS.

**TAKE MEASURES FOR REDUCING GENDER INEQUALITY IN** THE LABOUR MARKET WHICH WILL PAY ATTENTION TO THE POSITION OF ROMA WOMEN AND THEIR INCLUSION IN THE PROGRAMMES OF ACTIVE MEASURES IN THE LABOUR MARKET: ADDITIONAL EDUCATION AND TRAINING, PUBLIC WORKS, SUPPORT TO SELF-EMPLOYMENT.

**GIVE PRIORITY TO FINANCING THE PROGRAMMES FOR** GENERAL ACCESS TO EDUCATION FOR YOUNG PEOPLE AGED UP TO 30 YEARS THROUGH THE EXPANSION OF PROGRAMMES SUCH AS THE "SECOND CHANCE" PROGRAMME, THUS IMPROVING THE EDUCATIONAL STRUCTURE.

**CONTINUE THE PUBLIC WORKS PROGRAMME, COUPLED WITH** THE APPLICATION OF THE PRINCIPLES OF AFFIRMATIVE ACTION AND PROGRAMME SUSTAINABILITY.

#### 4.3.7. HOUSING

Housing represents one area that is especially problematic for the Roma population. According to the census data, homeless Roma account for about one third of the total number of homeless persons in Serbia.<sup>224</sup> In 70 per cent of the municipalities in Serbia there exist substandard Roma settlements. In almost 40 per cent of these settlements houses are not connected to the water supply network, while only 10 per cent of these settlements have the majority of houses connected to the sewerage network.<sup>225</sup> Roma living in informal settlements throughout the country are highly discriminated against in access to social protection, health care, employment and adequate housing, including basic hygienic conditions, water and electricity.

The latest housing indicators mostly point to the improvement of the situation of Roma and reduction of the gap in comparison to the general population. However, the rates of Roma without property documents, living in segregated neighbourhoods, and overcrowding are very high.<sup>226</sup> The comparative data show that the average number of rooms for Roma in Serbia is 0.63 and for the total population – 1.13, and that the average number of square meters of living space is twice as unfavourable: 14.09 vs 27.41.<sup>227</sup>

At the end of 2013, activities were undertaken towards mapping and developing the geographic information system (GIS) of Roma settlements, involving the development of adequate housing models and the preparation of urban planning and technical documents for the improvement of infrastructure and housing conditions in Roma settlements with a view to preparing projects for competition for IPA 2013 funds. The implementation partner to this IPA 2012 funded project is the OSCE, while its implementation is coordinated by the Office for Human and Minority Rights. Another project, the provision of durable housing for 200 Roma families resettled from informal settlements to new container settlements by the City of Belgrade authorities during the period 2009–2012, is implemented by the UNOPS. Both projects are financed by the European Union.<sup>228</sup>

224 S. RADOVANOVIĆ, A. KNEŽEVIĆ, *ROMI U SRBIJI* (ROMA IN SERBIA), OP. CIT., PP. 86–87.

225 SO FAR, 583 SUBSTANDARD ROMA SETTLEMENTS HAVE BEEN IDENTIFIED IN SERBIA. MORE DETAIL ABOUT THEIR CHARACTERISTICS SEE IN: DR LJILJANA ŽIVKOVIĆ, DR ALEKSANDAR ĐORĐEVIĆ, *OSNOVNE KARAKTERISTIKE PODSTANDARDNIH ROMSKIH NASELJA U SRBIJI I PREDLOG BUDUĆIH RAZVOJNIH INICIJATIVA ZA UNAPREĐENJE USLOVA ŽIVOTA ROMSKE ZAJEDNICE* (GENERAL CHARACTERISTICS OF SUBSTANDARD ROMA SETTLEMENTS IN SERBIA AND A PROPOSAL FOR FURTHER DEVELOPMENT INITIATIVES FOR THE IMPROVEMENT OF THE LIVING CONDITIONS OF THE ROMA COMMUNITY), OSCE MISSION TO SERBIA, BELGRADE, 2015.

226 ROMA INCLUSION INDEX 2015, OP. CIT.

227 REGIONAL REPORT ON HOUSING LEGALIZATION, SETTLEMENT UPGRADING AND SOCIAL HOUSING FOR ROMA IN THE WESTERN BALKANS, BEST PRACTICES OF ROMA INTEGRATION, OSCE-ODIHR, FEBRUARY 2014, P.27 [HTTP://WWW.OSCE.ORG/ODIHR/115737](http://www.osce.org/odihr/115737).

228 THE SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA, OP. CIT.

## RECOMMENDATIONS

### 4.3.7. HOUSING

**CARRY OUT RESEARCH ON ROMA HOUSING NEEDS** IN LOCAL GOVERNMENT UNITS, MAKE RELEVANT RECORDS AND PREPARE ACTION PLANS, INCLUDING MEASURES FOR IMPROVING HOUSING CONDITIONS IN ROMA SETTLEMENTS.

**PROVIDE FUNDS AND ENCOURAGE LOGAL GOVERNMENTS TO** IMPROVE THE HOUSING CONDITIONS OF THE ROMA POPULATION LIVING IN SUBSTANDARD SETTLEMENTS.

**PROVIDE ADEQUATE HOUSING SOLUTIONS FOR RETURNEES UNDER** THE READMISSION AGREEMENT.

**ADJUST THE PRACTICE OF RESETTLING ROMA SETTLEMENTS** TO THE INTERNATIONAL STANDARDS AND ENSURE THE FULL USE OF THE POSSIBILITY THAT PERSONS WITHOUT RESIDENCE ARE REGISTERED AT A LOCAL SOCIAL WELFARE CENTRE.



#### 4.3.8. HEALTH CARE

Although Roma have health insurance, their infant mortality is twice as high and their life expectancy 12 years shorter compared to the general population. Roma cannot achieve full primary health care in health centres, while the availability of secondary and tertiary health care does not correspond to the health condition of Roma who are exposed to the risk of chronic and other diseases.<sup>229</sup>

However, significant results have been achieved thanks to the employment of Roma health mediators under the programme of Roma health improvement and health care. The establishment of this mechanism has significantly contributed to the improvement of the health situation: Roma child mortality dropped by 50 per cent.<sup>230</sup> The role of health mediators consists in increasing access to health care for the Roma population by making field visits with a view to expanding the immunization coverage of children and ensuring more frequent contact with health services, health education activities and exercising the right to health insurance.<sup>231</sup> Until 2012, thanks to the employment of 75 health mediators in 59 local government units, the data on 120,708 individuals were recorded, 136,106 households were visited and 13,647 individuals without health insurance were found. Health mediators secured health insurance for 7,389 individuals, 19,528 persons were registered with the doctor of their choice and the problem of 3,545 individuals without personal identification was solved.<sup>232</sup>

Apart from legal protection mechanisms for solving the problem of the stigmatization and discrimination of members of the Roma ethnic minority, partnership with the non-governmental sector is especially significant, since it can supplement the capacity of the government sector in facing such challenges. Better information on the right to health, pooling of forces to achieve rights and assistance of non-governmental organizations in the protection of rights can place the user "at the centre" of the health system.

### RECOMMENDATIONS

#### 4.3.8. HEALTH CARE

**INTENSIFY MEASURES TO PROVIDE BETTER INFORMATION ON THE RIGHT TO HEALTH;**

**TAKE ALL NECESSARY MEASURES TO ENSURE RESPECT FOR LEGAL RIGHTS TO COMPULSORY HEALTH INSURANCE FOR ROMA EVEN IF THEY HAVE NO RESIDENCE, THUS FACILITATING THEIR ACCESS TO HEALTH CARE;**

**INCREASE THE NUMBER OF HEALTH MEDIATORS AND EMPLOY THEM IN THOSE LOCAL GOVERNMENT UNITS WHERE THERE ARE NONE.**

<sup>229</sup> ROMA INCLUSION INDEX 2015, OPCIT.

<sup>230</sup> IMPLEMENTATION OF THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, 2013, P. 36.

<sup>231</sup> THE SECOND NATIONAL REPORT ON SOCIAL INCLUSION AND POVERTY REDUCTION IN THE REPUBLIC OF SERBIA, OPCIT.

<sup>232</sup> IMPLEMENTATION OF THE ACTION PLAN ON IMPROVING THE SITUATION OF ROMA AND SINTI WITHIN THE OSCE AREA, 2013, P. 36.

#### 4.4. CONCLUSION

The OSCE organs and bodies have a well-developed system of recommendations and examples of good practice when the situation of Roma is in question, which is a framework that should be regularly used when formulating relevant policies in Serbia.

The normative framework in the Republic of Serbia has largely been adjusted to the recommendations of the OSCE and other international organizations, but a key obstacle is posed by its insufficient implementation. This is the result of a number of interconnected causes, including the insufficient sensibility of representatives of government bodies responsible for vulnerable groups, especially Roma, unsustainable planning and allocation of resources and, to a degree, insufficient preciseness and concreteness of some anti-discriminatory norms. In the further development of a normative framework it will be necessary to make anti-discriminatory norms precise, concrete, sustainable and, in particular, adjusted to implementation at a local level. It is also necessary to work further on the education and sensibilization of the employed in government bodies and local governments for specific problems of the Roma population.

The Roma population is still exposed to discrimination and often faced with hate speech and threats. Therefore, it is necessary to support the development of media campaigns with a view to reducing social distance providing an argument-based explanation of the essence of affirmative action vis-à-vis Roma.

All further planned measures and activities, both at the national and local levels, must especially take into account the need for empowering and improving the position of Roma women and girls as a multiply vulnerable social group. It is necessary to encourage the involvement of Roma in formulating related policies through a comprehensive participative process and activities, including fora, panels, focus groups, public hearings. This will ensure the participation of as many Roma as possible, especially young ones, in social life, and avoid the "monopolization" of public space.

It is necessary to further develop and mechanisms for the social inclusion of Roma, modelled after the mechanism of health mediators, which proved to be especially useful and effective, and to ensure continuity of the work of such mechanisms.

Special attention should be devoted to the problem concerning the security of the Roma population and migratory trends or, in other words, potential problems with the admission of a greater number of persons under the Readmission Agreement, which can be expected.

## 5. PROTECTION OF NATIONAL MINORITIES AND IMPLEMENTATION OF GUIDELINES AND RECOMMENDATIONS OF THE OSCE HIGH COMMISSIONER ON NATIONAL MINORITIES

### FORUM FOR ETHNIC RELATIONS

#### 5.1. INTRODUCTION

This thematic framework for policy development, coordination and monitoring of the implementation of the priorities set for Serbia's OSCE Chairmanship is determined by the Memorandum on Cooperation signed by the Helsinki Committee for Human Rights, YUCOM/Lawyers' Committee for Human Rights, the Humanitarian Law Centre and by the Forum for Ethnic Relations, establishing their acting together during Serbia's OSCE Chairmanship.

The thematic framework is based on the standards, rules and activities of the OSCE, especially of the Office of the OSCE High Commissioner on National Minorities (OHC-NM) and the OSCE Mission to Serbia, with special emphasis to the "Ljubljana Guidelines on Integration of Diverse Societies" analysing possible measures that ethnically diverse states may apply with the aim of achieving an intra-social integration.

The "Ljubljana Guidelines" provide a list of measures addressed to both the state and minority communities and may serve to improve the majority – minority relations, facilitate integration of minority communities, and create conditions for the establishment of a functioning state and society in general. It should be noted that integration of minority communities into wider social and political trends by no means implies their assimilation, but an equal position of all citizens of Serbia, including the necessary preservation of national communities and fostering of their distinctive features. Therefore, the "Ljubljana Guidelines" were an important starting point in devising this framework, from the selection of classification standards and progress assessment benchmarks to recommendations for the promotion of the effects of Serbia's OSCE Chairmanship.

The development of this thematic framework and the activities that will be carried out in the human dimension context using it as a basis should serve as an active contribution of civil society in the planned follow-up human dimension implementation meeting on *"OSCE Contribution to the Protection of National Minorities: Recommendations and Guidelines of the High Commissioner on National Minorities"*.

This thematic framework encompasses the following topics, assessments and recommendations that may be of use in the evaluation of Serbia's OSCE Chairmanship.

## 5.2 FORMULATING AN EFFECTIVE INTEGRATION POLICY

The Republic of Serbia adopted a number of strategic documents in different areas, such as, anti-discrimination policy or Roma inclusion policy. However, there is no comprehensive strategy to underpin a minority integration policy. Making such a policy requires an active approach by the national authorities, the civil sector and the OSCE in reaching a political compromise over a visionary and effective strategy, including both short-term and medium-term Action Plans on development, as well as the benchmarks for assessing the level of success in clear procedures designed to monitor, on a continuous basis, the impact of applied measures.

### 5.2.1. PROMOTING INTEGRATION PRINCIPLES

The current policy of promoting national identity and diversity should be improved through the activity of minority policy implementation institutions.

Representatives of state authorities and national minorities, and especially representatives of national councils of minorities are encouraged to contribute to the creation of an integrated society.

Representatives of governmental authorities are advised to remain neutral in addressing open issues of national identities that give rise to disputes between persons belonging to different ethnic minorities (Croats and Bunjevci/Croats of Backa region, Vlachs and Romanians, Roma-Egyptians-Ashkali), while representatives of minorities are encouraged to resolve open issues in an atmosphere of tolerance and dialogue.

### 5.2.2. NON-DISCRIMINATION AND EFFECTIVE EQUALITY

The prohibition of discrimination against persons belonging to national minorities is enshrined in the Constitution, the ratified international treaties, the Law on National Minorities, the Law on the Prohibition of Discrimination, but also various laws regulating specific areas (such as the Labour Code, the Law on Health Care, the Law on the Foundations of the Education System, etc.). In addition, the Criminal Code criminalizes discrimination, considering it a criminal offence (Articles 128 and 387). Apart from protection available under criminal law, the protection from discrimination may be realized in civil cases, administrative disputes and extrajudicial proceedings through the Commissioner for Protection of Equality.

Serbian legal system offers basic preconditions for the application of specific measures towards persons belonging to national minorities (Article 76, paragraph 3, of the Constitution, Article 4 of the Law on National Minorities, Article 14 of the Law on Prohibition of Discrimination), but requires additional regulation at the level of sub-legal acts to achieve practical implementation.

There is no systemic approach to the affirmative action policy, and specific measures are adopted ad hoc through regulations in certain areas (e.g. special measures in electoral laws, organization of political parties, or measures for improving the situation of the Roma population). Therefore, it is necessary to promote constitutional and legislative mechanisms for prohibiting discrimination, to apply affirmative action measures aimed at eliminating causes or effects of discrimination regarding the participation of persons belonging to national minorities in the public sector, and especially in the hiring process; to carry out continuous monitoring of discrimination related trends and the implementation of independent bodies' recommendations; to strengthen the efficiency of protection under criminal law, public information; to promote the status of Roma in line with the Operative Conclusions, Strategy and Action Plan for Improvement of the Status of Roma in the Republic of Serbia.

### 5.2.3. RESPECT FOR AND PROTECTION OF HUMAN RIGHTS, INCLUDING MINORITY RIGHTS

Serbia has adopted an extensive catalogue of rights guaranteed to persons belonging to national minorities. However, these rights have not been fully and consistently implemented in practice. This body of regulations requires development through by-laws that are missing in many areas, thus hindering or preventing the realization of these rights. This conclusion is drawn on the basis of a noticeable variation in the enjoyment of minority rights, which is higher in Vojvodina than in other parts of Serbia and can be partly explained by the fact that a whole set of by-laws contributing to the exercise of minority rights has been adopted at provincial level. (Listed below are some of the decisions: Provincial Assembly Decision on the Council of National Communities ("Official Gazette of APV", No. 04/10); Decision on Provision of Grants to Ethnic Communities from the Budget of the Provincial Secretariat for Regulations, Administration and National Minorities of the Autonomous Province of Vojvodina ("Official Gazette of APV", No. 5/2006); Provincial Assembly Decision on Detailed Regulation of Issues Concerning the Official Use of Languages and Scripts of National Minorities in the Territory of APV ("Official Gazette of APV", Nos. 08/03, 09/03, 18/09, "Official Gazette of RS", No. 69/2010 – Decision of the Constitutional Court of RS); Decision on Allocation of Funds from the Budget of the Provincial Secretariat for Regulations, Administration and National Minorities of Autonomous Province of Vojvodina to Bodies and Organizations Officially Using Languages and Scripts of National Minorities ("Official Gazette of APV", No. 6/2008)).

Persons belonging to national minorities are not aware of all the rights available to them, and therefore fail to exercise them. On the other hand, public authorities are often not sensitised enough to human and minority rights, so the persons belonging to national minorities (the same as those belonging to the majority population) do not insist on consistent implementation of their rights because they want to achieve some other priority right or primary interest (e.g. a person who wants the proceeding conducted in court or other government institution to be completed expeditiously, will not insist on the use of minority language in the proceeding).

Currently, one prominent shortcoming observed in the minority policy in the Republic of Serbia is the lack of suitable monitoring of the realization of national minority rights, creating difficulty in assessing the effects of the minority policy.

### 5.3. PRINCIPLES OF INTEGRATION

The principles of integration are an important part of the “Ljubljana Guidelines”.

#### 5.3.1. RECOGNITION OF DIVERSITY AND MULTIPLE IDENTITIES

The structure of the population in the Republic of Serbia with minorities taking a large percentage of the total population indicates the importance of acknowledging ethnic diversity. From a legal perspective, diversity is acknowledged through recognition of special rights for persons belonging to national minorities aimed at preserving their national identity

It can be noticed that some national minorities (or minority “elites”) insist, and rightly so, on recognizing and preserving their distinctive features, but are reluctant when it comes to other national minorities and recognition of their distinctive features, or do not recognize diversity in their own communities. This is particularly reflected in disputes between Croat and Bunjevci communities, animosity between Roma, Egyptian and Ashkali communities, or conflicts within the Bosniak and Vlach national minorities.

#### 5.3.2. PRIMACY OF VOLUNTARY SELF-IDENTIFICATION

The legal system of the Republic of Serbia guarantees freedom to declare one’s ethnic background. However, the principle of voluntary self-identification is not fully implemented in practice. The initial problem arises with regard to the self-identification of Bunjevci and Vlachs; the other problem with the exercise of the right to self-identification is related to freely declaring one’s ethnic background in census-taking. Most minority communities cast doubts on the authenticity of census results, assuming that the number of members of a particular community is larger in reality, but that individuals are not encouraged to declare their ethnicity; the third issue is registration in the special electoral roll; finally, there are problems with “faking” a particular national minority background in order to benefit from affirmative action measures.

In this context, the question can be raised whether there are limits to self-identification, i.e. whether belonging to a particular ethnic group can be based solely on one’s sentiments or is self-identification limited by objective criteria.

The methodology of the census process needs to be improved (bilingual forms should be introduced and attention should be paid to proportional representation of minorities in census commissions; representatives of state bodies should modify their attitude that is currently restrictive in census-taking and use the census results primarily to place restrictions on the rights of persons belonging to national minorities, as also reflected in their response to the Albanian minority’s decision to boycott the census); in the public

policymaking process, in addition to the information gathered in the census, administrative authorities should also use other sources of information on the population (independently conducted research, national and EUROSTAT assessments, surveys, etc.).

Moreover, personal data protection for persons belonging to national minorities, especially information on nationality, ethnic origin and religious beliefs, should be improved.

### 5.3.3. NON-ISOLATIONIST APPROACH TO MINORITY ISSUES

A successful minority policy should maintain the identity of a given national minority and, at the same time, establish and strengthen ties between minority communities themselves, as well as strengthen society as a whole. However, the legal framework for the protection of national minorities in Serbia is primarily aimed at maintaining distinctive features of minority communities, while not paying much attention to the strengthening of ties between different communities, and paying almost no attention at all to relations between the majority and minority communities. Hence, the end-result of the minority policy in Serbia is segregation, reflected in the majority and minority populations most often leading parallel lives.

### 5.3.4. SHARED PUBLIC INSTITUTIONS, SENSE OF BELONGING AND MUTUAL ACCOMMODATION

For successful integration it is necessary that persons belonging to national minorities experience the state they live in as their own and that the state treats persons belonging to national minorities as equal citizens, guaranteeing them, with no exception, all the rights available to them as both citizens and persons belonging to a national minority.

Many obstacles have been put in the way of integration policy in the recent past, both by increasing ethnic distance and distrust, and by the armed conflicts along the ethnic fault-lines. This is particularly apparent in Serbian-Albanian and Serbian-Croatian relations or in the attitude of persons belonging to these national minorities towards law enforcers and other “state apparatus of coercion”.

For an integration policy to succeed, a change of the existing values in society as well as of its cultural patterns is a prerequisite, so is building mutual trust and confidence and the sense of community.

### 5.3.5. INTEGRATION (INCLUSION) AND EFFECTIVE PARTICIPATION

A successful integration policy must be about the inclusion of persons belonging to national minorities in public affairs, but also about their participation in the distribution of economic and social wealth. A successful integration policy implies participation of persons belonging to national minorities in the articulation and application of integration policy, their assuming ownership of the policy in the context of their role, and contributing to their own inclusion in social processes.

Participation of persons belonging to national minorities in public affairs is achieved through political participation which is extremely important both for improving their

status (as an opportunity to influence important decisions in the sphere), and for the respect of democratic principles and legitimacy of the political system as a whole (the more inclusive the system, the higher the level of legitimacy).

Persons belonging to national minorities enjoy both the right to elect and be elected as the other citizens belonging to the majority population, but their actual inequality is alleviated through affirmative action measures (exemptions when founding national minority political parties, non-imposition of the electoral threshold for the distribution of parliamentary seats).

Under the Law on Political Parties, a national minority party in Serbia may be founded by 1,000 Serbian adult, able-bodied citizens, whereas the “national” parties require 10,000 founding members. The problem has arisen with the Law on the Election of Members of Parliament, which sets the same requirements for nominating candidates’ list, so that the parties of national minorities must collect ten thousand signatures for their list to be accepted. This legal provision not only cuts parties of less numerous national minorities (such as the Slovaks, Romanians, Vlachs, etc.) out of the electoral race, but significantly reduces the chances for large ethnic minorities (especially Albanians, Bosniaks and Roma) to be represented, primarily due to the existence of a large number of political parties of these minorities. In terms of participation of parties and coalitions of national minorities in the distribution of seats, the Law on the Election of Members of Parliament abolished the electoral threshold of 5 per cent (Article 81, paragraph 2) , and applies the so-called natural threshold. This change in the electoral law at the Republic (central) level favoured the numerous and politically well-organized ethnic minorities, such as Hungarians, Bosniaks, Albanians. However, the natural threshold for all the less numerous national minorities remains elusive due to their size or, in case of the Roma population, due to their weak political organization.

#### 5.4. LEGAL FRAMEWORK

The legal framework for the protection of national minorities comprises the Constitution of the Republic of Serbia, ratified international treaties, laws governing issues of minority rights, and also legal acts passed at the level of both AP Vojvodina and local self-government units.

At a normative level, the Constitution deviates from a model of pure liberal democracy, which is manifested in the Law on the Protection of Rights and Freedoms of National Minorities in such a way as to provide highly pronounced protection for national minorities and grants additional and special rights to persons belonging to national minorities (Articles 14, 21, 47 – 49 and 75 – 81, Section 2, Title 3, of the Constitution, Articles 75 – 81). In terms of their content, most minority rights recognised by the Constitution are not special rights. These are the rights granted to all citizens, except that the Constitution spells out special guarantees to minorities, particularly for the rights that are relevant for maintaining and developing the national identity and cultural heritage of persons belonging to national minorities. In this regard, particularly important is Article



79 of the Constitution, which guarantees to persons belonging to national minorities the right to preserve and develop their national, ethnic, cultural and religious distinctive features, use of their language and script in private and in public, education in their own language, information in their own language, topographic names written in their language and use of their symbols in public places. To exercise these rights, the Constitution envisages cultural autonomy for national minorities and enables them to elect their national councils (Article 75, paragraphs 2 and 3).

Important to Serbia's minority legislation are international treaties which may be classified into two groups:

The first one comprising multilateral instruments, primarily those devised in the Council of Europe dealing directly with the issues of protection of national minorities (*Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages*).

Many solutions found in the national legislation have been transposed from the Framework Convention, surpassing the standards of this document concerning the level of recognition of minority rights. On the one hand, this is a positive trend that demonstrates the state's dedication to the preservation and safeguarding of minority rights, and on the other, poses a question as to whether the state will have the capacity to meet all commitments undertaken by such an extensive approach.

As to the *European Charter*, with its ratification Serbia (Serbia and Montenegro at the time) has protected 10 languages (Albanian, Bosnian, Bulgarian, Hungarian, Romy, Romanian, Rusyn/ Ruthenian, Slovak, Ukrainian and Croatian). Some of the languages in official use in Serbia are not on this list, such as Czech, whereas Ukrainian, for example, is protected although it is not in official use in any of the country's municipalities. A particular problem is posed by the fact that Bunjevac and Vlach languages/dialects have been left out upon ratification of the European Charter and, consequently, they do not enjoy protection under the Charter. The issue with the effects and implementation of the European Charter lies in the fact that the same measures apply to all languages. Objective circumstances (number of persons belonging to a language community, current needs and demands expressed by communities, their capacity for implementing measures, etc.) have not been taken into account in undertaking the same commitments for all the languages, and applying the same approach to, for example, both Hungarian and Bosnian languages.

The second group comprises four bilateral treaties signed with Croatia, Hungary, Macedonia and Romania which regulate realization and protection of the rights of persons belonging to Croatian, Hungarian, Macedonian and Romanian minorities in Serbia, as well as the position of the Serb minority in those states.

The main problem regarding bilateral agreements on minority protection signed with four neighbouring countries is the lack of binding mechanisms to ensure the implementation of agreed conclusions (protocols), while the purpose of agreed conclusions is only to inform the governments. The other problem is associated with intergovernmental/bilateral joint committees established to monitor the implementation of these agreements,

which do not meet regularly, as well as with the lack of administrative capacity for monitoring the work of the committees.

Two laws constitute the backbone of regulations governing the realization of minority rights: the *Law on the Protection of Rights and Freedoms of National Minorities* (the Law on National Minorities) and the *Law on National Councils of National Minorities* (the Law on National Councils).

The provisions of the Law on National Minorities draw upon the European standards in the field of national minorities protection. With regard to the recognition of collective rights enjoyed by national minorities, the Law goes beyond European standards which only recognize collective realization of individual rights of persons belonging to national minorities. A major specific characteristic of the Law is that it has introduced cultural autonomy for national minorities by establishing national councils of national minorities to become, under the provisions of the 2006 Constitution, a constitutional institution as well.

The Law on National Councils governs three groups of issues: competencies, electoral procedures and funding of national councils.

Besides the Law on National Minorities, the rights of persons belonging to national minorities are governed by other laws, within their specific area of responsibility. Hence, provisions on the rights of minorities are also incorporated in the Law on Official Use of Languages and Scripts, the Law on Primary Education, the Law on Secondary Schools, the Identity Card Law, the Public Information Law, the Law on Local Self-Government, procedural laws, etc.

The rights of persons belonging to national minorities, as set forth in national regulations, are being mainly exercised at lower levels of government, i.e. at the level of the Autonomous Province and local self-government units. The Constitution provides that “autonomous provinces shall ensure that human and minority rights are exercised in accordance with the law” (Constitution, Article 183, paragraph 3), while municipal authorities, i.e. cities “shall ensure the exercise, protection and promotion of human and minority rights, as well as public information in the municipality” (Constitution, Article 190, paragraph 3). Furthermore, the Constitution allows the autonomous provinces the possibility to establish, under their regulations based on the law, additional rights of persons belonging to national minorities (Constitution, Article 79, paragraph 2).

Legal analysis of the current state of affairs shows that almost all of the relevant international instruments have been ratified and, as such, have become an integral part of the national legislation; that in very few cases the provisions of other legislation contravene the ratified international treaties; that as a rule, signing and ratification of relevant international treaties is not as timely as should be; that by-laws, in a number of cases, though being prescribed, either have not been enacted or their application in practice fails to reflect the purpose of the adopted laws; that the experiences and jurisprudence of the European Court of Human Rights or similar courts should be consulted in drafting regulations.

There is a need to review the existing constitutional and legislative solutions pertaining to minority policy, as part of Serbia's EU membership negotiation process (especially in relation to Chapters 23 and 24). Special attention has to be given to the need to include in the Constitution and in the legislative framework of the Republic of Serbia the category of "constitutional", i.e. "framework laws". In this case, the applicable Law on the Protection of Rights and Freedoms of National Minorities could be transformed into a constitutional law by inserting the relevant provisions from the Constitution. It is also required to carry out a comprehensive review of the current legislation in the field of human and minority rights protection, particularly in terms of removing the conflict of jurisdictions, non-compliance of procedures and timescales, as well as the elimination of legal ambiguities and gaps, including harmonization of the provisions of the *Law on Culture* and the *Law on National Councils of National Minorities*, and also drafting and adoption of a new law on the official use of minority languages and scripts.

## 5.5. INSTITUTIONAL FRAMEWORK

**Sovereign and functioning state:** Efficient operation of institutions is a highly important element in the implementation of the minority policy. Professional and effective governance, efficient judiciary, effective independent bodies (such as the Protector of Citizens or the Commissioner for the Protection of Equality), efficient provincial and local state bodies, to a large degree, affect the quality of the realization and protection of national minority rights. Most of these "general" bodies, especially at central level (Tax Administration, Customs Administration, Cadastral Affairs Bureau), are not sensitised enough to issues of human rights (for example, the right to use minority languages). Specialist institutions dealing with human rights are also a requirement: the Office for Human and Minority Rights, the National Minority Council of the Republic of Serbia, Provincial Secretariat for Education, Regulations, Administration and National Minorities/National Communities, local councils for inter-ethnic relations, and minority national councils).

At the level of AP Vojvodina, the body charged with realization of minority rights is the Provincial Secretariat for Education, Regulations, Administration and National Minorities/ National Communities. Under the Secretariat operates the Sector for National Communities having jurisdiction for issues concerning the realization of minority rights, relations with the Churches and religious communities, as well as translation services to and from foreign languages and languages of national minorities in official use in the provincial administration. The work of the Provincial Secretariat, and particularly of its Sector for National Communities, has been assessed as good, and the improvement in the realization of minority rights in Vojvodina has, for the most part, been attributed to the stable and efficient institutional structure dealing with these issues in AP Vojvodina.

At the local level, the most important body as far as the promotion of an inter-ethnic dialogue is concerned is the Council for Inter-Ethnic Relations. The Law on Local Self-Government ("Official Gazette of RS", No. 129/2007) under its Article 98 provides for the establishment of councils for inter-ethnic relations in multi-ethnic units of local

self-government. Such councils should ensure that “ethnic equality” is maintained locally, especially when giving opinions and making proposals to city/municipal assemblies on draft decisions of local assemblies and executive authorities. Although the institution of a Council for Inter-Ethnic Relations was introduced into the Serbian legal system in 2002, it has yet to become fully operational. There are still local governments obligated by law to establish inter-ethnic councils that have not done so, whereas most local governments have such councils, but they are ineffective in reality and their existence is a mere form.

The institutional framework for the protection and promotion of human and minority rights and integration policy would improve with the establishment of a Ministry for Human Rights, Minority Policy and Integration.

Permanent dialogue should be going on with representatives of national minorities within the framework of the existing Council for National Minorities of the Republic of Serbia. Furthermore, a new Regulation or Decree on the Council for National Minorities and Integration of the Republic of Serbia, imposing on this body the obligation to carry out activities on a regular basis, aiming to ensure the exercise of the Councils’ authority set forth in the Regulation.

It is recommended to organise regular training programmes for civil servants on minority rights issues and legal regulations of the Republic of Serbia, and also to improve cultural and linguistic competence of civil servants engaged in the implementation of integrative minority policy.

In addition to their participation in political life, another means of integrating persons belonging to national minorities into wider society is their involvement in the bodies of public authority. Article 77, paragraph 2, of the Serbian Constitution stresses in particular that “when taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of the population and adequate representation of persons belonging to national minorities shall be taken into consideration”. A similar provision is also embodied in Article 21 of the Law on the Protection of the Rights and Freedoms of National Minorities, which states that “In respect of employment in public services, including the police, attention shall be paid to the ethnic composition of the population, adequate representation and command of the language spoken in the territory of the relevant body or service”. However, relevant by-laws or policies that would encourage the inclusion of persons belonging to national minorities in public authorities have not been passed. Adoption of the Government’s Conclusion on measures to improve the national minorities’ participation in state administrative bodies (“Official Gazette of RS”, No. 40/2006) was a positive step in this direction but, unfortunately, it remained only a “dead letter”. The Government’s Conclusion established measures to increase the participation of national minorities as civil servants and employees in public administration, in order to advance active involvement of persons belonging to national minorities in the work of public administration.

The state has not taken measures to increase representation of persons belonging to national minorities. This is because there is virtually no monitoring of the ethnic structure

of state administration employees (which is legally not possible to do before the adoption of a special regulation on the protection of such information), as well as because of the underdeveloped legal framework and practices in the implementation of affirmative action measures.

More adequate representation of ethnic minorities in state institutions is recommended at central, provincial and local levels; another recommendation is to apply affirmative action measures in employment and ensure an adequate level of minority participation in state bodies; knowledge of national minority languages should be an advantage for applicants in staff recruitment.

The “Ljubljana Guidelines” underline building trust between minority populations, police and security forces as an important aspect of integration. In this regard, it is vital that the employee structure in these public authorities corresponds to that of the population living in minority communities. It is important that the police combat discrimination, and also that hate crimes are prosecuted in an appropriate manner. It is equally important that correspondence and communications with the local population in ethnically mixed communities be made in minority languages.

#### 5.6. NATIONAL MINORITY COUNCILS

The institutional framework for the minority policy is complemented by the work of national minority councils as bodies through which national minorities exercise their right to cultural autonomy. National minority councils represent relevant national minorities, make decisions or participate in decision-making processes and establish institutions and organizations in the realms of culture, education, information and official use of minority languages and scripts. Although elites of both minority and majority communities have agreed to accept the institution of a national council, this concept still has room for improvement.

First of all, the potential of political parties having a greater capacity than the other unorganized persons belonging to national minorities to nominate electoral lists for national minority councils, turns the elections into a battle of strengths between political parties with an outcome known in advance: the supremacy of a particular political party will also be reflected in the composition of national councils, and eventually becoming a battleground for seizing power in the state.

It is necessary to define more clearly the role and position of national minority councils in the legal system of the Republic of Serbia in such a way as to have these bodies receive indirect funding from the State budget; it is further necessary to establish measures to reduce the politicization of national councils and the influence of political parties on these bodies, as well as to ensure better representation of persons belonging to national minorities in a national council by including representatives of civil society, religious organizations and entrepreneurs; another requirement is to consider the possibility of changing the election procedure for national councils.

## 5.7. PARTICIPATION IN CULTURAL LIFE

The Serbian legal system provides for the right of national minorities to preserve their cultural heritage and establish their own cultural, artistic and scientific institutions, societies and associations. National minorities enjoy cultural autonomy in this field by managing the preservation and promotion of their cultures through the work of national councils.

The exercise of guaranteed cultural rights of national minorities varies in practice, though it essentially sticks to the established normative framework. In this respect, too, national minorities living in Vojvodina take the lead, whereas the cultural activity of minorities in central Serbia is neither institutionalized nor organized at such a level.

Basic activities in places of residence of persons belonging to national minorities are carried out through song and dance companies, and less commonly through institutions established by local governments. In practice, the work of institutions is funded from the budget of units of local self-government, while song and dance companies only receive symbolic amounts as funding or receive no funds at all.

A particular problem for the cultural inclusion of national minorities is the “invisibility” of minority cultures in the cultural space of the majority population.

With the exception of Vojvodina, the cultures of minorities in central Serbia are not being represented in an appropriate manner. This refers to museums, libraries, theatre repertoire, art and music events.

It is recommended to intensify the development of national minority culture, particularly through the activity of national councils and NGOs; to conserve and protect tangible and intangible cultural heritage; to hold cultural events. In addition, it is a necessity to promote inter-cultural dialogue.

## 5.8. USE OF NATIONAL MINORITY LANGUAGE AND SCRIPT

The right to use their own language is one of the essential rights enjoyed by persons belonging to national minorities and applies to the language used in private and public and for official purposes.

The right to full public use of language is the use of language in public places, outdoors and in presence of other people. Protection of the right to private and public use of a minority language is reflected in the passivity of the state and its refraining from interfering with or preventing national minorities from using their own language.

Official use of a minority language means the use of this language in communication with public authorities. Active participation of the state is a pre-requisite for an effective official use of a minority language, for such use of a minority language may only be ensured through the engagement of the state.

Official use of a minority language implies several different rights: the right to the use and registration of a personal name in a language and script of a national minority, the

right to print the company's name, logos and other similar designation available to the public in this language, the right to write topographic signs in this language as well, the right to use minority languages and alphabets in proceedings before a court, or even to hold the entire judicial process in this language, the right to use a minority language in proceedings before administrative bodies and organizations with public authority, the right to submit requests and documents in this language, and the right to have a response from the public authorities written in this language.

Linguistic disputes have prevented the Bunjevac and Vlach national minorities from being able to exercise the right to official use of minority languages. In the case of the Bunjevac minority the issue has arisen as a result of a dispute with the Croatian national minority over the national and linguistic identity. The dispute within the Vlach community is the result of two conflicting concepts – one in favour of accepting the Romanian language as the language of the Vlach community, and the other advocating the standardization of the Vlach language.

The qualitative exercise of the right to official use of languages and alphabets of national minorities varies from one unit of local self-government to the other in Serbia, depending on the multi-lingual traditions of the local communities, the capacity of local governments to enforce the regulations, and on the frequency of requests by persons belonging to national minorities to communicate with the public authorities (at all three levels of government) in their own language.

Most common problems encountered in the realization of this right are related to registering names in the civil registry, and consequentially in other identification documents (primarily personal identity cards), inconsistent printing of topographic indications and names of organizational units of national authorities and public enterprises, the lack of capacity for effective administrative and judicial proceedings in the languages of national minorities, the lack of official application forms in minority languages, and weaknesses in written communication with the public authorities in this language. The realization of the right to official use of a minority language is not helped either by poor funding, which is particularly the case in multi-ethnic cities, lack of persons belonging to national minorities working for public authorities, weaknesses in the education system in terms of encouraging and promoting multilingualism.

Preservation of minority languages is important but not sufficient for success of the minority policy. Knowledge of the official language is extremely important in the integration of national minorities, the same as persons belonging to the majority population speaking the minority language used in a particular community. The situation pertaining to this aspect is not favourable in Serbia. National communities (majority and minority alike) isolate themselves within their own linguistic confines, and it may, almost without exception, be said that older generations are commonly multi-lingual while younger generations are monolingual/unilingual.

There is a need to open a public debate on the models for introducing bilingual education, to encourage persons belonging to the majority population to learn the minority

language of a community, and also to promote teaching Serbian as a second language to the persons belonging to national minorities of non-Slavic linguistic background.

In addition, school curricula and syllabi should, to a larger extent, acknowledge national and ethnic diversity and familiarize the students taking their classes in Serbian with the cultures and heritage of the national minorities of Serbia.

### 5.9. EDUCATION

Education plays a prominent role in shaping identity and represents an important instrument for management of diversity in multi-ethnic societies. When it comes to the legal framework for minority education in Serbia, a conclusion might be drawn that it is very extensive and that the right of national minorities to education is therefore highly developed. However, the underlying problem is the capacity of both the state and national minorities to ensure observance of the rights guaranteed under the adopted legal acts.

The quality of minority education (and generally of the education system in Serbia) and the content of the scholastic programmes are particularly important issues. It is evident that the process of education leads to national minorities isolating themselves within their own ethnic groups, and also that the level of inter-cultural communication is low. The quality of Serbian taught as a second language is questionable, considerably impeding the integration of the youth belonging to national minorities into a wider community. On the other hand, education of the majority population and the content of its curricula is ethnocentric, containing little or no information on the culture of other ethnic groups (which is a requirement under the letter of the law), and finally, the language of the community is no longer part of the curricula taught in Serbian. The educational process (in both Serbian and minority languages) is essentially devoid of instruments to do away with ethnic prejudice and stereotypes and to overcome the inter-ethnic distance, still prevailing in the attitudes of society towards diversity.

It is of particular importance to provide quality textbooks for education in the languages of national minorities. To this end, it is necessary to simplify and cut short the procedures in this process.

It is also incumbent to work on ensuring highly qualified teaching staff in schools.

### 5.10. MEDIA

The right of persons belonging to national minorities to information in the mother tongue is one of the key rights aimed at the preservation of uniqueness and is as such protected by both national and international legal instruments. This right falls under the rights covered by cultural autonomy and therefore many competences in this area are delegated to national councils of national minorities.

One of the general conclusions on the provision of information in minority languages is that the situation in the media having their content available in national minority



languages differs in Vojvodina and central Serbia in comparison to the rest of the country, both according to the number of media outlets and suitable institutional solutions.

The privatisation process has not resulted in the achievement of the proclaimed goals of promoting information in minority languages by getting the state out of the media. Many media outlets have become private and their property, especially the premises handed over to new owners, while the outlets themselves have been either shut down or their operation reduced to the minimum. Furthermore, the national minority media outlets do not have the capacity that would enable their survival on the competitive market. For this reason, they still depend on state subsidies and supplementary financing (projects, donations, etc.).

The public broadcasting service should become the key platform for disseminating information in national minority languages. In Vojvodina, a lot has been done in that regard, but the Radio Television of Serbia (RTS) has neglected the provision of information in minority languages. Desks producing content in minority languages should be strengthened and a channel in languages of national minorities established by both public broadcasting services, at the state and provincial level respectively; persons belonging to national minorities should be provided with unbiased and timely information, as well as participation of national minority representatives ensured in creating programme schedules.

#### 5.11. **SITUATION OF THE ROMA NATIONAL MINORITY**

Despite the Strategy for Improvement of the Status of Roma in the Republic of Serbia adopted in 2009, two implementation Action Plans for the period 2009 – 2014, and the progress achieved in resolving the problem of obtaining personal documents, system-related shortcomings have been observed in addressing the issues of social and educational rights of the Roma national minority, such as: access to social housing, segregation in education, a negative trend of forced evictions by the relevant state authorities and inadequate access to the health care system.

#### 5.12. **REGIONAL COOPERATION**

Opening up to the outside world is highly important for the minority policy, namely acceptance of international standards, in particular by ratifying the EU conventions, but also promotion of cooperation with neighbouring countries, kin states of some minorities. In this manner the significance of minority policy for regional cooperation has been both acknowledged and reinforced.

Rights of national minorities fall within the scope of the so-called political criteria and are being monitored from candidate status granting all the way to the completion of the negotiations on Chapter 23. Furthermore, regional cooperation is an issue of particular importance facilitating the respect for minority rights in the countries of the former

Yugoslavia (Bosnia and Herzegovina, Montenegro, Croatia, Macedonia) and in the neighbouring EU Member States (Bulgaria, Croatia, Hungary and Romania).

Given the lack of a unique pattern or standard at EU level for the respect of minority rights, it is particularly important for Serbia to use the period of accession negotiations effectively, to define its minority policy. This task requires a wide range of bilateral cooperation activities in order to overcome a number of noted problems concerning the practise of exercising rights and freedoms of persons belonging to national minorities (e.g. representation of Croats in legislative and other public institutions; representation and public participation of Hungarians, Romanians, Vlachs and Bulgarians, and the right to preserve and develop the minority identity, in particular through cultural heritage and language).

## 6. COMPLIANCE WITH OSCE COMMITMENTS TO THE PROTECTION OF HUMAN RIGHTS DEFENDERS

### HELSINKI COMMITTEE FOR HUMAN RIGHTS IN SERBIA

#### 6.1. INTRODUCTION

OSCE participating States are obliged to protect human rights defenders under the Final Act of the Conference on European Security and Cooperation (Helsinki, 1975), Document of the Copenhagen Conference on the Human Dimension (1990), Budapest Document “Towards true friendship in new era!” (Heads of State and Government, 1994). The Office for Democratic Institutions and Human Rights (ODIHR) published Guidelines on the protection of human rights defenders (2014), in the promotion of which Serbia took part as Co-Chair of the OSCE.

Human rights defenders play a pivotal role in democratic societies, which is one of the OSCE’s fundamental principles.

In line with the UN Declaration on Human Rights Defenders, the expression “human rights defender” refers to anyone who alone or in community with others works the promotion and protection of human rights regardless of his/her occupation or other circumstances. A human rights defender can be an individual, non-governmental organization, a lawyer, a trade union member, an employee of a national institution in charge of human rights protection, a journalist, a civil servant, etc. Pursuant to ODIHR Guidelines for the protection of human rights defenders, the only requirement for HR defenders is to perform their activities peacefully and to recognize the universal nature of human rights for all, without making distinction of any kind such as race, religion, skin colour, sex, language, political or other views, national or social origin, property, birth or other circumstances.<sup>233</sup>

Human rights defenders in Serbia run a higher risk because of dealing with specific issues or because of the context in which they operate or for the reason they belong to marginalised groups or for defending the rights of these groups. There are hate campaigns organised against the human rights defenders and they are targets of verbal and physical attacks. Court proceedings are very slow, the prosecution often does not react promptly to threats issued to human rights defenders, and impunity of perpetrators for physical attacks against them is one of the most serious problems faced in the protection of human rights defenders. There is a noticeable lack of reaction by the Government of

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Serbia and its officials in relation to these attacks and in some cases officials and representatives of the ruling coalition parties directly participate in the campaigns against human rights defenders.

LGBT activists are primary targets of organised campaigns, the same as activists concerned with war crimes and Serbian nationalism, and those questioning the reform of security structures and the struggle against corruption. Women are particularly at risk if acting as human rights defenders.

Smear campaigns are also staged against professionals such as representatives of independent institutions, the Ombudsman, prosecutors and journalists standing for human rights.

Non-governmental organizations still hold their events in the atmosphere of high tensions, serious threats by right-wingers and in the presence of strong police forces, the role of which is to protect the defenders. These tensions are the consequence of never-ending campaigns against the human rights defenders and civil society organizations dating back to the 1990s. A rising trend in the violation of freedom of expression is also the unfavourable context of activity of HR defenders. Hate speech against them in the media acts like a tonic to hooligans and proponents of extreme ideologies and inspires their assaults against differently-minded persons.

Extreme right-wing organizations are only mouthpieces and the most visible proponents of attacks because a much wider range of actors participate in the creation of a hostile atmosphere – the media, public figures, intellectuals, the Serbian Orthodox Church, state officials (who remain silent about the attacks), etc. Justice Minister Nikola Selaković opened the floodgates to overt assaults against human rights defenders two years ago, at the beginning of his term in office, by likening, in one of the most popular political TV talk shows “Impression of the Week”, the Chairperson of the Helsinki Human Rights Committee Sonja Biserko with leader of the extremist right-wing organization “Naši”, Ivan Ivanović. An incitement for compiling lists of “Serb-haters” and of domestic traitors was the one made by Dragan Kolarević, the then Assistant Minister of Culture and Media, in the summer of 2012.

Likening human rights defenders with extremists and criminals is frequent in public discourse. Editor-in-chief of *Večernje Novosti*, the newspaper financed in part from the budget, equalled in an editorial women human rights defenders Sonja Biserko and Jelena Milić with the recidivist criminal Kristijan Golubović.<sup>234</sup>

Head of the EU Delegation in Belgrade Michael Davenport also reacted to the dangerous media campaigns against human rights defenders, and said that “the attacks against organizations and persons seen in your media in a very unacceptable and personal manner, are very dangerous”.<sup>235</sup>

234 RATKO DMITROVIĆ: “KRISTIЈAN AND OTHERS”, *VEČERNJE NOVOSTI*, 26 APRIL 2014

235 [HTTP://WWW.B92.NET/INFO/VESTI/INDEX.PHP?YYY=2014&MM=05&DD=11&NAV\\_CATEGORY=12&NAV\\_ID=846489](http://www.b92.net/info/vesti/index.php?yyy=2014&mm=05&dd=11&nav_category=12&nav_id=846489)

## GENERAL RECOMMENDATIONS

### (PROTECTION OF HUMAN RIGHTS DEFENDERS)

**THE STATE SHOULD UNDERTAKE PROACTIVE AND PREVENTIVE** MEASURES AIMED AT CREATING A SECURE AND FAVOURABLE ENVIRONMENT IN WHICH HUMAN RIGHTS DEFENDERS CAN ACT. THIS IMPLIES DEVELOPMENT AND IMPLEMENTATION OF AWARENESS-RAISING CURRICULA ON HUMAN RIGHTS. THESE EDUCATIONAL PROGRAMMES SHOULD BE USED IN SCHOOLING BUT ALSO IN TRAININGS FOR PUBLIC SERVANTS.

**THE STATE SHOULD HELP CREATE A MEDIA** ENVIRONMENT WHERE HUMAN RIGHTS DEFENDERS WILL BE GIVEN ACCESS TO AND ENABLED PARTICIPATION IN PUBLIC DEBATES.

**STOP THE PRACTICE OF LIKENING EXTREMISTS TO** HR DEFENDERS.

## 6.2. IMPUNITY

The High Court of Belgrade has been holding for more than a year now trial of SNP Movement Leader Ivan Ivanović on charges of compiling a list of “20 most intense Serb haters” via the Internet. The Prosecution Office for Cybercrime has charged him with the crime of racial and other discrimination, because he posted on the SNP “Naši” website in late March 2014 a list of “30 most anti-Serb traitors among the public figures”. His trial has turned into a farce; the listed persons have been heard and cross-examined in an absurd way and poked fun at by the right-wingers who rallied outside the courtroom.

Women-in-Black activists have been targeted for more than a decade by extremist groups. They have been issued threats and even physically assaulted. Their premises were demolished in 2011. None of the complaints lodged against the assailants in these incidents have had an epilogue in court.

Failure to prosecute the perpetrators has entered a new stage with the case of Radomir Počuča, a stage of complete ignoring and ridiculing of justice. On 28 March 2014, proceedings were instituted against Počuča by the civil society organization called YUCOM, following his appeal to hooligans and fans not to clash with each other but to direct their “anger and fists” to more deserving ones, pointing the finger at “Women in Black”. He bluntly and directly called on all supporter groups to use violence to prevent the holding of an event organised by Women in Black on the occasion of the 15th anniversary of a crime against the Albanian civilians in Kosovo. Upon Počuča’s initial call, many rightist activists joined in on the social networks and the broader public, as well.

He had called for a lynch while still an official spokesman for the Interior Ministry’s Anti-Terrorist Unit, thus throwing added weight to the case. His call to violence was followed by a rally by rightist organizations outside the premises of the Women in Black and a petition filed by tenants to evict this organization from the building located in Jug Bogdan Street. At least the tenants’ reaction was understandable, since they were concerned for their own security.

After the main hearing was delayed, Počuča reiterated his allegations in a statement to the media, saying that he was not sorry for his actions but only for the words he used. Of particular concern is his treatment of the Court as he appeared in the media to say he was on the front-line in Ukraine, notwithstanding the fact that he had a hearing scheduled before the High Court in Belgrade. The Court issued a warrant for his arrest already on 17 September 2014, but the competent authorities failed to take appropriate measures to investigate these allegations and ensure his presence in court. In view of his avoidance to appear in the dock, the Court may impose a measure of banning him from leaving his place of residence and impounding his passport.

The right-wing organization called Obraz (Face) Homeland Movement, which was banned by the decision of the Constitutional Court on 12 June 2012, re-emerged under the name of the Serb Obraz and continued with its activities.

An activist and founder of the NGO Rule of Law Centre, Ivan Ninić, who researched corruptive practices, was assaulted in Belgrade outside the building where he lived, on 27

August 2015. He was also commissioned to do a report on the situation in the media by the Anti-Corruption Council, and is currently writing a report on how money is spent on advertisements. A few months earlier, Ninić was identified by the newspaper Informer on its front-page as being responsible for proving the existence of censorship of the media in Serbia as the main task of his report to the Anti-Corruption Council, and that the Head of the EU Delegation to Serbia, Michael Davenport, was behind it.<sup>236</sup> Ninić himself described the incident in this way:” While I was locking the door of my car in the parking lot on my way home from the city centre, I saw two youths of twenty or so years of age sitting on the steps near my building. I gave their description to the police. As I walked past them, I heard some noise coming from the bushes and then I saw that they took two metal rods out. They attacked me and brutally beat me.”<sup>237</sup>

## RECOMMENDATIONS

**POLICE AND JUDICIAL AUTHORITIES SHOULD CONDUCT A** PROMPT, THOROUGH, EFFECTIVE, INDEPENDENT AND TRANSPARENT INVESTIGATION INTO ATTACKS ON HUMAN RIGHTS DEFENDERS.

**IN ACCORDANCE WITH ODIHR GUIDELINES CONCERNING PROTECTION** OF HR DEFENDERS, CONSIDERATION SHOULD BE GIVEN TO THE ADOPTION OF LAWS RECOGNISING MOTIVATION FOR CRIMES AGAINST HR DEFENDERS ON ACCOUNT OF THEIR WORK, AS AN AGGRAVATING CIRCUMSTANCE IN METING OUT PUNISHMENT.

<sup>236</sup> [HTTP://BETA.INFORMER.RS/VESTI/POLITIKA/3915/AIKAL-NINIC-PREPLACCN-ZA-937-088-DINARA](http://beta.informer.rs/vesti/politika/3915/AIKAL-NINIC-PREPLACCN-ZA-937-088-DINARA)

<sup>237</sup> DANAS, 28 AUGUST 2015.

### 6.3. NON-GOVERNMENTAL ACTORS: RIGHTIST ORGANIZATIONS

In most cases organizers and perpetrators of physical assaults against human rights defenders have been extremist right-wing organizations. Over the past few years they have become an influential factor in society and their strengthening has also been the result of the executive branch of government avoiding to identify them as a threat to the constitutional system and frequently likening them to the organizations dealing with human rights promotion and protection. Governmental representatives have for long treated right-wing organizations as being unimportant, thus relativizing and trivialising the problem posed by right-wing extremism. In contrast, extremist and rightist organizations are very well organized and mutually interconnected.<sup>238</sup>

Since the year 2000, the number of ultra-right organizations has increased, due to a significant support by the Democratic Party of Serbia, Serbian Orthodox Church, segments of the academic community and considerable attention given in the media. These organizations are active at Belgrade University, first and foremost at its Law School, and they draw membership largely from young people. The most prominent among them are Dveri, Third Serbia, Serbian National Movement “Naši”, Zavetnici (Oath Takers), Serbian Code.

Rightist organizations of Serbia are opposed to the country’s European integration, advocating traditional values that are contrary to today’s human rights concept. Extremist groups are most active in the Vojvodina region and they oppose the idea of decentralization.

The YUCOM (Lawyers’ Committee for Human Rights – Human Rights Defenders) Office has identified a number of cases motivated by hatred against the personal characteristics of individuals assaulted and instituted criminal proceedings on these grounds. The personal characteristic that proved to be the reason for such assaults in most instances was the victim’s sexual orientation or preference, real or presumed.

Most illustrative in this respect was the attack on the home of Boban Stojanović, a well-known LGBT activist, late in 2013. Namely, unidentified persons threw Molotov cocktails at his house, breaking a window and partially penetrating the wall. In addition, graffiti and symbols drawn at his house testified that such acts were motivated by hatred of persons belonging to the gay population: two male symbols, a swastika and the words *Znamo gde živite, znamo gde spavate* (We know where you live and where you sleep). Although the graffiti were signed by the (informal) group Combat 18, the perpetrators have not been found.

Both male and female activists of the NGO “Women in Black” and cyclists who set off from Belgrade to Srebrenica in July 2014 to join the commemorations on the occasion of the 19th anniversary of genocide there, were attacked at a city square in Valjevo. In this incident when a large group of people shouting insults and swearing broke through the police line and assaulted the participants, Staša Zajović, Ljiljana Radovanović, Miloš Urošević and Dejan Gašić were injured. The crowd wore insignia like “Chetniks of

<sup>238</sup> “EXTREMISM: HOW TO RECOGNISE A SOCIAL EVIL”, HELSINKI COMMITTEE FOR HUMAN RIGHTS IN SERBIA, BELGRADE, 2014.



Valjevo” and several of them were in T-shirts with the picture of Ratko Mladić, standing trial in the ICTY (International Criminal Tribunal for the former Yugoslavia) on war crime charges. Police evacuated NGO activists to a hotel where the cyclists intended to stay the night in order to continue their journey to Srebrenica next day. There is no court verdict/judgment in this case, either.

The Centre for Euro-Atlantic Studies, YUCOM and a number of other non-governmental organizations pointed in their press releases to the lack of security sector reform, stating that instead of reforms the security sector is party controlled and that sports supporter groups are used as paramilitaries to crack down on government’s opponents.<sup>239</sup>

## RECOMMENDATION

**GOVERNMENT OFFICIALS SHOULD PUBLICLY CONDEMN THE CONDUCT** AND ACTIVITIES OF EXTREMIST RIGHT-WING ORGANIZATIONS AND THE EXTREME POSITIONS PROPAGATED BY THESE GROUPINGS. MOREOVER, IT IS NECESSARY TO PENALISE REPRESENTATIVES OF THESE ORGANIZATIONS AND INDIVIDUALS RESPONSIBLE FOR PHYSICAL ATTACKS, IN ACCORDANCE WITH THE ENACTED LEGISLATION.

<sup>239</sup> [HTTP://WWW.YUCOM.ORG.RS/REST.PHP?TIP=VESTGALERIJA&IDSEK=36&ID=146&STATUS=DRUGI](http://www.yucom.org.rs/rest.php?tip=vestgalerija&idsek=36&id=146&status=drugi)



on the Serbian Army” aimed at “tarnishing the reputation of the state and its army.” MP and a member of the largest party of the ruling coalition, Mr Milovan Drecun, accused FHP of conducting an unlawful investigation into, and putting pressure on the Prosecution Office over war crimes, as well as of publicising unverified information and holding people responsible beforehand; he also stated that this case too was about “a well-thought-out plan coinciding in time with the intended initiation of discussions on the establishment of a War Crimes Tribunal for former UCK/KLA fighters”. There was also a campaign in the media to render the Rudnica dossier and its allegation senseless by supporting the views of representatives of institutions on the campaign conducted against the military and the FHP hidden agenda.

A coalition of NGOs for access to justice and anti-discrimination called on the government in Serbia to “stop attacking” civil society organizations and, instead, investigate the allegations made by FHP of a possible involvement of Serbia’s CHOD Ljubiša Diković in war crimes committed in Kosovo<sup>244</sup>.

## RECOMMENDATIONS

**INDICTING HUMAN RIGHTS DEFENDERS ON THE GROUNDS** OF THEIR REPORTING ON HUMAN RIGHTS ABUSES VIOLATES OSCE COMMITMENTS. EVERYONE HAS THE RIGHT TO FREEDOM OF EXPRESSION, INCLUDING THE RIGHT TO COMMUNICATION; THIS RIGHT INCLUDES FREEDOM TO HOLD OPINIONS AND TO RECEIVE AND IMPART INFORMATION AND IDEAS WITHOUT INTERFERENCE BY PUBLIC AUTHORITY... OR ANY RESTRICTIONS. (1990 DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE/OSCE).

**THE PROSECUTION OFFICE SHOULD LOOK INTO THE** ALLEGATIONS CONTAINED IN REPORTS BY HUMAN RIGHTS ORGANIZATIONS, INCLUDING INDICATIONS POINTING TO THE INVOLVEMENT OF SENIOR GOVERNMENT OFFICIALS IN WAR CRIMES. THE STATE SHOULD TAKE STEPS WITH A VIEW TO INCREASING THE INDEPENDENCE OF THE JUDICIARY AND CRIMINAL PROSECUTION AUTHORITIES AND TO ENSURING PROPER FUNCTIONING OF LAW ENFORCEMENT BODIES. THIS IS IN LINE WITH ODIHR GUIDELINES ON THE PROTECTION OF HUMAN RIGHTS DEFENDERS.

**THE GOVERNMENT SHOULD DEVELOP AND SUPPORT TRAINING** PROGRAMMES FOR JUDGES AND PROSECUTORS ON THE ROLE OF HUMAN RIGHTS DEFENDERS IN A SOCIETY IN ORDER TO PREVENT POLITICALLY MOTIVATED LEGAL PROCESSES AGAINST HUMAN RIGHTS DEFENDERS.

244 COALITION FOR ACCESS TO JUSTICE AND ANTI-DISCRIMINATION COALITION, “INVESTIGATE THE ALLEGATION OF THE HUMANITARIAN LAW CENTRE AND DETERMINE THE RESPONSIBILITY OF THOSE RESPONSIBLE FOR THE CRIMES”, 30 JANUARY 2015, [HTTP://WWW.HLC-RDC.ORG/?P+28077](http://www.hlc-rdc.org/?P+28077)

## 6.5. STIGMATIZATION OF HUMAN RIGHTS DEFENDERS

Human rights defenders are often subject to stigmatization and brutal media campaigns, openly threatening and calling for lynch of these people, primarily because of their investigation of war crimes and asking for responsibility for war crimes and for actions aimed at regional reconciliation. They are branded as enemies of the state, national traitors, foreign lobbyists, spies or as foreign mercenaries, putting the so slandered human rights defenders in a position of being “human targets” in a post-conflict society like Serbia, giving rise to both verbal and physical assaults against HR defenders and inciting their harassment and persecution. Furthermore, their work on the promotion of human rights and reconciliation in the region is discredited in this way. Individuals such as Sonja Biserko, Nataša Kandić, Staša Zajović, Jelena Milić and other are under constant pressure from such campaigns.

An illustration of this was the campaign conducted against Ms Sonja Biserko, Chairperson of the Helsinki Human Rights Committee in Serbia, in 2013/14 when it was made public<sup>245</sup> that she was called to testify for Croatia in the case of aggression and genocide brought before the International Court of Justice by Croatia against Serbia. The campaign was accompanied by blunt hate e-mails and comments on the Internet posted by readers below the articles asking for drastic sanctions for her, including death threats against her.

The pro-government tabloid *Informer* published an article “Banish this woman from Serbia”<sup>246</sup>, and the newspaper *Večernje novosti*: “Warring on their own country.”<sup>247</sup> Both texts call on the state to undertake repressive measures against Sonja Biserko and constitute a violation of the right of witness protection and of the right to hold an opinion, which are the fundamental human rights. These texts from *Informer* and *Večernje novosti* contain the hallmarks of the hate speech against the witness that incites contempt of her, discrimination and hostility to her, and calls for condemnation by her environment, aimed at instilling fear in the targeted person<sup>248</sup>. Reader comments posted on these newspapers’ websites call for violence, too. It is clear from the comments that the published texts, along with a series of propaganda texts in the past two decades, which contain many untruths about the work and life of Sonja Biserko, were all aimed at creating and consolidating hostility of the community towards this human rights defender. The

245 HER NAME WAS REVEALED CONTRARY TO THE AGREEMENT REACHED BETWEEN THE PARTIES TO THE DISPUTE (THE STATES OF CROATIA AND SERBIA) NOT TO GIVE NAMES OF WITNESSES. EVEN THOUGH THE SOURCE OF INFORMATION WAS NOT NAMED, THE ANALYSIS OF THE PUBLISHED TEXTS LED TO THE CONCLUSION THAT THE “LEAK” CAME FROM STATE INSTITUTIONS. THIS WAS DONE BY *BLIC* IN AN ARTICLE “SONJA BISERKO TO GIVE EVIDENCE ON BEHALF OF CROATIA IN THE GENOCIDE CASE AGAINST SERBIA” (12 NOVEMBER 2013), BY *POLITIKA* IN ITS ARTICLE “GOOD FRIENDS GO TO COURT” AUTHORED BY JELENA CEROVINA (13 NOVEMBER 2013) AND *VEČERNJE NOVOSTI* IN *ENTREPRELET* “BISERKO TO WITNESS ON BEHALF OF ZAGREB” (13 NOVEMBER 2013, PAGE 3).

246 *INFORMER*, 13 NOVEMBER 2013

247 *VEČERNJE NOVOSTI*, 23 NOVEMBER 2013. HEADLINE: “WILL SERBIA REACT TO THE ANNOUNCED TESTIMONY OF SONJA BISERKO IN FAVOUR OF CROATIA ON CHARGES OF GENOCIDE”; HEADING: “THE BASIC LEGAL QUESTION IS WHAT EVIDENCE WILL BISERKO GIVE WHEN SHE WAS NOT A DIRECT PARTICIPANT IN THE EVENTS”, “HER CREDIBILITY CAN BE CHALLENGED BECAUSE SHE RECEIVED THE ORDER OF DUKE TRPIMIR FROM STJEPAN MESIĆ”. THIS TEXT WAS ANNOUNCED ON THE FRONT PAGE THE DAY BEFORE, HEADLINED “SONJA BISERKO AT WAR WITH HER OWN COUNTRY”.

248 MEDIA SELF-REGULATORY BODY, THE PRESS COUNCIL, STATED THAT THE *INFORMER* VIOLATED THE CODE OF JOURNALISTIC ASSOCIATIONS AND THAT THE TITLE AND TEXT DIRECTLY REFERRED TO REPRESSION AGAINST SONJA BISERKO.

analysis of readers' comments shows that they are identical with the messages in newspaper articles and commentaries, but often even more explicitly expressed.

The measures against Sonja Biserko suggested by readers can be divided into several groups: radical measures organized by the security services (traffic accidents, release of a virus, for example), court proceeding for treason, banishment and confiscation of passport, application of Putin's scenario and work prohibition.<sup>249</sup>

Two daily newspapers that have played a large role in the campaign – Politika and Večernje novosti are partly financed from the budget. The analysis of texts related to this testimony in The Hague indicates that editors and journalists were aware of the fact that disclosure of the witness's name could compromise her security. Prominent public figures participated in the campaign, including officials of the ruling party, such as the head of the Serbian Progressive Party's (SNS) parliamentary group, Zoran Babić.<sup>250</sup>

One of the most glaring examples of hate speech is the text "Red Sonja" by Milan Jovanović, published on 15 March 2014, in the online edition of the Frankfurt News, the newspaper intended for the Diaspora. Jovanović says: "If Vučić were Putin, as he had never been, and if Serbia were Russia, as it will never be, then Sonja Biserko would long ago languish in prison, or at least be somewhere in exile spreading her ideas about the Serbian genocide."<sup>251</sup>

249 BELOW THE ARTICLE PUBLISHED IN VEČERNJE NOVOSTI ON 1 APRIL 2014, "SONJA BISERKO VILIFIED SERBIA WORSE THAN THE CROATS", READERS' COMMENTS OF THE ONLINE EDITION FOLLOWED: "DO IT AS IT IS DONE IN THE WEST, READ WHAT SHE LIED ABOUT AND TAKE LEGAL ACTION". A COMMENT FOLLOWS "I AM FOR A MORE RADICAL SOLUTION", "THIS CREATURE SHOULD BE EXPELLED FROM THE COUNTRY ...", "IT IS UNCLEAR TO ME WHY SERBIA DOES NOT DECLARE HER PERSONA NON GRATA", "WHAT IS THIS WOMAN DOING IN SERBIA, SHE SHOULD GO TO HER HOMETLAND – CROATIA ...", "OF COURSE, THESE ORGANIZATIONS SHOULD BE BANNED BECAUSE THEY WORK AGAINST THE STATE. RUSSIA HAS BANNED SUCH ORGANIZATIONS AND NO ONE CAN DO ANYTHING ABOUT IT", "SONJA BISERKO AND NATAŠA KANDIĆ SHOULD BE PROSECUTED", "IF I AM TO DECIDE, SHE WOULD HAVE 24 HOURS TO LEAVE THE TERRITORY OF SERBIA, OTHERWISE SHE WOULD BE ARRESTED ...", "FIRSTLY, SHE WOULD BE WELL PUNISHED ... THE ISRAELI MOSSAD TOOK REVENGE ON TERRORISTS WHO KILLED THE MEMBERS OF THEIR OLYMPIC NATIONAL TEAM IN MUNICH. IT IS A COUNTRY WHICH HAS DIGNITY. OVER THERE, INDIVIDUALS SUCH AS BISERKO WOULD NOT EVEN TRY ANYTHING SIMILAR, AND IF THEY WERE TO TRY, THEY WOULD CERTAINLY NEVER DO IT", "A PHOTO OF HER SHOULD BE PLACED SOMEWHERE AT A SQUARE SO THAT PEOPLE COULD SPIT ON HER, INSTEAD OF ON THE STREET", "THE WOMAN IS WELL-PAID BY AMERICANS FOR SPITTING ON SERBIA AND ITS PEOPLE ALL HER LIFE", "PERSONS OF THIS KIND, WHO STILL LIVE AND WORK IN SERBIA, SHOULD BE REMOVED FROM ALL SECTIONS OF SOCIETY, ALL THEIR ASSETS CONFISCATED AND HAVE THEM PROSECUTED HIGH TREASON", "SUCH A CREATURE SHOULD BE BEATEN AND PISSED ON ... OF COURSE, I ALSO REFER TO NATAŠA KANDIĆ WHO IS A SIMILAR PRODUCT OF AN UNSUCCESSFUL ABORTION", " (...) SERIOUS DEMOCRATIC STATES IMMEDIATELY BLACKLIST SUCH PEOPLE (FOR A BANK LOAN OR A JOB ...) AND IF IT IS OF NATIONAL INTEREST 'TRAFFIC ACCIDENT', "HOW LONG WILL YOU TOLERATE HER DEFAMATIONS WITHOUT SUFFERING CONSEQUENCES FOR IT", "WHEN THERE IS A WILL THERE IS A WAY. ALTHOUGH I AM PERSONALLY A SUPPORTER OF THE METHOD OF OUR WIZARDS FROM OZNA ..."

IN THE ONLINE EDITION OF THE TABLOID KURIR (1 APRIL 2014) UNDER THE TEXT "THIS IS HOW SONJA BISERKO TESTIFIED IN THE HAGUE: SERBS HAVE BEEN DESTROYING YUGOSLAVIA SINCE TITO'S DEATH", IT WAS POSTED: "SONJA BABY, HAVE YOU BY ANY CHANCE HEARD OF SOME BUGS CAUSING DANGEROUS DISEASES ... NOW YOU'RE DEAD MEAT ... STATE SECURITY ADMINISTRATION (UDBA) IS A MIRACLE WORKER". ONLY NEGATIVE MESSAGES OF READERS WERE PUT ON THE WEBSITE OF THE PROFESSIONAL MEDIA B92 BELOW THE TEXT: "BISERKO: SERBIA WAS DESTROYING YUGOSLAVIA" (TAKEN OVER ON 1 APRIL 2014): "WHY BE SURPRISED OF THE STATEMENTS OF A WOMAN WHO WAS BORN AND RAISED IN ZADAR (CROATIA) AND FROM HER CHILDHOOD WAS IMBUED WITH THE LOCAL PRO-USTASHA HATRED OF EVERYTHING SERBIAN, IT SHOULD BE SURPRISING THAT SERBIAN INSTITUTIONS PERMIT HER TO PUBLICLY EXPRESS A PRO-USTASHA HATRED IN SERBIA, HARASSING THE NATION FOR 20 YEARS", "HER FINANCIERS IN THE WEST EXPECT HER TO EARN HER SALARY", "FOR EXPERTISE AGAINST SERBIA, I WOULD PROSECUTE YOU FOR HIGH TREASON, EXPEL AND TAKE AWAY YOUR CITIZENSHIP".

250 ZORAN BABIĆ IN INFORMER, IN THE TEXT: "EXPEL THIS WOMAN FROM SERBIA": "THERE ARE PEOPLE WHO WOULD, FOR THE SAKE OF 5 MINUTES OF GLORY OR FOR BEING PULLED OUT OF POLITICAL MOTHBALLS, SELL ALL NATIONAL AND STATE INTERESTS, WHICH SHOULD BE SACRED TO US".

251 [HTTP://WWW.VESTI-ONLINE.COM/VESTI/KOLUMNE/388884/CRVENA-SONJA](http://www.VESTI-ONLINE.COM/VESTI/KOLUMNE/388884/CRVENA-SONJA).

The Helsinki Committee informed the police of the threats described in this section and of those received in her e-mails, but between January 2013 and May 2014, there was no specific reaction by the competent institutions, primarily the Prosecution Office. The police have only promised to pay more heed and to regularly inspect the Helsinki Committee offices. No high-ranking state official has publicly condemned the blunt words addressed to Sonja Biserko, thus depriving this human rights defender of public support by government officials and tacitly supporting public attacks on her.

In October 2008, two men who were never identified waited for the Chairperson of the Helsinki Committee outside her flat and abused her. After the incident, she was given a temporary security protection in front of the building where she lives. A few years earlier, her flat was broken into. She was intercepted several times in the street and addressed with the use of messages taken out of media campaigns, and was physically attacked as well. A tabloid published her home address in mid-2000, and since then the media has been repeating the lies about her private life. A similar campaign was conducted in August 2015 after her interview with the Croatian weekly “Vijenac”.

## RECOMMENDATIONS

**IN ACCORDANCE WITH THE ODIHR GUIDELINES TO PROTECT HUMAN RIGHTS DEFENDERS,** THE GOVERNMENT INSTITUTIONS AND OFFICIALS MUST ABSTAIN FROM PARTICIPATING IN CAMPAIGNS OF SLANDER, NEGATIVE PORTRAYAL OR STIGMATIZATION OF HUMAN RIGHTS DEFENDERS AND THEIR WORK. THIS INCLUDES NEGATIVE LABELLING OF HUMAN RIGHTS DEFENDERS, DISCREDITING THEIR WORK OR TARNISHING THEIR REPUTATION IN ANY WAY.

**THE GOVERNMENT INSTITUTIONS AND OFFICIALS SHOULD ENCOURAGE** THE PARTICIPATION OF HUMAN RIGHTS DEFENDERS IN PUBLIC DEBATES, AND RECOGNIZE THE IMPORTANCE OF THEIR CONTRIBUTION TO THE PROMOTION OF HUMAN RIGHTS AND FREEDOMS.

## 6.6. THE RELATIONSHIP OF THE STATE TOWARDS INDEPENDENT INSTITUTIONS

The independent institutions (Ombudsman/Protector of Citizens, Commissioner for Access to Information of Public Importance and Personal Data Protection and the Commissioner for Protection of Equality) have already gained the reputation of human rights defenders, as well as the trust of citizens and civil society organizations. More and more citizens have been asking for protection by them. However, parallel with this trend, the Government's pressure on them has been increased, which was especially evident in the second half of 2014, and continued at an accelerated pace in 2015.

In the annual report for 2014, the Ombudsman points to a worrying trend of human rights violations; Commissioner for information – to the growing trend of activities of that institution both by scope and complexity; Commissioner for the Protection of Equality states in the annual report that the number of recommendations increased from 24 in 2013 to 198 in 2014.

The executive and legislative branches of government do not fulfil the system-related recommendations made by the independent institutions that have the function of essential protection of human rights and fundamental freedoms.

Overseeing state's authorities have been established to control the executive branch. This applies to the parliament, independent judiciary, independent control authorities, media, non-governmental organizations, citizens and the opposition. Unfortunately, these mechanisms have not been sufficiently developed, are in short supply when it comes to professional staffing and are generally very weak. Every government, the current is no exception, is always brutal in reacting to criticism and when referring to the law. Parliament and the judiciary are the weakest links of that system.

Independent bodies are increasingly subject to offensive language used by delegates in the Parliament. President of the National Assembly Maja Gojković, for example, allowed Ombudsman Saša Janković and Commissioner for the Protection of Equality Nevena Petrušić to "be brutally offended" at one of the parliamentary sessions.<sup>252</sup>

The previous governments were not particularly fond of these bodies, but there were never so many abuses addressed to leading figures of these institutions. Their every request is seen as a conspiracy against the state. In essence, state institutions are not transparent and, therefore, there is a withholding of information and lack of implementation of the recommendations or suggestions aimed at promoting human rights.

The campaign against the Ombudsman in early 2015, involving the media, Parliament and the Government of Serbia, indicates the Government's attempt to prevent independent institutions from raising some important issues, notably control of the security services. Any attempt to place security structures under civilian control which the Ombudsman and the Commissioner for Information most insist upon, ends up with accusations that "the reputation of the military and the country's security are at stake".

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252 4 JUNE 2014

The campaign against the Ombudsman represents the pressure put on him personally and on the institution he has been leading. The nexus between the executive authority, MPs of the ruling SNS party and the pro-government media is evident in this campaign. The National Assembly of Serbia has appointed Saša Janković to the post of the Protector of Citizens in two terms: 2007 and 2012. Janković quickly gained a reputation for his professional approach to human rights. Before taking office, he underwent most stringent security checks and screening used for persons having access to top state secrets. The campaign against the Ombudsman has been conducted for months on more than one occasion, and none of the top government officials or MPs of the ruling majority in the Parliament of Serbia has defended the institution of the Protector of Citizens and Saša Janković personally.

The media campaign peaked in April 2015, when Saša Janković reported to the Parliament on the human rights situation. That month, an affair was placed in one of the leading pro-government tabloid newspapers, *Informer*, according to which, in 1993, student P.G. killed himself by a gun owned by Saša Janković, for which he had no firearms licence. Stories that followed in some other pro-government media outlets, such as on TV Pink, suggested that the prosecution was about to reopen the case, insinuating Janković's responsibility. This was hinted at by Minister of Internal Affairs Nebojša Stefanović, who eventually had to admit that no investigation into the case could be re-launched.

The Ombudsman has been targeted by SNS officials and some media, who accused him of "politicking", and of being a "traitor", "maliciously" jeopardizing national interests and acting as opposition.<sup>253</sup>

The accusations levelled at him by the most powerful Party (SNS), according to which, Ombudsman Saša Janković threatens the security of the country, were also heard in the Serbian Parliament. The Serbian Progressive Party's MP Vladimir Đukanović assessed the Ombudsman's annual report as a political pamphlet. They totally ignored the facts stated in the report, which indicates serious disregard for the institution of the Ombudsman. The discussion on the report was reduced to rough personal disqualifications of the Ombudsman: that he had taken to drinking, that he urinated in front of the entrance, and even undermined the security system.<sup>254</sup>

The question of his salary was also brought up, counting on arousing citizens' discontent, because it was one of the highest salaries earned in state institutions. Mr Janković was accused of "harming the reputation of the Military Security Agency (VBA) and inciting citizen paranoia."<sup>255</sup> The Chairman of the Serbian Progressive Party (SNS) City Committee in Novi Sad Miloš Vučević suggested to hold a rally which would show "whether citizens of Serbia were in favour of the policy of Aleksandar Vučić and of a modern, decent, sovereign Serbia or whether they wanted their lives to be governed by lies of people

253 [HTTP://WWW.BLIC.RS/VESTI/POLITIKA/552388/EVROPSKA-KOMISIJA-ZESTOKO-SRAMOTA-JE-STA-RADE-ZASTITNIKU-GRADJANA](http://www.blic.rs/vesti/politika/552388/EVROPSKA-KOMISIJA-ZESTOKO-SRAMOTA-JE-STA-RADE-ZASTITNIKU-GRADJANA)

254 STATEMENT OF SAŠA JANKOVIĆ, *BLIC ONLINE*, 21 JANUARY 2015, [HTTP://WWW.BLIC.RS/VESTI/DRUSTVO/528162/JANKOVIĆ-PRETE-MI-NE-OSECAM-SE-BEZBEDNO](http://www.blic.rs/vesti/drustvo/528162/JANKOVIĆ-PRETE-MI-NE-OSECAM-SE-BEZBEDNO)

255 N1, 28 JANUARY 2015, [HTTP://RS.N1INFO.COM/A30930/VESTI/JANKOVIĆ-VBA-PRATILA-AKTIVNOSTI-SRS-PO-POVRATKU-ŠEŠELJA.HTML](http://rs.n1info.com/A30930/VESTI/JANKOVIĆ-VBA-PRATILA-AKTIVNOSTI-SRS-PO-POVRATKU-ŠEŠELJA.HTML)



like Pajtić, Janković and Kandić.”<sup>256</sup> Although Prime Minister Vučić prevented rallies requested by his own party, he even then failed to protect the integrity of the independent institution such as the Protector of Citizens.

Saša Janković stated (21 January 2015) that he did not feel safe because he received threats, of which he informed also President of Serbia Tomislav Nikolić, before the entire case was publicised in the media.<sup>257</sup>

The campaign against the Protector of Citizens was launched when he raised the issue of security services, wishing to examine a few specific cases.<sup>258</sup> In January 2015, Janković requested investigation into an incident of September 2014, following the Pride Parade, when riot police used force against civilians (brothers of the Prime Minister and the Mayor of Belgrade – Andrej Vučić and Predrag Mali). Members of the Serbian Armed Forces, i.e. of the Military Police and “Cobra” special units, were also involved in the incident.

International community reactions – EU officials followed all developments related to PoC Saša Janković, aware of the attacks and pressures made against him. EU sources underlined that attacks on the Protector of Citizens (Ombudsman) would have negative implications for Chapters 23 and 24, as soon as they are opened – the two most difficult chapters for Serbia’s EU accession; the attacks against the Protector of Citizens will undoubtedly be further reflected in the Commission’s next progress report on Serbia’s European integration path.<sup>259</sup>

During his visit to Belgrade, earlier on, Deputy Assistant US Secretary of State Thomas Melia reacted to the attacks on the Protector of Citizens. He stated that Serbia deserved to be commended for having independent control institutions such as the Protector of Citizens. According to Melia, Protector of Citizens Saša Janković had developed a reputation of a qualified professional, with a good team of associates. His reputation was additionally highlighted due to the fact that he had been re-elected to the post by the Parliament.<sup>260</sup>

The OSCE Belgrade Mission expressed its concern over the campaign carried out against the institution of Protector of Citizens. Deputy Head of Mission Michael Uyehara recalled that independent institutions, responsible media, transparent authorities, as well as responsible law enforcement agencies, were essential for the functioning of any democratic system.<sup>261</sup>

256 *BLIC ONLINE*, 29 JANUARY 2015, [HTTP://WWW.BLIC.RS/VESTI/POLITIKA/530498/NAPREDNJACI-TRAZE-OD-VUČIĆA-HITNU-SEDNICU-ZBOG-NAPADA-NA-SUVERENOST-SRBIJE](http://www.blic.rs/vesti/politika/530498/naprednjaci-traze-od-vucica-hitnu-sednicu-zbog-napada-na-suverenost-srbije).

257 *BLIC ONLINE*, 21 JANUARY 2015, [HTTP://WWW.BLIC.RS/VESTI/DRUSTVO/528162/JANKOVIĆ-PRETE-MI-NE-OSECAM-SE-BEZBEDNO](http://www.blic.rs/vesti/drustvo/528162/jankovic-prete-mi-ne-osecam-se-bezbedno)

258 IN 2014, A NUMBER OF ACTIVE AND FORMER MEMBERS OF THE MILITARY SECURITY AGENCY (VBA) ADDRESSED THE INSTITUTION OF PROTECTOR OF CITIZENS, INDICATING SERIOUS LAWLESSNESS AND IRREGULARITIES IN THE WORK OF THE AGENCY TO THE DETRIMENT OF POLITICAL, TRADE UNION AND OTHER RIGHTS OF CITIZENS AND AGENCY MEMBERS THEMSELVES. THE PROTECTOR HAS PLANNED TO CARRY OUT IN 2014 THE FIRST COMPREHENSIVE OVERSEEING OF LAWLESSNESS AND REGULARITY OF VBA WORK, DURING WHICH THE SAID ALLEGATIONS ARE TO BE LOOKED INTO WITHOUT ADVANCED NOTICE.

259 *RADIO FREE EUROPE*, 21 APRIL 2015, [HTTP://WWW.SLOBODNAEVROPA.ORG/BRISSEL-INFORMISAN-O-NAPADIMA-NA-SASU-JANKOVICA/26969732.HTML](http://www.slobodnaevropa.org/brisel-informisan-o-napadima-na-sasu-jankovica/26969732.html)

260 *N1*, 4 FEBRUARY 2015, [HTTP://RS.N1INFO.COM/A32621/VESTI/MELIA-SRBIJA-SRECNA-ITO-IMA-BIRN-FHP-I-SASU-JANKOVIĆA.HTML](http://rs.n1info.com/a32621/vesti/melia-srbija-srecna-ito-ima-birn-fhp-i-sasu-jankovica.html)

261 *DANAS*, 22. APRIL 2015.

## RECOMMENDATIONS

**THE STATE SHOULD STRENGTHEN THE ROLE OF** INDEPENDENT NATIONAL HUMAN RIGHTS INSTITUTIONS, AS WELL AS THEIR MANDATES, IN LINE WITH THE OSCE PARIS PRINCIPLES AND PROTECT THE INDEPENDENT INSTITUTION STAFF FROM UNJUSTIFIED PRESSURE AND ILL-TREATMENT.

**THE STATE SHOULD CONTINUE SECURITY SECTOR REFORM** AND ESTABLISHMENT OF CIVILIAN OVERSIGHT, THIS POSITIVELY IMPACTING ON A SAFE ENVIRONMENT FOR THE ACTIVITIES OF HUMAN RIGHTS DEFENDERS. EXECUTIVE AND LEGISLATIVE AUTHORITIES MUST SUPPORT THE INDEPENDENT INSTITUTIONS BY ACCEPTING AND CARRYING OUT SYSTEMIC RECOMMENDATIONS.

**STATES ARE OBLIGED, IN LINE WITH OSCE** PRINCIPLES ON FREEDOM OF EXPRESSION, TO PROVIDE THE CONDITIONS FOR, AND ENCOURAGE A PUBLIC DEBATE CONCERNING HUMAN RIGHTS REPORTS. LABELLING THE REPORT MAKER AS PRODUCING POLITICAL PAMPHLETS, ETC. IS IN CONTRAVENTION OF OSCE PRINCIPLES AND SERVES TO DISCREDIT AND RELATIVIZE THE REPORTS, AS WELL AS TO SUPPRESS DISCUSSIONS ON PROBLEMS EXISTING IN THE STATE.

**IT IS NECESSARY TO ESTABLISH CLEAR AND** TRANSPARENT PROCEDURES IN ORDER TO AVOID OVER-CATEGORIZATION OF DOCUMENTS AS CLASSIFIED.

## 6.7. ATTITUDE TOWARDS CIVIL SOCIETY ORGANIZATIONS

Civil society organizations advocating alignment of local legislation with the EU acquis and its implementation, as well as Serbia's accession to the EU, are faced with many challenges. The main characteristics of the environment that affect the work of these organizations include: undermining the rule of law and campaigns against the civil rights defender, free media and independent institutions; rise and strengthening of organized anti-European right-wing and extremist organizations; obstruction of public debate in the society.

The Government and the Serbian Progressive Party (SNS) attitude towards pro-European civil society organizations advocating the country's modernization is controversial: while the Government speaks of European integration, some people from the ruling government and the Serbian Progressive Party are hostile to pro-European organizations. Hence, this segment of civil society is suspicious about the real intentions of the Government.

The meetings between Prime Minister Aleksandar Vučić and representatives of a number of non-governmental organizations (May 2015) are interpreted as an attempt to lessen tensions and act more constructively towards addressing problems related to the respect of fundamental human rights and freedoms, through dialogue between the Government and civil society representatives. The meeting took place amid the brutal campaign against Protector of Citizens Saša Janković. On the very day of the meeting, Minister in charge of police Nebojša Stefanović continued with his accusations that the Protector of Citizens was assaulting the military and police.<sup>262</sup>

International organizations funding – Conditions have not been created to ensure sustainable financing of civil society; main sources of funding independent non-governmental organizations dealing with human rights continue to depend solely on international community donations. As a result of receiving money from foreign sources, these organizations are frequently targets of campaigns, suggesting that they are foreign agents working on overthrowing the Government.

Funding of civil society organizations from Government sources became the focus of public attention after exposure of fraudulent activities in the Ministry of Labour, Social and Veteran Affairs concerning a competition for allocating funds to citizen associations to the effect of improving the welfare system.

In a statement calling for the dismissal of Minister Aleksandar Vulin, seven non-governmental organizations<sup>263</sup> underlined that the competition was "fraught with numerous irregularities, including disbursement of funds to a large number of newly-registered organizations, associations headed by inter-connected persons or those headed by local officials, the Youth Office in the first place"<sup>264</sup>. Out of 122 organizations that met the Ministry's competition criteria, 61 were founded in 2014, whereas most of them were

262 11 MAY 2015, [HTTP://WWW.RTV.RS/SR\\_LAT/POLITIKA/MINISTAR-OMBUDSMAN-NAPADA-VOJSKU-I-POLICIJU\\_598318.HTML](http://www.rtv.rs/SR_LAT/POLITIKA/MINISTAR-OMBUDSMAN-NAPADA-VOJSKU-I-POLICIJU_598318.HTML)

263 CENTRE FOR PRACTICAL POLICIES, CIVIL INITIATIVES, YUCOM, CENTRE FOR NON-PROFIT SECTOR DEVELOPMENT, CRTA, CENTRE OF MODERN SKILLS AND SERBIA ON THE MOVE.

264 *BLIC*, 3 DECEMBER 2014

established immediately prior to the announcement of the competition, which even applied with identical projects.<sup>265</sup> Non-governmental organizations demanded that the case be investigated by the Public Prosecutor's Office, but the institution remained silent. The Lawyers' Committee for Human Rights (YUCOM) – the organization which brought criminal charges regarding this case, was not even contacted by the Public Prosecutor's Office.

Subsequently, Minister Vulin attacked the entire civil sector, threatening to have their business operations in the past 10 years scrutinised and inspected, finally concluding – without any legal basis and authorization – that he had decided to channel the resources formerly earmarked for social security services into the Fund for the treatment of children suffering from rare diseases.<sup>266</sup>

*Večernje Novosti* daily newspaper published in its print edition of 12 April 2014, an article “A reward to non-governmental assaulters” signed by R. Dragović.<sup>267</sup> The text refers to human rights watchdogs as hostile and traitor organizations, resorting to the full scope of the terminology and methodology used by *Večernje Novosti* and similar media in the 1990s, in the war propaganda and the campaign against “domestic traitors”. *Večernje Novosti* concluded that “the funding (of these organizations) by foreign sources presents a particular problem due to which these groups are especially stigmatized in the Serbian society”. Special concern was aroused by the statement of fellow professor of Belgrade Law School Miloš Jovanović, who urged that NGO funding from abroad be banned, indicating that “financing of the non-governmental sector by foreign states and organizations is even more dangerous than if national funds are used”, because in this way “these organizations are becoming promoters of interests of foreign states instead of working for the benefit of their own society”. “We have given in to the current trend of including NGOs among state institutions, thus enabling them to become a certificate of the democratic character of a society”. Although these organizations may be helpful to countries in specific areas, this is not a natural state of affairs. It is highly questionable who they represent, because only the state enjoys legitimacy in society”.

265 DANAS, 1 DECEMBER 2014

266 BLIC, 3 DECEMBER 2014

267 THE SAME TEXT WAS CARRIED ALSO IN THE ELECTRONIC EDITION UNDER “NON-GOVERNMENTAL ORGANIZATIONS: FIERCELY CRITICIZE SERBIA, WHILE BEING GRANTED PRIVILEGES”.

## RECOMMENDATIONS

**IN LINE WITH THE ODIHR GUIDELINES CONCERNING** THE PROTECTION OF HUMAN RIGHTS DEFENDERS, THE STATE SHOULD ENSURE THEIR PARTICIPATION AT A HIGHER LEVEL THAN THAT OF FORMAL CONSULTATIONS, AND SHOULD BE OPEN TO ALTERNATIVE POSITIONS ON SPECIFIC PROBLEMS.

**STATE OFFICIALS WHO STIGMATIZE CIVIL SOCIETY ORGANIZATIONS** AS HOSTILE AND FOREIGN MERCENARIES SHOULD BE HELD ACCOUNTABLE FOR THEIR STATEMENTS. ACTS LIKE THESE SHOULD BE STRONGLY CONDEMNED BY THE PRIME MINISTER AND OTHER GOVERNMENT MEMBERS, AND, IN SOME INSTANCES, ENTAIL RESIGNATIONS OF THE SAID OFFICIALS..

**IN THE FRAMEWORK OF TAX LAW REFORM,** CONSIDERATION SHOULD BE GIVEN TO ENCOURAGING THE WORK OF CIVIL SOCIETY ORGANIZATIONS, AS WELL AS THOSE SUPPORTING THE ACTIVITIES OF CIVIL SOCIETY, BY PROVIDING FOR CERTAIN TAXING BENEFITS.

## 7. COMPLIANCE WITH OSCE COMMITMENTS AND RECOMMENDATIONS FOR MEDIA FREEDOMS AND THE FREEDOM OF EXPRESSION

### HELSINKI COMMITTEE FOR HUMAN RIGHTS IN SERBIA

#### 7.1. INTRODUCTION

This report prepared by civil society organizations on the respect of freedom of the media and freedom of expression<sup>268</sup> has been added as an annex to the report of the OSCE Chair (Serbia) on the implementation of OSCE commitments in the human dimension, within the framework of self-evaluation practices introduced during the Swiss Chairmanship of the OSCE. The topic has been included upon insistence from the Coalition of Civil Society Organizations (CSOs) in Serbia to monitor the OSCE Chairmanship in 2015, given that it was deemed extremely important in the consultations of CSOs held in 2014. The Serbian Government has decided not to include media freedoms and the freedom of expression in the first part of the report by referring to the adopted methodology where the main criterion for the selection of themes for self-evaluation is the existence of a relevant OSCE report in the last five years.

The Astana Final Document of the Summit of Heads of State or Government reaffirms the important role of civil society and free media to help governments to ensure full respect of human rights, fundamental freedoms, democracy, including free and fair elections and the rule of law.<sup>269</sup> The OSCE participating States have agreed that respect of human rights, fundamental freedoms, democracy and the rule of law needs to be maintained and reinvigorated. Greater efforts should be made to promote freedom of religion or belief, and to fight intolerance and discrimination.

One of the OSCE's core principles is that the independent media are the essence of a free and open society and responsible government, which is of particular relevance in the context of protection of human rights and fundamental freedoms. The OSCE participating States have committed themselves to respect media freedom and the freedom of expression in numerous documents: the Helsinki Final Act, the Charter of Paris for a New Europe<sup>270</sup>, the Copenhagen Document on the Human Dimension<sup>271</sup>, the OSCE

268 THE HELSINKI COMMITTEE FOR HUMAN RIGHTS IN SERBIA, PUBLIC POLICY RESEARCH CENTRE, LAWYERS' COMMITTEE FOR HUMAN RIGHTS, HUMANITARIAN LAW CENTRE AND THE FORUM FOR ETHNIC RELATIONS.

269 ASTANA FINAL DOCUMENT, 2010.

270 GOVERNMENT AND STATE SUMMIT

271 DOCUMENT OF THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION OF THE OSCE, 1990

Document of the Meeting of the Conference on the Human Dimension<sup>272</sup>, Budapest Document<sup>273</sup>, Permanent Council Decision No. 193 of 1997<sup>274</sup>, Document of the 11th Meeting of the Maastricht Ministerial Council of 2003.<sup>275</sup>

A coalition of civil society organizations insisted that a report on freedom of expression and freedom of the media be submitted considering a most negative trend that has prevailed over the past few years in this area largely undermining citizens' rights to timely and accurate information of public interest; this trend reached a critical point in 2014 and early 2015. This is evidenced in the Reports of independent institutions in Serbia (the Commissioner for Access to Information of Public Importance and Personal Data Protection, the Protector of Citizens/Ombudsman, the Government's Anti-Corruption Council), in the statements of Dunja Mijatović, OSCE Representative on Freedom of the Media, the European Commission's Progress Report on Serbia,<sup>276</sup> as well as reports of international and local civil society organizations including Human Rights Watch, Reporters without Borders, Amnesty International, the annual reports of the Belgrade Centre for Human Rights and the Helsinki Committee for Human Rights in Serbia, as well as in many press releases of media associations, primarily the Independent Journalists' Association of Serbia and the Independent Journalists' Association of Vojvodina.

Although progress has been made from the formal point of view, as three media laws have been adopted, the media landscape is in practice under the burden of a series of direct and indirect pressures brought to bear on media owners and/or editors and journalists. This has resulted not only in a lack of public information or blurring of public interest and choking media pluralism due to non-transparency of media ownership, politicized advertising agencies and budget transfers, but also in jeopardizing the safety of journalists, (self-) censorship and hate speech that goes unpunished.

With regard to cooperation between the Government of Serbia and the OSCE Representative on Freedom of the Media (RFM), a positive shift occurred only in March 2015, when Serbian Prime Minister Aleksandar Vučić met RFM Dunja Mijatović. Previously, Prime Minister Vučić strongly clashed with the OSCE officials and other representatives of the international community, stating among other things, that Dunja Mijatović does not speak the truth about censorship in Serbia.<sup>277</sup> The participating States have an obligation to cooperate with the Office of the OSCE Representative on Freedom of the Media.

The promise of the highest representatives of the Government made at the OSCE Conference on protecting the security and integrity of journalists hosted by Serbia as Chairman of this international organization could be seen as an indication of a possible

272 DOCUMENT OF THE MOSCOW MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION, MOSCOW, 1991

273 SUMMIT OF HEADS OF STATE OR GOVERNMENT, BUDAPEST DOCUMENT: TOWARDS A GENUINE PARTNERSHIP IN A NEW ERA, 1994

274 DECISION NO. 193 OF THE PERMANENT COUNCIL, 1997

275 DOCUMENT OF THE ELEVENTH MEETING OF THE MINISTERIAL COUNCIL, MAASTRICHT, 2003

276 SERBIA PROGRESS REPORT, 2014

277 A LETTER FROM PRIME MINISTER ALEKSANDAR VUČIĆ TO DUNJA MIJATOVIĆ, *BLIC*, 2 JUNE 2014

[HTTP://WWW.BLIC.RS/VESTI/POLITIKA/470311/VUCICEVO-PISMO-OEBSU-DAJTE-DOKAZE-O-CENZURI-ILI-SE-IZVINITE](http://www.blic.rs/vesti/politika/470311/vucicevo-pismo-oebsu-dajte-dokaze-o-cenzuri-ili-se-izvinite)

turnaround by the authorities in relation to the media.<sup>278</sup> Foreign Minister Ivica Dačić and Culture Minister Ivan Tasovac promised that media laws would be implemented underlining that media freedom was a priority to Serbia.

## 7.2. MEDIA REGULATIONS

The passing of a set of media laws (August 2014): Law on Public Information and Media, Law on Electronic Media and the Law on Public Broadcasting Services, marked significant positive developments in this respect. At the same time, it was the beginning of the implementation of a Media Strategy, adopted back in 2011, but in order to ensure its full implementation it will be necessary to adopt a number of laws and bylaws (apart from the new laws or amendments to the existing ones). The most important among them is the Law on advertising, because marketing agencies, as well as the state as an advertiser, are among the major mechanisms for the control over the media.

The provisions of the adopted laws that are given most attention are those relating to media project financing, prevention of media concentration and transparency of ownership.

One of the key sections of the **Law on Public Information and Media**<sup>279</sup> is the privatization of the media. According to the Law, the privatisation process was to be completed by 1 July 2015, but the deadline was extended until October 2015. By the time of writing this report, 50 media went into private hands while the privatisation of another 23 media outlets is pending. Among the non-privatised media are some very influential and important ones such as Tanjug news agency and the dailies Politika and Večernje Novosti. Postponing the privatisation of Politika newspaper, 50% owned by the state, until June 2016, is important in the context of holding the elections (local and provincial) at the end of this or early next year.<sup>280</sup>

The media market is small, poor, non-functional, non-transparent and unregulated. In such circumstances, as pointed out by media expert Jovanka Matić, profits can be earned only with the permission of political power centres.<sup>281</sup> For example, a privately-run TV network with a national broadcasting licence, and the financially most powerful one, Pink Television, founded in the nineties – owing to its privileged position and assistance

278 THE CONFERENCE WAS HELD IN BELGRADE, 26–27 MARCH 2015

279 OFFICIAL GAZETTE RS, 84|2014; [HTTP://PARAGRAF.RS/PROPISI/ZAKON\\_0\\_JAVNOM\\_INFORMISANJU\\_I\\_MEDIJIMA.HTML](http://paragraf.rs/propisi/zakon_0_javnom_informisanju_i_medijima.html)

LAW ON INFORMATION (ARTICLE 3): THIS LAW SETS OUT THE PUBLIC INFORMATION PRINCIPLES, THE PUBLIC INTEREST IN INFORMING THE PUBLIC, THE PROVISION AND DISTRIBUTION OF FUNDS FOR PUBLIC INTEREST IMPLEMENTATION, IMPRINT, SUMMARY IMPRINT AND IDENTIFICATION, PUBLIC DATA ON THE MEDIA AND THE REGISTRY, THE PROTECTION OF MEDIA PLURALISM, THE POSITION OF EDITORS, JOURNALISTS AND REPRESENTATIVES OF FOREIGN MEDIA, DISTRIBUTION OF MEDIA, TEMPORARY STORAGE AND ACCESS TO THE MEDIA TRACK, THE SPECIAL RIGHTS AND OBLIGATIONS IN PUBLIC INFORMATION, INFORMATION ABOUT THE PERSONALITY, THE MEANS AND METHODS OF LEGAL PROTECTION, SUPERVISION OVER IMPLEMENTATION OF LAW AND PENAL PROVISIONS.

280 PRIVATISATION OF *POLITIKA* HAS BEEN PUT ON HOLD DUE TO THE DECISION OF THE GOVERNMENT OF SERBIA ON DETERMINING THE SUBJECTS OF PRIVATISATION OF STRATEGIC IMPORTANCE, IN LATE MAY 2015. VERY LITTLE IS KNOWN ABOUT THE PRIVATISATION OF *VEČERNJE NOVOSTI*, ONE OF THE MOST POPULAR NEWSPAPERS, WITH EXTREMELY NATIONALISTIC EDITORIAL POLICY. IN THIS NEWSPAPER, THE SERBIAN GOVERNMENT HAS A 30-PERCENT STAKE, THE PENSION AND DISABILITY INSURANCE FUND OF THE REPUBLIC OF SERBIA, 7 PERCENT, WHILE THE REMAINING 63 PERCENT OWNED BY BUSINESSMAN MILAN BEKO IS DISPUTED.

281 JOVANKA MATIĆ, INSTITUTE OF SOCIAL SCIENCES, *DANAS*, 3 OCTOBER 2014



of the then regime, always adjusts its news programmes to the liking of the governing structures. The media in Serbia are not economically independent and therefore are forced to operate in the interests of certain political and business structures that control their financing. There are no forms of media financing that encourage socially responsible journalism and enable media sustainability in the long run. A model of media financing that would stimulate analytical and critical journalism has not been developed.<sup>282</sup>

To describe the media landscape of Serbia, the most frequently used qualifiers are – censorship and self-censorship. Censorship is forbidden by the Constitution and the Law on Public Information, but sophisticated mechanisms of control over the media and pressure put on journalists have been developed. Their detailed description is given in several publications, including two Anti-Corruption Council Reports,<sup>283</sup> as well as the research carried out by Jovanka Matić.<sup>284</sup>

Advertising agencies, acting as intermediary between advertisers and the media, are among the most powerful levers of influence on the media. The late President of the Anti-Corruption Council Verica Barać pointed out, in the 2011 Report, the power wielded by advertising agencies. However, the Report failed to lead to the establishment of mechanisms to decrease their impact on the media, and make the flow of money between centres of political power/ advertising agency and the media, transparent. The existing Law on advertising does not regulate this field adequately.

The Anti-Corruption Council announced, in March 2015, the release of its Report on Ownership Structure of and Control over the Media in Serbia, highlighting among the main problems: non-transparency of media ownership and financing, economic influence through the budget, problems experienced in media privatisation and the uncertain status of public broadcasting services, censorship, self-censorship and tabloidization. The report showed that more than half the total number of media outlets has no clearly visible owner. It is stated that the media owned by ministers, politicians or their family members are funded with taxpayers' money. For example, three local television stations are owned by the Gašić family.<sup>285</sup> Vladan Gašić owns the TV Zona of Nis and Sports TV of Kruševac, while in the same town the owner of TV Plus was his father, the current Defence Minister Bratislav Gašić. While Bratislav Gašić was Mayor of Kruševac, about EUR 100,000 was paid from the city's budget for commercials on the above-mentioned television.

Fifty percent of the most influential media outlets have as their ultimate owners companies registered abroad. The report shows that most of the media outlets with state capital in them are directly controlled by political parties, and influence on them is exercised through the funding.

Budgetary financing is a powerful mechanism to control the media. The Council's Report states that the Government of Serbia approved an interest-free loan of EUR 160,000

282 *IBID*

283 OF 2011 AND 2015, RESPECTIVELY

284 JOVANKA MATIĆ, SOFT CENSORSHIP, STRANGLING SERBIA'S MEDIA, WORLD ASSOCIATION OF NEWSPAPERS AND NEWS PUBLISHERS, 2013

285 [HTTP://WWW.ANTIKORUPCIJA-SAVET.GOV.RS/STORAGE/GLOBAL/DOCUMENTS/IZVESTAJI/IZVESTAJ%20MEDJI%2026%202022.PDF](http://www.antikorupcija-savet.gov.rs/storage/global/documents/izvestaji/izvestaj%20mediji%2026%202022.pdf)

to Tanjug News Agency, while a year earlier it received two million euros directly from the budget. More apparent control, according to the Report, is seen in cancelling the Radio Television of Serbia (RTS) subscription fee (in 2014). In this way, the public broadcasting service received 60 million euros from the 2014 budget, while its debt of 20 million euros was simultaneously written off.<sup>286</sup>

## RECOMMENDATIONS

**ACT ACCORDING TO 24 RECOMMENDATIONS FOR THE IMPROVEMENT OF THE SITUATION IN THE MEDIA SUBMITTED BY THE ANTI-CORRUPTION COUNCIL TO THE GOVERNMENT OF THE REPUBLIC OF SERBIA. IT IS NECESSARY TO COMPLETE THE MEDIA PRIVATISATION PROCESS AS SOON AS POSSIBLE, AND IN COOPERATION WITH MEDIA ASSOCIATIONS AND CIVIL SECTOR, DEVELOP MECHANISMS THAT WILL GUARANTEE TRANSPARENT FINANCING OF THE PUBLIC INTEREST CONTENT AND THE SELECTION OF PROJECT COMMISSIONS. CIVIL SOCIETY SHOULD BE INCLUDED IN DEFINING THE PUBLIC INTEREST. ADOPTION OF THE LAW ON ADVERTISING IS OF GREAT IMPORTANCE, WHICH SHOULD PREVENT THE INFLUENCE ON THE MEDIA BY ADVERTISING AGENCIES AND MISUSE OF ADVERTISING.**

<sup>286</sup> FULL REPORT IS AVAILABLE AT: : [HTTP://WWW.ANTIKORUPCIJA-SAVET.GOV.RS/STORAGE/GLOBAL/DOCUMENTS/IZVESTAJI/IZVESTAJ%20MEDIJI%2026%2002.PDF](http://www.antikorupcija-savet.gov.rs/storage/global/documents/izvestaji/izvestaj%20mediji%2026%2002.pdf)

### 7.3. MEDIA PLURALISM

Diverse, independent and plural media play a crucial role in democracy. This is a binding principle upon the OSCE participating States, stated in a series of documents: the Budapest Document,<sup>287</sup> the Permanent Council Decision of 1997<sup>288</sup>; Document of the Moscow Meeting of 1991.

Although Serbia has a huge number of media outlets, differences between them are almost insignificant. The decades-long decline of the media and the erosion of their professionalism essentially contributed to the end of the public debate on important social, economic and political problems and processes.

Topics that authorities are trying to prevent and obstruct their publication are above all, the criticisms levelled at the door of Prime Minister Aleksandar Vučić (and people close to him), the Government of Serbia, and those who deal with the issue of corruption in a serious way. The authorities always responded with hostility, threats and repression to bringing in the public domain some scandals involving state officials. The pro-government media frequently launch smear campaigns against political opponents and differently-minded people.

Among the media targeted by government officials are the weekly *Vreme*, the independent Balkan Investigative Reporting Network BIRN and the portal *Peščanik*. These are media outlets with pro-European orientation, which maintain high ethical standards and are committed to a culture of human rights and dialogue. In contrast, the media outlets, which often violate the journalistic code of ethics, such as the tabloid newspaper *Inform*, enjoy the support of the authorities. Media outlets, having stakes both by the government and by publicly owned enterprises, including *Politika* and *Večernje Novosti*, regularly wage campaigns against civil society representatives and critics of the government and Prime Minister. In many reports and statements, civil society organizations point to the serious trend of tabloidization, spinning of scandals aimed at compromising political opponents, discrediting the media and journalists criticizing the current government.

The past two years (2014 and 2015) were marked by pulling a plug on TV shows that were symbolizing public debate such as “*Utisak nedelje* (Impression of the Week/Week in Review)” aired by TV B92 and the news programme on a private radio station with national frequency, Radio B92, a symbol of freedom of media reporting in the Western Balkans, in the nineties. The Independent Journalists’ Association of Serbia points out that the regulatory body for electronic media (REM) should compare the programme contents with the keynote reports submitted at one point, and take measures against non-compliant media outlets. In early March 2015, broadcasting of the TV show “*Insider*” (TVB92), the symbol of investigative journalism, was suspended,<sup>289</sup> following the airing of a programme on corruption in Serbian football. Arguments advanced by man-

287 SUMMIT OF HEADS OF STATE OR GOVERNMENT, 1994 – BUDAPEST DOCUMENT: TOWARDS A GENUINE PARTNERSHIP IN A NEW ERA

288 DECISION NO. 193 OF THE PERMANENT COUNCIL, 1997

289 BROADCASTING OF THE SERIES “INSAJDER” HAS BEEN POSTPONED FOR AN INDEFINITE PERIOD OF TIME BY RTVB92 MANAGEMENT DECISION, WHICH ESTIMATED THAT THE BROADCAST COULD ENDANGER THE LIVES OF JOURNALISTS, ALTHOUGH THE SERIES EDITOR BRANKICA STANKOVIĆ ASKED THAT HER CLOSE SECURITY PROTECTION BE LIFTED AND WAS READY TO TAKE SUCH A RISK.

agers of the aforementioned TV stations in support of cancelling the shows (poor ratings or expiry of the contract) do not appear convincing. Although these are privately-run stations, there are serious indications that these changes occurred under the pressure from government officials.

**An illustration of this is “Utisak nedelje”,** the cult television show of the nineties presented by Olja Bečković, which had great significance for the opening of public debates. TVB92 took over the show (from the production house TV Network) in 2002. In the summer of 2014, B92 management offered Olja Bečković to move her show “Utisak nedelje” from the national channel to a cable channel with poor ratings, B92 Info, which she refused, considering it as an ultimatum not motivated by any business decision, but by a political order.<sup>290</sup> Olja Bečković was supported by the editor-in-chief of the news programme RTVB92 Veran Matić, arguing that transferring the show to the info channel would be degradation for “Utisak nedelje”.<sup>291</sup> He confirmed that “Utisak nedelje”, according to all surveys, tops the popularity and quality charts of the programmes offered by TVB92.<sup>292</sup> Bečković said Prime Minister Aleksandar Vučić phoned her several times, dissatisfied with the content of her show, which she perceived as pressure.<sup>293</sup>

One of the topics that the government is particularly sensitive about is a megalomaniac project formally managed by the Belgrade local government, “Beograd na vodi” (Belgrade Waterfront), on which the Government refuses to provide information regarding the business and financial arrangements made with foreign investors. Also, the broader professional community and the local community did not have access to the planned urban and architectural solutions, and the very concept of that potential project has caused numerous doubts and criticisms, both by professionals (Academy of Architects) and by a segment of the general public.<sup>294</sup> On 19 March 2015, the communal inspectors detained activists of the initiative “Ne da(vi)mo Beograd” (Let’s not drown Belgrade) opposed to the project “Belgrade Waterfront”, and, according to them, informally detained a Beta news agency journalist doing a story on the issue, as well as a citizen who had nothing to do with distribution of newspaper they were circulating outside the city hall – the action for which they had obtained a proper permission.

The next example indicates sophisticated, but effective mechanisms of pressuring journalists. The well-known journalist Danica Vučenić had to leave the Radio-Television of Vojvodina (RTV), because officials from the ruling party refused to appear on her show for months after she had interviewed Olja Bečković. “From the moment I had Olja

290 NASE NOVINE, 27 SEPTEMBER 2014, *INFO KANAL OPERATES WITHIN RTVB92, AND SHOULD BE A SUBSTITUTE FOR TVB92 IN TERMS OF POLITICAL AND NEWS PROGRAMMES. THE MANAGEMENT HAS NOT BEEN ABLE FOR YEARS TO DEVELOP A DISTINCTIVE EDITORIAL POLICY OF THE CHANNEL. INFO KANAL IS BROADCAST EXCLUSIVELY BY CABLE – IT COVERS 60 PERCENT OF THE SERBIAN TERRITORY – AND IS NOT RECOGNIZABLE AS A MEDIA OUTLET LIKE RADIO AND TV B92.*

291 BLIC, 15 SEPTEMBER 2014

292 BLIC, 16 SEPTEMBER 2014

293 DANAS, 29 OCTOBER 2014. MORE DETAILS IN THE HELSINKI COMMITTEE FOR HUMAN RIGHTS REPORT OF 2014, WWW.HELSINKI.ORG.RS

294 ANALYST OF PUBLIC TV STATION PROGRAMMES FOR THE KONRAD-ADENAUER FOUNDATION DRAZEN PAVLICA SAYS THAT DURING THE FIRST FIVE VIEWINGS OF “BEOGRAD NA VODI” BROADCAST ON THE CITY’S TV STUDIO B, THERE IS A NOTICEABLE ABSENCE OF INVESTIGATIVE JOURNALISM AND CRITICAL COMMENTS “AND UNINSPIRING QUESTIONS AND BANAL OBSERVATIONS PREVAIL, WHILE THE HOST ALLOWED THE CITY MAYOR TO HAVE A KIND OF REPETITIVE MONOLOGUE”. DANAS, 3 DECEMBER 2014.

Bečković on my show, the government representatives didn't want to be my guests. I understand that as a boycott.<sup>295</sup> Danica Vučenić says she was thus prevented from asking questions of relevance to the public, on behalf of the audience, on a public broadcasting service, that she then became aware of not being able to host anyone from the ruling Serbian Progressive Party and that she “was forced into showing only one side of the coin and of being uneven-handed”. “I believe that in this way I cannot do my job professionally as an interviewer of the public broadcasting service, because it is my job to ask questions and seek answers from all participants of public and political life. My idea of professional journalism collides with the situation in which I find myself with regard to my show”, said Vučenić. The Board of the Radio-Television of Vojvodina announced that Danica Vučenić had, within a very short space of time, made a cult show out of her TV series “Jedan na jedan” (Face-to-face), which raised a number of issues of contemporary life and gained great authority in the public. Her journalistic engagement on that project earned her numerous awards.

Some cable operators in Serbia took off air the Croatian (HRT1 and HRT2) and Sarajevo TV channels (OBN) on 5 August 2015, during the celebration of the twentieth anniversary of the operation Storm in Croatia, which is interpreted differently in Serbia and Croatia. It is an illegal act since the TV subscribers are deprived of channels they paid for in a TV package offered by the operator. Independent Journalists' Association of Vojvodina and the Independent Journalists' Association of Serbia have asked the administration of cable provider SBB, to explain why these channels were switched off, but no explanation was given. The associations assessed that the aim was to prevent the public from receiving and evaluating information from various sides. They remind us that it has happened before that cable operators arbitrarily prevented access to certain media content. Journalists' associations insist that this case be completely clarified, so that such arbitrary decisions are not used for censoring media content in the future.

#### 7.4. USE OF THE MEDIA IN THE ELECTION CAMPAIGN

During the last election campaign conducted between January and March 2014,<sup>296</sup> it was apparent that most media outlets, both print and electronic, favoured the Serbian Progressive Party, reflected not only in providing more airtime to Aleksandar Vučić and SNS officials, whether those in party positions or those in the Government of Serbia, but also in the media disqualifications of their political opponents, primarily the Democratic Party and its former leader, Dragan Đilas, and the coalition partner – the Socialist Party of Serbia and its leader Ivica Dačić. Statistical analysis of daily newspapers in Serbia made by the Human Rights House showed that the main trend in the campaign was “an overwhelming media support for the ruling Serbian Progressive Party”.<sup>297</sup> Statistical analysis of the electronic media, which was posted on the website of the Broadcasting

295 DANAS, 19 MARCH 2015

296 THE ELECTIONS WERE HELD ON 16 MARCH 2014.

297 [HTTP://KUCALJUDSKIHPRAVA.RS](http://kucaljudskihprava.rs). YUKOM, THE HELSINKI COMMITTEE FOR HUMAN RIGHTS IN SERBIA, POLICY CENTRE, CIVIC INITIATIVES AND THE BELGRADE HUMAN RIGHTS CENTRE.

Agency of Serbia,<sup>298</sup> also shows that television stations favoured the Serbian Progressive Party during the election campaign.

## RECOMMENDATIONS

**IT IS NECESSARY FOR THE GOVERNMENT TO** CONTRIBUTE TO THE DEVELOPMENT AND PROMOTION OF THE CULTURE OF FREEDOM OF EXPRESSION AND TO REAFFIRM THE PUBLIC DEBATE ON ISSUES IMPORTANT TO A DEMOCRATIC SOCIETY. IN ADDITION TO THE ADOPTION AND RESPECT OF LEGISLATION GUARANTEEING FREEDOM OF THE MEDIA, IT IS ESSENTIAL THAT THE GOVERNMENT CONTRIBUTES TO AN ATMOSPHERE THAT PROMOTES AND ENCOURAGES PUBLIC DEBATE AND FREEDOM OF EXPRESSION.

**THE GOVERNMENT OF SERBIA, LOCAL SELFGOVERNMENTS AND** OTHER EXECUTIVE AND LEGISLATIVE AUTHORITIES ARE CALLED UPON NOT TO DISCRIMINATE AGAINST INDEPENDENT MEDIA WITH RESPECT TO THEIR ACCESS TO INFORMATION, IN LINE WITH THE OBLIGATIONS OF THE OSCE PARTICIPATING STATES UNDER THE DOCUMENT OF THE MOSCOW MEETING OF 1991. AS LAID DOWN BY THE OSCE PRINCIPLES, PARTICIPATING STATES ARE REQUIRED TO PROVIDE THE OPERATION OF FREE, INDEPENDENT AND PLURAL MEDIA OUTLETS BEFORE, DURING AND AFTER THE ELECTIONS.

**ARBITRARY INTERRUPTION OF TV PROGRAMMES BROADCAST FROM** OTHER OSCE PARTICIPATING STATES IS CONTRARY TO THE SPIRIT OF THE HELSINKI FINAL ACT (IMPROVEMENT OF DIFFUSION OF RECORDED AND BROADCAST INFORMATION FROM OTHER OSCE PARTICIPATING STATES) AND OF THE MADRID DOCUMENT, ACCORDING TO WHICH THE PARTICIPATING STATES ARE COMMITTED TO ENCOURAGE REGULAR EXCHANGE OF INFORMATION, ARTICLES, NEWSPAPER SUPPLEMENTS AND PROGRAMMES.

**IN LINE WITH THE APPEAL ADDRESSED TO** THE OSCE PARTICIPATING STATES BY MS DUNJA MIJATOVIĆ, OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA, IT IS NECESSARY FOR THE GOVERNMENT OF SERBIA TO REFRAIN FROM BLOCKING THE MEDIA AND AVOID ARBITRARY AND POLITICALLY MOTIVATED ACTIONS, WHICH COULD OBSTRUCT THE EXPRESSION OF ALTERNATIVE OPINION.

<sup>298</sup> THE ABOVE DATA ON THE ELECTRONIC MEDIA IS TAKEN FROM THE REPORT AVAILABLE ON THE SITE WWW.RRA.ORG.RS.

## 7.5. SAFETY OF JOURNALISTS

Editor of “Insider” show Brankica Stanković, who blew a whistle on some of the most important social issues, has been under a 24-hour police protection for six years already. The broadcaster suspended her latest “Insider” show after the first episode exposing corruption in sports clubs, in March 2015. At the time of writing this report (31 August 2015), the show has not been resumed. “For TVB92 the safety of our journalists comes first and the only rational solution at this point is to protect the ‘Insider’ team of reporters at least in some way by postponing the show”, says the statement of TVB92.

According to the Independent Journalists’ Association of Serbia, an alarming campaign against Brankica Stanković has been waged for days, while board members of sports clubs and people from the fans’ organization have openly issued threats against journalists. “The state failed to react to this threat to freedom of the media and personal safety of journalists with appropriate measures, nor have the authorities showed in any way that they are upset about the threats coming from the management of sports clubs and fan groups”, the NUNS writes.<sup>299</sup>

“Fellow reporters from TVB92 have dealt with corruption in sports clubs, which has been spoken about by public in a low voice for decades. The fact that the show has been postponed due to pressures and threats raises deep concern, because it indicates that both the Government and the public beat a retreat before those under investigation for corruption”, says NUNS.

**Correspondent for Fonet News Agency Davor Pašalić** was beaten up on 3 July 2014, near his residence, and his assailants have not been identified. Three young men asked for his money, and when he said he was not going to give it to them, they brutally beat him, using offensive words such as Ustasha (“You’re a Croat, you are Ustasha”). After the attack Pašalić said: “I don’t think the attack has any specific motivation, but I still wonder how they knew I was Croatian”.<sup>300</sup>

Some statements by Police Minister Nebojša Stefanović raise a suspicion that the investigation into this incident has been taken seriously. Minister Stefanović said at a news conference that he was sorry Davor Pašalić did not positively identify the attackers from among more than 10 people brought in connection with the assault on him<sup>301</sup>, and that locating the attackers was one of the priorities for the police. It turned out, however, that journalist Pašalić was never actually called to the police station to identify the attackers.

Those responsible for the attacks on journalists have never been found even in some previous incidents. It was never revealed who attempted to murder Dejan Anastasijević in 2007, a former Vreme journalist, now Tanjug Correspondent from Brussels. Also, police did not uncover who beat Miloš Đorilijevski, a Beta reporter, during a protest rally held

299 9 MARCH 2015

300 DANAS, 4 JULY 2014

301 “WHAT I CAN SAY IS THAT THE POLICE PARADED MORE THAN A DOZEN PEOPLE IN FRONT OF MR. PAŠALIĆ FOR IDENTIFICATION, BUT HE WAS UNABLE TO RECOGNIZE ANY OF THEM. I BELIEVE THAT WE HAVE GIVEN ENOUGH INFORMATION ON THIS CASE, AND I WILL CERTAINLY LET YOU KNOW OF ANY NEW CIRCUMSTANCES SURROUNDING THE CASE, ONCE THE CASE IS CLOSED BUT NOT BEFORE THAT”, SAID STEFANOVIĆ TO THE PRESS AT THE PALACE OF SERBIA. BETA, 19 FEBRUARY 2015.

by the Serbian Radical Party in July 2008, following the arrest of Radovan Karadžić. That day, a number of police officers attacked a group of reporters who just stood still causing no trouble and held press cards in their hands. Đorilijevski was beaten several times by a baton on the head, face and across the body; as he headed to the Emergency Centre he was stopped by another police cordon; an officer came up to him and kicked him, and then the other officers joined in punching and kicking him. The beaten journalist never received any information as to whether the police officers who had beaten him were found and prosecuted.

**Verbal attacks on and criminalisation of journalists and the media in general:** The independent reporting network BIRN (their desk in Serbia) repeatedly came under attack by Prime Minister Aleksandar Vučić because of their investigative texts pointing the finger at possible fraud by representatives of the Government and state authorities. In August 2014, the reason for the attack was the agreement signed by the Government of Serbia with “Etihad”, which thereby became the owner of 49 per cent of the national air carrier. The next campaign against BIRN followed the publication of a media research on the tender for the Tamnava open strip mine.<sup>302</sup> It was spearheaded by PM Aleksandar Vučić, who accused BIRN of lying; it amounted to an attempt at disqualifying the Balkan Investigative Network as a respectable media outlet. The weekly magazine *Vreme* which published the research<sup>303</sup> also came under attack. The campaign had the function of intimidating other media to write on this subject.

The Serbian Prime Minister accused foreign diplomats and their Governments of paying the media to overthrow him. In particular, he accused the European Union of paying certain media outlets to conduct a campaign against the Serbian Government.<sup>304</sup>

Among the suggestions coming from sources close to the Prime Minister, as well as from some institutions, there were calls for taking drastic measures against BIRN, including the initiation of a court proceeding. The SNS MP Mirko Atlagić used the parliamentary despatch box to ask the judicial authorities and the Prosecutor’s Office if there were elements for reaction and protection of Prime Minister and the Prime Ministerial office as an institution since, as he said, he was faced with “very dangerous matters”.<sup>305</sup> MP Atlagić gave a spin to the story about media attacks on Vučić turning to be very perilous for the Prime Minister’s personal safety, and some individuals, as he put it, called for his murder, which was unrecorded in the history of the human civilization. Atlagić also

302 THE ARTICLE WAS PUBLISHED ON 8 JANUARY 2015, ON THE WEBSITE OF BIRN AND THE WEEKLY VREME.

303 AT A PRESS CONFERENCE HELD BY THE SNS PARTY, THE PRIME MINISTER SAID A DAY AFTER THE PUBLICATION OF THE PIECE ABOUT THE TAMNAVA MINE: “BIRN, THEY ARE THOSE WHO HAVE LIED ABOUT AIR SERBIA, THOSE WHO RECEIVED MONEY FROM MR. DAVENPORT AND THE EU TO SPEAK OUT AGAINST THE GOVERNMENT OF SERBIA. TELL THOSE LIARS (BERN) THEY LIED AGAIN”; VREME, 15 JANUARY 2015.

304 PRIME MINISTER VUČIĆ ACCUSED HEAD OF THE EU DELEGATION TO SERBIA MICHAEL DAVENPORT AND THE EUROPEAN UNION FOR GIVING MONEY TO THE BALKAN INVESTIGATIVE REPORTING NETWORK (BIRN) “TO SPEAK OUT AGAINST THE GOVERNMENT”. “TELL THESE LIARS (BIRN) THAT THEY LIED AGAIN”, VUČIĆ SAID AT A PRESS CONFERENCE AT THE HEADQUARTERS OF THE SERBIAN PROGRESSIVE PARTY. (POLITIKA, 13 JANUARY 2015). HE MADE SIMILAR COMMENTS A FEW MONTHS EARLIER WHEN VUČIĆ CAME INTO CONFLICT WITH THE OSCE REPRESENTATIVES, DUNJA MIJATOVIĆ AND PAUL TIDE. THEN, HE SAID HE HAD EVIDENCE THAT MANY IN THE INTERNATIONAL COMMUNITY, INCLUDING FOREIGN ENVOYS, PRESSURE THE MEDIA TO CAMPAIGN AGAINST HIM, AND THAT THE CAMPAIGN FOCUSED ON HIS FAMILY, TOO. HE ALSO SAID THAT THE OSCE REPRESENTATIVE ON FREEDOM OF THE MEDIA DUNJA MIJATOVIĆ, STATED A SERIES OF LIES AND SHOULD OFFER APOLOGIES.

305 DNEVNIK, 16 JANUARY 2015



used the parliamentary rostrum to say: “Such brutal media attacks reflect a collusion of the mafia-tycoon-criminal and politicking groups, both of domestic and foreign provenances”. The other MPs followed suit: For example, SNS MP Vladimir Đukanović said that BIRN was a “blackmailing, racketeering association” that under the “guise of independent investigative journalism, works for some agencies that have been particularly interested in our public companies and national resources”.<sup>306</sup>

The pro-government media have been engaged in these attacks. Editor-in-chief of the *Politika* and President of the Journalists’ Association of Serbia (UNS) Ljiljana Smajlović joined by sending a clear message in her leader comment entitled “We are not BIRN”,<sup>307</sup> which concludes that BIRN, as the media outlet “enjoying significant financial support of Western state and non-state donors”, has no media credibility and does not work in the interest of Serbia. The pro-government media have published for days the amounts of donations made and listed the media receiving international assistance in order to discredit them.

Attacks by the Prime Minister and other government officials on BIRN and on other media outlets because of researching topics for which there is an obvious public interest, are not only in contravention of the OSCE commitments, but also contravene the spirit of the Law on Information adopted by the SNS party majority in the Parliament, in August 2014. The Law states that the media are free to publish information, ideas and opinions on occurrences, events and personalities that the public has a justified interest to know about, regardless of the way of providing the information. The free flow of information through the media, as well as the editorial autonomy of the media must not be compromised, especially not by pressing them. Holders of public and political offices must withstand criticism concerning the results of their work, and the policies they pursue, while doing their job, regardless of whether they feel personally offended by the criticism.

With regard to the attacks on the media, the OSCE RFM and the European Union reacted several times. Spokesperson of the European Commission on Neighbourhood Policy and Enlargement Negotiations Maja Kocijančić pointed out that all media beneficiaries of EU funds have full editorial independence and are solely responsible for the published material: “The EU expects of the Serbian Government to provide an environment that will support freedom of expression and freedom of the media. Media criticism, such as the one in the texts by BIRN, is necessary in order to ensure effective responsibility of elected authorities; the authorities should, in turn, react in a constructive and transparent way, rather than suffocate it”, said Kocijančić.

306 *BLIC*, 12 JANUARY 2015

307 *POLITIKA*, 14 JANUARY 2015

## RECOMMENDATIONS

**PHYSICAL ATTACKS STILL POSE A THREAT TO** THE SAFETY OF JOURNALISTS, AS A RESULT OF THE IMPUNITY OF PERPETRATORS IN PREVIOUS INCIDENTS; VERBAL ATTACKS ON JOURNALISTS, ESPECIALLY WHEN THEY COME FROM GOVERNMENT'S REPRESENTATIVES AND THOSE HOLDING POWER IN THE SOCIETY, ALSO CONSTITUTE A DANGER TO THE SAFETY AND INTEGRITY OF JOURNALISTS AND A THREAT TO FREEDOM OF THE MEDIA. THE OSCE PARTICIPATING STATES ARE BOUND TO CONDEMN ALL ATTACKS ON, AND HARASSMENT OF, JOURNALISTS AND ENSURE THAT THOSE WHO ATTACK AND HARASS JOURNALISTS ARE HELD ACCOUNTABLE FOR SUCH ACTIONS.

**THE INTERNATIONAL STANDARDS, INCLUDING THE RELEVANT OSCE** COMMITMENTS AND RECOMMENDATIONS, REQUIRE THAT JOURNALISTS MUST BE FREE TO ASK QUESTIONS AND TO ADDRESS IMPORTANT SOCIAL ISSUES; DENIAL OF THE RIGHT TO INFORMATION IS A VIOLATION OF FUNDAMENTAL HUMAN RIGHTS.

**THE GOVERNMENT WILL BE MORE TRANSPARENT IF** IT DEVELOPS PROCESSES AND INSTITUTIONS PROVIDING TIMELY INFORMATION OF PUBLIC IMPORTANCE AND PROMOTING THE DIALOGUE BASED ON WELL-INFORMED POSITION. THE MEDIA ENJOYING MAXIMUM EDITORIAL INDEPENDENCE FROM POLITICAL AND ECONOMIC PRESSURES PLAY AN IMPORTANT ROLE IN ENSURING TRANSPARENCY IN PUBLIC AFFAIRS AND THE FIGHT AGAINST CORRUPTION. THIS IS IN LINE WITH THE DOCUMENT OF THE ELEVENTH MEETING OF THE OSCE MINISTERIAL COUNCIL IN MAASTRICHT IN 2003, AND THE DOCUMENT OF THE MINISTERIAL COUNCIL MEETING IN DUBLIN IN 2012.

**EVERYONE HAS THE RIGHT TO FREEDOM OF** EXPRESSION AND COMMUNICATION, WHICH INCLUDES FREEDOM TO HOLD OPINIONS, RECEIVE AND IMPART INFORMATION AND IDEAS WITHOUT INTERFERENCE OF PUBLIC AUTHORITY AND LIMITATIONS. THIS ALSO INCLUDES FREEDOM TO SEEK, RECEIVE AND DISSEMINATE INFORMATION ON HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS. THIS IS IN ACCORDANCE WITH THE COPENHAGEN DOCUMENT ON THE HUMAN DIMENSION.

## 7.6. INVESTIGATIONS INTO THE KILLINGS OF JOURNALISTS

The owner and editor-in-chief of Dnevni Telegraph and Evropljanin, Slavko Ćuruvija, was assassinated in 1999, and the indictment against four former officials of the State Security was brought only in March 2015.<sup>308</sup> According to the indictment, Ćuruvija was murdered “to keep political power in the country, endangered by his contacts with opposition leaders and foreign organizations”<sup>309</sup>. However, those who ordered his killing are still listed in the indictment as unknown persons.

Veran Matić, Chairman of the Commission Investigating the Killings of Journalists and media representatives (mandated to investigate four cases), said that there were two lines of investigation in the murder of journalist Milan Pantić, of Večernje Novosti (killed in 2001): business dealings of the Jagodina brewery and the privatisation process of the cement factory “Novi Popovac”, and that most progress was made in the investigation in this particular case.

In the case of journalist Dada Vujašinović (killed in 1994), it was decided to carry out another forensic investigation on the account of serious doubts in the official version claiming that the journalist had committed suicide.

In 2014, the Commission started to look into the deaths of 16 employees of Radio Television Serbia during the NATO bombing campaign in 1999. The General Staff and the Defence Ministry refused to give access to specific documents which are likely to prove that the RTS technical staff were *deliberately left* to die, and the prosecution refused to consider the presented evidence in support of a case of a premeditated murder of these people,<sup>310</sup> recalls Žanka Stojanović on behalf of the families of the victims killed. “Milošević’s top officials, including his generals, were aware days in advance of the imminent attack and sacrificed these people with the grotesque idea to appear before the world as the victim of a terrorist attack (“I am RTS”) – while at the same time they conducted a real campaign of terror in Kosovo.”<sup>311</sup>

308 INDICTMENT INCLUDES THE FORMER NATIONAL SECURITY CHIEF RADOMIR MARKOVIĆ, CHIEF OF THE DB BELGRADE CENTRE MILAN RADONJIĆ, CHIEF INTELLIGENCE INSPECTOR RATKO ROMIĆ OF THE DB SECOND ADMINISTRATION AND MEMBER OF THE DB RESERVE STAFF MIROSLAV KURAK

309 INDICTMENT FOR ORGANISED CRIME, *DANAS*, 1 APRIL 2015

310 ŽANKA STOJANOVIĆ’S PUBLIC LETTER ON BEHALF OF THE KILLED IN RTS, *PEŠČANIK.NET*, 23 JANUARY 2015

311 ŽANKA STOJANOVIĆ, *PEŠČANIK.NET*, 23 JANUARY 2015

## RECOMMENDATIONS

**IN ORDER TO FINALLY SOLVE THE CASES** OF MURDERED JOURNALISTS, IT IS NECESSARY TO IDENTIFY AND PROSECUTE THOSE WHO ORDERED THESE CRIMES IN THE FIRST PLACE. AS LONG AS THOSE WHO ORDERED CRIMES ARE NOT PROSECUTED, THESE CASES CANNOT BE CONSIDERED AS SOLVED. THIS IS IN LINE WITH THE MESSAGES OF THE OSCE RFM HEARD AT THE CONFERENCE "PROTECTING THE SAFETY AND INTEGRITY OF JOURNALISTS IN THE OSCE REGION", HELD IN BELGRADE, 26–27 MARCH 2015.

## 7.7. THE MEDIA, PROPAGANDA AND WAR TRACK RECORDS

\* *Additional information about hate speech available in the Report on the Protection of Human Rights Defenders*

Marginalizing, relativizing or disregarding almost every statement which indicates the responsibility of Serbia in the 1990s wars and the resulting problems – is an approach that has dominated the media landscape of Serbia. The report by the Humanitarian Law Centre (HLC) published in 2014, points to the reversal to the “nationalist rhetoric after the change of government in 2012”.<sup>312</sup>

Statements of human rights defenders on Serbia’s responsibility for the wars led to nasty media campaigns, as well as threats (including death threats) in the comments offered on these articles on the social networks.<sup>313</sup> Namely, such attacks are in flagrant violation of journalistic code of ethics. For example, the editor of *Večernje Novosti* Ratko Dmitrović demanded in an editorial, the prohibition of public appearance of human rights defenders – Director of the Centre for Euro-Atlantic Studies Jelena Milić and Chairwoman of the Helsinki Committee for Human Rights in Serbia Sonja Biserko – describing them as notorious Serb haters and traitors, and comparing them, at the same time, with a recidivist criminal.<sup>314</sup>

The same propaganda matrix, used by governmental and pro-governmental media in Serbia during the wars of the nineties, has been recognized in the media coverage on the commemoration of events of the past wars (twentieth anniversary of the genocide in Srebrenica – 11 July, and the twentieth anniversary of the operation “Storm” in Croatia – 5 August).

The Bureau for Social Research (BIRODI) analysed Serbia’s media coverage of the commemoration of the military operation “Storm” in the period of 3–6 August. The conclusion drawn was that the coverage was meant to inflame people in Serbia, and that the events over these 3–4 days only added fuel to the fire.<sup>315</sup> The language of revenge inciting hostility and conflict was most used by the tabloid *Informer*. This daily advocated retribution and revenge, a few days in a row, citing Šešelj’s words that “Our sons and grandchildren will bring back the Republic of Serbian Krajina”, or fashion designer Saša Vidić’s words about “a second time round”, emphasizing the military superiority of Serbia over Croatia. *Informer* is a daily newspaper reflecting a negative stance towards the EU and, on the other hand, this daily is estimated as a tabloid very close to the Prime Minister<sup>316</sup> A similar conclusion is made by journalist Tamara Skrozza, who analysed the daily press, saying, “It was just like 20 years ago: a layer of pathetic words, a layer of hate speech, and

312 DR KATARINA RISTIĆ: “POLITICAL DISCOURSE AT WAR CRIME TRIALS IN THE NATIONAL COURTS OF SERBIA, 2003–2013”, THE REPORT CAN BE ACCESSED ON THE HLC WEBSITE: [HTTP://WWW.HLC-RDC.ORG/?P=27668](http://www.hlc-rdc.org/?P=27668)

313 HELSINKI COMMITTEE REPORT OF 2013 “„PRIMORDIAL RESISTANCE TO LIBERAL VALUES”, [WWW.HELSINKI.ORG.RS](http://WWW.HELSINKI.ORG.RS)

314 THE TEXT “KRISTIJAN AND SOME OTHERS”, *VEČERNJE NOVOSTI*, 25 APRIL 2014

315 DIJALOG.NET

316 THE RESEARCH AVAILABLE AT: [HTTP://WWW.BIRODI.RS/ANALIZA-DNEVNIH-NOVINA-SLUCAJ-OLUJA/](http://WWW.BIRODI.RS/ANALIZA-DNEVNIH-NOVINA-SLUCAJ-OLUJA/)

all this repeated several times, finally to be wrapped in a wafer of the Day of Mourning and Remembrance of the Victims”.<sup>317</sup>

Simultaneously, the media lynch was launched against individuals, including the leader of the largest opposition party (Democratic Party) and Prime Minister of Vojvodina Bojan Pajtić for having spent summer holidays with his family in Croatia. The highlight was the front page of the *Informer*, a daily newspaper close to Prime Minister Aleksandar Vučić, which wrote next to the photos of Bojan Pajtić on a beach of Brioni Island, the following: “The leader of the DS on 4 and 5 August, the anniversary of Operation Storm, enjoys himself at the place where Tuđman ordered the ethnic cleansing in 1995”. The headline reads: “We managed to locate the leader of DS”.<sup>318</sup>

Nationalism in the media, coupled with breaches of ethical principles, contradicts the idea of reconciliation in the Western Balkans, which has been identified by Serbia as one of the priorities of its OSCE Chairmanship. The Independent Journalists’ Association of Vojvodina called on the authorities to make a public statement on media reports “violating legal and constitutional norms”.<sup>319</sup>

Centre for the transition processes, in cooperation with the Special Prosecutor’s Office for War Crimes, published in 2011 the book “Words and misdeeds: Serbian media’s calling for or inciting to war crimes in 1991–1992”, for which reason the war crimes prosecution Office has been targeted for years in the media. The book is an analysis of the media war propaganda of the nineties. Some of the propaganda practitioners of that period are active again, holding prominent positions in the society and waging hate campaigns against human rights defenders and people with different views and opinions. For example, in 2012 Ratko Dmitrović became Editor-in-Chief of *Večernje Novosti*, one of the most popular dailies where the Government of Serbia (together with one public company) has about 37 percent of shares. .

One of the journalists who is also referred to in the book “Words and misdeeds”, Milovan Drecun, is now an MP for the Serbian Progressive Party in the Serbian Parliament. He raised the issue of the legality of electing Deputy War Crimes Prosecutor and editor of the above-mentioned publication, Bruno Vekarić.

One of the most influential dailies, *Politika*, but most other media as well, nourish the relativization of the role played by the media in setting the stage for wars and, in this context, incitement to war crimes. To illustrate this, the emphasis in *Politika*’s articles is on Drecun’s allegations against Deputy Prosecutor Bruno Vekarić, without a critical distance and asking questions about such claims. Like Drecun himself, *Politika* insisted on: who paid for the publication of “Words and deeds”, how much money was obtained for it, what were the fees; the allegations about giving away classified information in the publication where only passages of texts from the nineties and journalists’ or authors’

317 TAMARA SKROZZA: “DNEVNA ŠTAMPA O ‘OLUJI’: HUŠKANJE, MRŽNJA I PATETIKA ZAVIJENI U CRNINU” [HTTP://WWW.CENZOLOVKA.RS/MIS-LJENJA/DNEVNA-STAMPA-O-OLUJI-HUSKANJE-MRZNJA-I-PATETIKA-ZAVIJENI-U-CRNINU/](http://www.cenzolovka.rs/misljenja/dnevna-stampa-o-oluj-i-huskanje-mrznja-i-patetika-zavijeni-u-crninu/).

318 [HTTP://BETA.INFORMER.RS/VESTI/POLITIKA/26188/EKSKLUZIVNI-PAPARACO-PRONASLI-SMO-PAJTICA-BRCKA-SE-NA-BRIONIMA](http://beta.informer.rs/vesti/politika/26188/ekskluzivni-paparaco-pronasli-smo-pajtica-brcka-se-na-brionima).

319 [HTTP://WWW.NDNV.ORG/?P=12313](http://www.ndnv.org/?P=12313).

analyses of these texts are published; the allegations that the prosecution secretly meets and complains to foreign diplomats.

On the other hand, the media outlets have not taken seriously either the threats<sup>320</sup> or the campaign directed against Prosecutor Vekarić. He refused an interview for Politika with the following explanation: “(...)The investigation into the threats made against my family and me is underway and I was advised to get out of the spotlight for now”.

## RECOMMENDATIONS

**IN LINE WITH THE PROCLAIMED COMMITMENT TO** REGIONAL COOPERATION AND RECONCILIATION, THE SERBIAN GOVERNMENT SHOULD ENCOURAGE A DEBATE ON THE LEGACY OF THE ARMED CONFLICT IN FORMER YUGOSLAVIA, PRIMARILY THROUGH NATIONAL PUBLIC BROADCASTING SERVICES, AND RECOMMEND/ENCOURAGE OTHER NATIONAL BROADCASTERS TO DEVOTE SOME OF THEIR PROGRAMMES TO THIS TOPIC.

**THE GOVERNMENT OF SERBIA SHOULD DEVELOP PROGRAMMES** THAT PROMOTE HUMAN RIGHTS, TOLERANCE AND MULTICULTURALISM, AS WELL AS TRUST AMONG THE PEOPLE. THIS IS IN LINE WITH OSCE COMMITMENTS. ACCORDINGLY, THE PARTICIPATING STATES HAVE SIGNED DOCUMENTS THAT ENCOURAGE AND PROMOTE TOLERANCE, DIALOGUE, RESPECT AND MUTUAL UNDERSTANDING THROUGH THE MEDIA, INCLUDING THE INTERNET. THE PARTICIPATING STATES ALSO COMMITTED THEMSELVES TO ENCOURAGING EDUCATIONAL PROGRAMMES FOR CHILDREN AND THE YOUTH ABOUT PREJUDICES OR STEREOTYPES THAT CAN BE FOUND IN THE MEDIA AND ON THE INTERNET.

<sup>320</sup> THE DEPUTY WAR CRIMES PROSECUTOR ANNOUNCED THAT THESE WERE SERIOUS THREATS AND “CREEPY SMS MESSAGES” THAT BEGAN TO ARRIVE TO HIM AND HIS FAMILY. “THESE THREATS ARE REALLY MONSTROUS. WE HAVE HAD SOME SEVENTY DIFFERENT KINDS OF THREATS, BUT WE HAVE NOT RECEIVED THIS KIND OF THREATS SO FAR... THEY CAN REALLY BE A PRODUCT OF, I WOULD SAY, A MANIAC, WHO MENTIONS MY CHILDREN, FAMILY, RAPE AND SO ON. IT MADE ME GENUINELY UPSET AND WORRIED”, SAID VEKARIĆ FOR RADIO FREE EUROPE, 29 NOVEMBER 2014.

## 7.8. ON-LINE/DIGITAL MEDIA

Serbia has not made any norm-setting step in promoting and protecting human rights in the digital field so far, and the problems faced by the media and members of the public online are becoming increasingly serious. In its last monitoring report (January – April 2015), the Share Foundation stated that there was a large number of attacks against on-line media without an adequate response by the competent authorities.<sup>321</sup> However, in some instances state authorities showed some initiative, which is encouraging. It is necessary, however, for the authorities to give serious attention to detecting perpetrators of technical attacks against on-line media, in order to send a clear message that they cannot go unpunished, especially in cases of serious hacking.

In the 2014 reports, Share Foundation stated that restrictions on online freedoms have been increased, for which local selfgovernments are often responsible. Online media and journalists are still under much pressure due to the presentation of information and views in the online public domain. The pressure takes various forms: insults, threats, and more recently lawsuits.<sup>322</sup> Individuals and bloggers are particularly being targeted. In addition to threats and abusive remarks, they are often prey to identity thefts, and they are prevented from using social media accounts, threatened with lawsuits and detained for organizing public meetings via Twitter.<sup>323</sup>

The perpetrators of attacks against online media remain unidentified. The competent national authorities have not found those responsible for cyber-attacks on the portal Peščanik and the website of the Centre for Investigative Journalism (CINS), as well as for the removal of the parody video footage from Feketić in early 2014 (a video showing Prime Minister Vučić reportedly rescuing people stuck in a snowstorm).

According to the report of the Share Foundation, one of the more serious attacks occurred in April 2015, when access to the portal Teleprompter was completely disabled. The attack also resulted in redirecting customers, who tried to access the site on the domain teleprompter.rs, to the site of the Kosovo government. The attacks further targeted gmail accounts used by the Teleprompter editor-in-chief Danilo Redžepović in operating the portal, as well as Facebook pages and Twitter account of the Teleprompter.

In early April 2015, there was a new form of unauthorized access to media websites by inserting texts. It happened to the websites of daily Danas and website Peščanik, on which a defamatory article about President of the Zaječar Municipal Assembly Saša Mirković was posted without authorization, and the text “Man with a ‘firm hand’ under investigation?” was previously published on the Peščanik website, co-signed by Miljana Radivojević and Marko Milanović, the two researchers who, in 2014, initiated the affairs with plagiarized doctoral dissertations. Mirković announced he would take legal action regarding the publishing of the article “Who is Saša Mirković” (Danas, Peščanik). Incidentally, Peščanik suffered technical attacks twice in 2014 but, according to the editor of

321 [HTTP://WWW.SHARECONFERENCE.NET/SITES/DEFAULT/FILES/U742/MONITORING\\_IZVESTAJ\\_JAN-APR\\_2015\\_KOMPLET\\_FINAL2.PDF](http://www.shareconference.net/sites/default/files/u742/monitoring_izvestaj_jan-apr_2015_komplet_final2.pdf).

322 [HTTP://SHAREDEFENSE.ORG/](http://sharedefense.org/); THIS IS THE LINK TO THE DETAILED REPORT BY THE SHARE FOUNDATION FOR AUGUST-DECEMBER 2014

323 [HTTP://SHAREDEFENSE.ORG/](http://sharedefense.org/).



the portal, Svetlana Lukić, no feedback information from the police has been received so far.

Prosecution in Nis dismissed on procedural grounds the charges filed for threatening the Southern News reporter Dragan Marinković, who was addressed the words “I would put a bullet in your head” (on Facebook) in December 2014. Namely, in the opinion of the prosecution, the threats received on the Facebook account were addressed to an “ordinary” citizen, and not to a journalist, and therefore, in this case the procedure was not conducted ex officio. It was later discovered that the son of SNS’s senior official in Leskovac was threatening Marinković.

Journalist Dušan Mašić launched a campaign known as #seventhousand on Twitter, to get seven thousand people to lie down in front of the National Assembly and thus mark the 20th anniversary of the genocide in Srebrenica. Mašić stated for television N1 that because of this action he received threats that he would be beaten and killed. He was even accused on Twitter that “he bears certain responsibility for the terrorist attack in Zvornik, and possible further attacks”.

During the floods of April 2014, three people were taken in by the police because of messages on their Facebook profiles, allegedly spreading panic. This came after Prime Minister Vučić made an announcement that spreading of panic during the floods would be investigated by the prosecutors. It is a selective implementation of the Criminal Code, because the public was not informed of where panic had been caused and where the state authorities had therefore been prevented from doing their job (a requirement for the prosecution of this offence). One of those detained is K. M.<sup>324</sup> (Full name is known to the Lawyers’ Committee for Human Rights). He was held in custody for eight days. K.M. addressed YUCOM for help and the case is pending.

In another case, P.P. who was also detained for the same offence (spreading panic through Facebook profiles) was appointed a defence counsel ex officio. The defence lawyer persuaded P.P. to sign a plea agreement.

## RECOMMENDATIONS

**THE OSCE PARTICIPATING STATES ARE COMMITTED TO** WORKING MORE SERIOUSLY ON IDENTIFYING THE PERPETRATORS OF TECHNICAL ATTACKS AGAINST ONLINE MEDIA, IN ORDER TO SEND A CLEAR MESSAGE THAT THEY CANNOT GO UNPUNISHED. ALSO, THE COMMITMENT UNDERTAKEN BY THE PARTICIPATING STATES IS TO DEAL SERIOUSLY WITH THE THREATS ADDRESSED ONLINE AGAINST INDIVIDUALS, ORGANIZATIONS AND MEDIA OUTLETS. THE PARTICIPATING STATES SHOULD TAKE ACTION TO ENSURE THAT THE INTERNET REMAINS AN OPEN AND PUBLIC FORUM FOR FREEDOM OF OPINION AND FREEDOM OF EXPRESSION. IN THIS RESPECT, IT IS NECESSARY THAT THE MINISTRY OF CULTURE AND INFORMATION, THE PROSECUTION AND THE MINISTRY OF INTERNAL AFFAIRS ESTABLISH RESPONSE PROCEDURES IN SUCH CASES.

324 THE FULL NAME IS KNOWN TO THE LAWYERS’ COMMITTEE FOR HUMAN RIGHTS

## 7.9. FREEDOM OF EXPRESSION IN ARTS AND CULTURE

The OSCE participating States must respect freedom of the arts and culture.<sup>325</sup> However, in reality there are instances indicating violation of artistic and academic freedoms. In August 2015, Terazije Theatre, founded by the Belgrade City Assembly, announced that the premiere of “Koštana”, scheduled for the autumn, was cancelled, on the grounds that stage manager Kokan Mladenović did not comply with the agreed deadlines for the submission of adaptation and lyrics of the songs. It is indicative that the decision was made after Mladenović’s public criticism of social conditions and after the reaction of Prime Minister Vučić (at a press conference and unrelated to the issue). Director Mladenović himself said that the reason for cancelling the performance was the fact that a transgender person was cast in the lead female role.

Cultural Adviser to the President of Serbia, Radoslav Pavlović, asked the same author, to cut a scene out of the play “Doctor Nušić” which, according to him, alluded to the Interior Minister, Nebojša Stefanović.<sup>326</sup> Mladenović describes these pressures as follows: “Immediately after the premiere of “Doctor Nušić” in Kruševac we had a very unpleasant conversation with Radoslav Pavlović, Cultural Adviser to the President of Serbia, who (...) insisted to remove an entire scene from the play, or else the play will not be on. Along with several more demands amounting to blackmail by him, the conversation ended”. Mladenović did not agree to change the scenes in the play, which was produced in cooperation with Kruševac and Sombor theatres.

In July 2015, the Terazije Theatre staged the “Mamma Mia” musical, directed by Jug Radivojević, from which the original LGBT elements were taken out. The Gay Lesbian Info Centre filed a complaint to the Commissioner for the Protection of Equality for homophobic censorship in the play; the Terazije Theatre announced, however, that the “Mamma Mia” musical would be performed from the autumn of 2015, exclusively by heeding the original licence for the show, and therefore the complaint was withdrawn.

Director of the Cultural Centre of Novi Sad Andrej Fajgelj demanded in 2013 that one of the works on exhibition by students of master’s degree studies at the Academy of Arts in Novi Sad be removed. The banned work shows a faceless human figure at the crucifixion, holding banknotes. Andrej Fajgelj became head of the Cultural Centre in October 2012, after the then city authorities, led by the Serbian Progressive Party, sacked the writer Láslo Blašković, because the sign of that institution was written only in the Latin alphabet.

Actors of the “Zoran Radmilović” Theatre in Zaječar Vujadin Milošević and Vladimir Milošević were fired due to their performance at a rally protesting against the city’s government (March 2015). The theatre manager stated that the actors lost their jobs because of the new job schemes, and not because of politics. The new job schemes were put in place the day following the rally.

325 DOCUMENT OF THE CRACOW SYMPOSIUM ON THE CULTURAL HERITAGE OF THE OSCE PARTICIPATING STATES, CRACOW, 1991

326 MINISTER STEFANOVIĆ DEFENDED HIS PHD AT THE MEGATREND UNIVERSITY IN BELGRADE, IN 2013 AND IN JUNE 2014, THREE SERBIAN DOCTORAL STUDENTS AND LECTURERS ABROAD PUBLISHED A DETAILED ANALYSIS IN WHICH THEY CLAIMED A PART OF HIS DOCTORAL THESIS WAS A PLAGIARISM.

The media campaign was launched against actor Goran Jevtić, cast in the lead role of the play “Gospođa ministarka”, which is critical of the incumbent Government. Top selling daily Blic published an article headlined “The Actor Goran Jevtić Had Sex With My Son”, based on unverified allegations made by a parent and continued in the same manner the following day. Blic breached the journalists’ code of conduct by publishing a text based on allegations, because the code requires journalists to respect the presumption of innocence. The Complaints Commission of the Press Council informed, explaining the decision that this newspaper violated the Code of Journalists of Serbia as follows: “Not only did Blic report that private criminal charges were filed, but it suggested to its readers, by sensationalist reporting, and the way of presenting and layout of the text, that Goran Jevtić was guilty (...), although the investigation is still underway”.

At Horgoš border crossing point, the Serbian customs officers seized eight books “The Terror of Serbian Occupiers against Albanians 1844–1999” and 17 books on the KLA member Agim Zeneli, in August 2015. Books written in Albanian were found on the bus coach travelling from Vienna to Prizren. Since these books were in Albanian and because customs officers were unable to determine who owned them, a misdemeanor complaint was filed against the driver. The Customs Administration claims that the books were seized because they were not declared, and not because of their content, although it initially announced that “an attempt to smuggle 25 propaganda books against the state of Serbia” was thwarted. This is contrary to freedom of expression, because a customs officer is not authorised to assess the content of a book.

## RECOMMENDATIONS

**PARTICIPATING STATES ARE OBLIGED TO RESPECT FREEDOMS** IN THE AREAS OF ARTS AND CULTURE. THIS APPLIES TO: PUBLICATIONS, MUSICAL PERFORMANCES AND BROADCASTING, THEATRE AND AUDIO VISUAL WORKS, EXHIBITIONS. VARIOUS AND INDEPENDENT PUBLISHING HOUSES, RADIO AND TELEVISION STATIONS, CINEMAS, THEATRES AND GALLERIES CONTRIBUTE TO PLURALISM AND FREEDOMS IN THE AREAS OF ARTS AND CULTURE. THE COMMITMENTS IN THIS REGARD HAVE BEEN UNDERTAKEN BY THE DOCUMENT OF CRACOW IN 1991.

