

## Serbia

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*Protector of Citizens of the Republic of Serbia*

### Accreditation status and SCA recommendations

The Serbian NHRI was last [reaccredited](#) with A status in March 2015. The SCA encouraged the NHRI to advocate for the adoption, the formalisation and the implementation of a transparent and participatory selection and appointment process. Moreover, the SCA, while acknowledging the existence of good practices, recommended amendments to the law to ensure pluralism and more independence in the staff selection. Finally, the SCA has consistently encouraged the need for the NHRI to receive an adequate level of funding.

In December 2020, the SCA [decided](#) to defer its accreditation review of the Serbian NHRI to October 2021, seeking further action and information concerning selection and appointment, addressing human rights violations, cooperation with civil society and human rights bodies, and the carrying out of the quasi-judicial mandate.

### Impact of 2020 rule of law reporting

#### Follow-up by State authorities

At the end of 2020, the Government of the Republic of Serbia established a Task Force for the Safety and Protection of Journalists which consists of the representatives of state bodies and media and journalist associations, and representatives of international organizations that provide support for the overall improvement of the media environment. The Task Force is expected to develop an Action Plan and make use of the Platform jointly designed by the Protector of Citizens and media and journalistic associations, which is a database of attacks and pressure on journalists and media workers.

#### Follow-up initiatives by the Institution

The 2020 Rule of Law Report was widely distributed among the Protector of Citizens' management and staff as well as among its partners and other relevant stakeholders. Also, the 2020 Rule of Law Report was mentioned in the Protector of Citizens' Annual Report for 2020 in the part dedicated to international cooperation. Finally, the Rule of Law Report provides a useful

overview of the activities of other ombudsman institutions and NHRIs in promoting the rule of law.

With the aim to promote the freedom of expression and media freedoms, in cooperation with journalists' associations, journalists' unions and independent experts, the Protector of Citizens initiated the development of a unique media platform, more precisely a database that will encompass all types of attacks and pressure on journalists and media workers. Special emphasis will be placed on economic pressures considering their significant impact on journalists' daily lives and professional work. The platform will aim at establishing a more efficient mechanism for the protection of journalists and will also contribute to more effective response of the competent authorities in cases of endangering the safety of journalists.

### *References*

- Official website of the Protector of Citizens:  
[https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=280:the-protector-of-citizens-on-media-platform-with-the-coe-and-media-associations-representatives-&catid=44&Itemid=4](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=280:the-protector-of-citizens-on-media-platform-with-the-coe-and-media-associations-representatives-&catid=44&Itemid=4).
- [https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=329:veljko-mili%C4%87-chairman-rade-%C4%91uri%C4%87-secretary-of-the-working-group-for-the-platform-on-recording-attacks-on-journalists&catid=44&Itemid=4](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=329:veljko-mili%C4%87-chairman-rade-%C4%91uri%C4%87-secretary-of-the-working-group-for-the-platform-on-recording-attacks-on-journalists&catid=44&Itemid=4)
- [https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=325:agreement-establishing-the-platform-for-recording-the-cases-of-endangering-safety-and-repressions-on-journalists-and-other-media-stakeholders-signed&catid=44&Itemid=4](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=325:agreement-establishing-the-platform-for-recording-the-cases-of-endangering-safety-and-repressions-on-journalists-and-other-media-stakeholders-signed&catid=44&Itemid=4)

## **Independence and effectiveness of the NHRI**

### **Changes in the regulatory framework applicable to the Institution**

A change in the national framework applicable to the Protector of Citizens is expected to be adopted in the second quarter of 2021. The Protector of Citizens drafted the new Law on the Protector of Citizens following the consultations with the SIGMA experts (SIGMA is the Support for Improvement in Governance and Management, a joint initiative of OECD/EU). The document was submitted to the Task Force for drafting the new Law on the Protector of Citizens (and of

which the Protector of Citizens is a member), established in December 2020 by the Ministry of Public Administration and Local Self-Government. The draft law stipulates further strengthening of the institution's human and institutional capacities and effectiveness in the promotion and protection of human and minority rights.

### **Enabling space**

Regardless of its personnel changes, i.e. new recruitment, the Protector of Citizens is still located at the same premises, which capacity is not adequate for the number of employees or the efficient organization of work.

The Protector of Citizens records high rate of state compliance with its recommendations resulting from oversight investigations – 97%. This high rate indicates that the authorities understand the importance of improving their effectiveness as well as the importance of cooperation with the Protector of Citizens.

### **Developments relevant for the independent and effective fulfilment of the NHRIs' mandate**

The Protector of Citizens does not report any significant changes that would in any way jeopardize its independence and mandate. Especially encouraging is the fact that, even in a challenging year such as 2020, citizens recognized the Protector of Citizens as an institution they could trust and turn to for the protection and promotion of their rights. Namely, the Protector of Citizens was addressed by 18.190 citizens in 2020, which means that the number of citizens' addresses increased by more than 67% as compared to 2019.

### **Human rights defenders and civil society space**

The Protector of Citizens launched an own initiative investigation in March 2020 into the actions of competent authorities following the media reports that a group of about 200 high school students, self-organized through social media, protested in Leskovac over the announcement that the Pride Parade would be held in that city, as well as that during the protest there were incidents and the gathered high school students chanting homophobic slurs. The Protector of Citizens determined that the competent authorities had taken measures within their mandate and reminded the Ministry of Education, Science and Technological Development of the recommendations made in its regular annual reports that this authority should provide training for staff working in educational institutions in order to raise awareness on LGBTI equality.

Following the attack on the Pride Info Center office building in March 2020, the Protector of Citizens launched an own initiative investigation into the actions of the Ministry of Internal Affairs.

The Ministry then informed the Protector of Citizens that it had identified the attackers and taken measures to prosecute them, first time after a total of 11 attacks on this office.

As part of the "Provide Support" campaign, on International Pride Day on June 27, 2020, the Protector of Citizens painted his logo in rainbow colours to show support for LGBTI rights.

### *References*

- [https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=312:ministry-of-education-to-provide-trainings-for-teachers-on-lgbt-issues&catid=44&Itemid=4](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=312:ministry-of-education-to-provide-trainings-for-teachers-on-lgbt-issues&catid=44&Itemid=4).
- <https://www.ombudsman.org.rs/index.php?limitstart=168>
- [https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=178:-press-release-by-the-protector-of-citizens-on-a-hooligan-attack-on-the-pride-info-center-building&catid=49&Itemid=16](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=178:-press-release-by-the-protector-of-citizens-on-a-hooligan-attack-on-the-pride-info-center-building&catid=49&Itemid=16).
- [https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=317:attacks-on-lgbti-people-to-be-treated-as-crimes-of-racism-and-intolerance-&catid=44&Itemid=4](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=317:attacks-on-lgbti-people-to-be-treated-as-crimes-of-racism-and-intolerance-&catid=44&Itemid=4)
- [https://www.ombudsman.org.rs/index.php?option=com\\_content&view=category&layout=blog&id=44&Itemid=4&limitstart=56](https://www.ombudsman.org.rs/index.php?option=com_content&view=category&layout=blog&id=44&Itemid=4&limitstart=56)

## Checks and balances

The activities of the Protector of Citizens in 2020, during the COVID-19 pandemic, led to a significant increase of public trust in this institution, which is confirmed also in two separate public polls conducted last year. The findings of first poll (conducted immediately following the termination of the state of emergency in May 2020) showed that the citizens trust the Protector of Citizens most for protecting their rights. The findings of the second poll (December 2020) showed that the Protector of Citizens is an institution the citizens would first turn to for protecting their rights. The Protector of Citizens observed that persons with disabilities face various physical, information, communication and other obstacles when it comes to their right to vote, making it difficult or completely impossible for them to equally participate in decision-making and express their political will. In order to address these issues, the Protector of Citizens joined a Group for

Consultations on Inclusive Electoral Process and Rules in order to make concrete proposals for the improvement of the electoral process through the joint work of all stakeholders.

The Protector of Citizens issued a statement calling on certain political actors to refrain from attacking this independent state institution.

The Protector of Citizens issued a recommendation to the Regulatory Authority for Electronic Media (RAEM) in which it was determined that this independent regulatory authority violated the provisions of the Law on Electronic Media and the Law on the Protector of Citizens, for not conducting inspection of the broadcaster "Happy TV" due to its TV show in which the guests of the show, according to the complaints, expressed inappropriate attitudes towards the African-American community in the United States of America.

### *References*

- Poll May 2020 available at: <https://tritacke.org/srp/page/istrazivanje>
- Poll December 2020 available at: <http://www.bgcentar.org.rs/predstavljeno-istrazivanje-ljudska-prava-u-ocima-gradana-i-gradanki-srbije/>

## **Functioning of the justice system**

Although the oversight of courts and public prosecutor's offices falls outside the mandate of the Protector of Citizens, the citizens expressed dissatisfaction with the work of the mentioned authorities in their complaints in 2020, as in previous years. The Protector of Citizens receives a significant number of complains each year pertaining to the work of courts and public prosecutor's offices, as well as the Ministry of Justice which is responsible for conducting oversight of court administration. In these complaints, citizens, including detainees, most often point to violations of the right to a fair trial and a trial within a reasonable time, expressing their views on the existence of irregularities related to the conduct and course of the court proceedings, as well as dissatisfaction with the court decisions.

More specifically, in these complaints the citizens expect the Protector of Citizens to oversee the work of judicial bodies, primarily courts, and their decisions, to initiate appropriate proceedings against judicial office holders in order to determine their responsibility, and to influence or order changes to be made in court decisions. With regard to the mandate of the Protector of Citizens

and its limitations, its role in handling such complaints is to provide general information on the proceedings, available legal remedies and relevant authorities through which the oversight of courts and public prosecutor's offices is ensured.

Despite the Protector of Citizens' recommendations, no changes and amendments of the Law on Free Legal Aid have been made yet to introduce LGBTI people as vulnerable beneficiaries, although they are often exposed to threats, violence, hate speech and hate crime, and other serious human rights violations in various spheres of life.

### *References*

- The law is available in Serbian: <https://www.paragraf.rs/propisi/zakon-o-besplatnoj-pravnoj-pomoci.html>.

## **Media pluralism and freedom of expression**

Physical and verbal attacks on journalists, belittling, humiliating and discrediting media workers continued in 2020. Records of these attacks, kept by various media associations, are not unified. The Independent Association of Journalists of Serbia (NUNS) recorded 189 attacks on journalists in its database, among which 92 cases of pressures (i.e. intimidations, insults, defamation, etc.). According to that association, total number of attacks increased by about 60% compared to 2019. The increase recorded by the Association of Journalists of Serbia (UNS) based on journalists' reports is lower: they pointed at a 20% increase in the number of attacks against journalists (111) compared to the previous year.

According to UNS records, only in July 2020, during the protests in Belgrade, Niš and Novi Sad, 28 journalists, cameramen and photo reporters who reported from these protests, were attacked and their work was obstructed, while 14 of them sustained injuries, 6 of which required emergency medical care. The position and status of journalists and media workers is further jeopardized by their poor economic status.

The Protector of Citizens notes that no progress has been made in the area of freedom of speech and expression in the Republic of Serbia. Insults and public humiliation, especially of female journalists and politicians, occur with undiminished ferocity. Sexist and discriminatory comments are indicative of a growing intolerance, as well as the impossibility of establishing elementary dialogue in society. Frequent reporting on migrants participating in illegal activities further fuels

the potential activities of extremist groups. Although less common, there are still media headlines which emphasize the nationality of crime perpetrators - usually Roma national minority.

The Protector of Citizens issued a recommendation to the Regulatory Authority for Electronic Media (RAEM) in which it was determined that this independent regulatory authority violated the provisions of the Law on Electronic Media and the Law on the Protector of Citizens, for not conducting inspection of the broadcaster "Happy TV" due to its TV show in which the guests of the show, according to the complaints, expressed inappropriate attitudes towards the African-American community in the United States of America.

During the state of emergency declared due to COVID-19 pandemic, the Protector of Citizens responded to the arrest and detention of a journalist, Ms Ana Lalić. In an interview with Ms Lalić and her legal representative, the Protector of Citizens requested the information about the actions of the police during detention.

In his statement from July 2020, the Protector of Citizens announced, that in accordance with his legal powers, he would investigate whether the inspection of bank transactions of journalists and citizens' associations as of January 1, 2019, conducted by the Administration for Prevention of Money Laundering of the Ministry of Finance, had been performed on the basis of applicable regulations and laws. The Protector of Citizens is not aware of the reason why the Administration for Prevention of Money Laundering chose the specific journalists, civil society organizations and citizens' associations for inspection but will continue to monitor the situation closely and act accordingly.

With the aim to promote the freedom of expression and media freedoms, in cooperation with journalists' associations, journalists' unions and independent experts, the Protector of Citizens initiated the development of a unique media platform, more precisely a database that will encompass all types of attacks and pressure on journalists and media workers. Special emphasis will be placed on economic pressures considering their significant impact on journalists' daily lives and professional work. The platform will aim at establishing a more efficient mechanism for the protection of journalists and will also contribute to more effective response of the competent authorities in cases of endangering the safety of journalists.

At the end of 2020, the Government of the Republic of Serbia established a Task Force for the Safety and Protection of Journalists which consists of the representatives of state bodies and media and journalist associations, and representatives of international organizations that provide support for the overall improvement of the media environment. The Task Force is expected to develop an Action Plan and make use of the Platform jointly designed by the Protector of Citizens

and media and journalistic associations, which is a database of attacks and pressure on journalists and media workers.

### References

- <http://www.bazenuns.rs/srpski/napadi-na-novinare>
- <https://www.uns.org.rs/sr/saopstenja/106343/uns-upozorava-da-raste-broj-napada-na-novinare-.html>

## Impact of measures taken in response to COVID-19 on the national rule of law environment

### Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

During the state of emergency, the Protector of Citizens issued an opinion to the Ministry of Justice regarding exercising the right to a fair trial and called the Ministry to take measures within its mandate to enable access to alternative means of communication (Skype) between the defendant and defence counsel in a separate room, without the presence of third parties, with supervision only by watching and not listening, with no limits to the duration of communication to 30 minutes, in order to create the necessary conditions for conducting a confidential conversation and preparing the defendant's defence.

The Protector of Citizens observed that the COVID-19 pandemic brought many challenges in all spheres of society and the functioning of the state, and consequently, in the field of human rights promotion and protection. More specifically, human rights challenges showed the importance of strong, functional national human rights institutions with qualified resources that can be a relevant corrective factor in all potential situations of limitations on human rights.

The Protector of Citizens produced several reports related to the issues arising from the current COVID-19 crisis, such as:

- Special report of the Protector of Citizens on the activities during the state of emergency, in which it finds that the COVID-19 pandemic and the related measures have greatly affected the enjoyment of human rights, especially the rights of marginalized groups such as persons with

disabilities, children with disabilities, homeless people, victims of domestic violence, national minorities, especially Roma, etc. Therefore, the Protector of Citizens intensified its efforts in reaching out to these groups and protecting their rights.

- Special report of the Protector of Citizens on conditions in Roma settlements during the state of emergency and the implementation of protection measures due to the COVID-19 pandemic
- Thematic report of the National Preventive Mechanism on the application of CPT principles relating to the treatment of persons deprived of liberty during the COVID-19 pandemic

### *References*

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[https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=193:the-protector-of-citizens-issued-an-opinion-to-the-ministry-of-justice&catid=49&Itemid=16](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=193:the-protector-of-citizens-issued-an-opinion-to-the-ministry-of-justice&catid=49&Itemid=16)
- Special reports available at: <https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6658-report-on-protector-of-citizens-activities-during-covid-19>.  
<https://www.ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6656-special-report-of-the-protector-of-citizens-with-recommendations>.  
<https://www.ombudsman.rs/attachments/article/6630/Report.pdf>.

### **Most important challenges due to COVID-19 for the NHRI's functioning**

The National Preventive Mechanism could not fully perform its mandate at residential care institutions (although its activity resumed afterwards) given that the then Minister of Labour, Employment, Veteran and Social Affairs did not allow the NPM to visit, referring to the Order on the prohibition of visits and restrictions on movement in homes for the elderly. This ban was imposed even though the minister had been informed about the commitments of the Republic of Serbia following the adoption of the Law on Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as that the NPM would conduct the visit with full observance of all preventive measures.

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- Official website of the Protector of Citizens  
[https://www.ombudsman.org.rs/index.php?option=com\\_content&view=article&id=237:protector-of-citizens-in-its-capacity-as-npm-was-denied-access-to-adh-in-zemun&catid=15&Itemid=18](https://www.ombudsman.org.rs/index.php?option=com_content&view=article&id=237:protector-of-citizens-in-its-capacity-as-npm-was-denied-access-to-adh-in-zemun&catid=15&Itemid=18)

