

ECRI REPORT ON SERBIA

(sixth monitoring cycle)



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FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States of the Council of Europe regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI’s country monitoring deals with all member States on an equal footing. The work takes place in 5-year cycles. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, those of the fourth round in the beginning of 2014, and those of the fifth round at the end of 2019. Work on the sixth round reports started at the end of 2018.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI’s reports are not the result of inquiries or testimonial evidence. They are analyses based on information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The sixth round country reports focus on three topics common to all member States: (1) Effective equality and access to rights, (2) Hate speech and hate-motivated violence, and (3) Integration and inclusion, as well as a number of topics specific to each one of them.

In the framework of the sixth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

The following report was drawn up by ECRI under its own responsibility. Unless otherwise indicated, it covers the situation up to 7 December 2023; as a rule, developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.

SUMMARY

Since the adoption of ECRI's fifth-cycle report on Serbia on 22 March 2017, progress has been made and good practices have been developed in a number of fields.

The Commissioner for the Protection of Equality (CPE) was tasked with keeping records of judgments and other legally binding decisions pertaining to discrimination or violation of the principle of equality.

The authorities reviewed content of textbooks and teaching material and removed discriminatory content.

Several initiatives aiming at promoting inclusion and protection of LGBTI persons at the workplace have been carried out by civil society organisations, some of which benefitted from the support of the authorities.

In the field of combating hate speech, there are a few examples of political leaders and representatives of public institutions condemning hate speech. In addition to that, in December 2020, the National Assembly introduced a Code of Conduct for Members of the Parliament.

When it comes to combating hate-motivated violence, the guidelines for the prosecution of hate crime have been developed and a network of contact persons working on hate crime within the prosecution services has been established. The authorities have also developed and implemented a hate crime training plan and programme.

As regards integration and inclusion of Roma, the 2021 amendments to the Law on Prohibition of Discrimination referred to segregation as a severe form of discrimination. Progress has overall been made in securing better preschool and school attendance of Roma pupils. The authorities have also introduced the Unique Educational Number for each pupil, which facilitates the monitoring of and responses to drop-outs and supported the enrolment of Roma students in secondary schools through special measures and scholarships.

Significant progress has been achieved towards resolving the problem of lack of personal identity documents for Roma.

Moreover, special measures have been taken to diversify the police force by employing persons belonging to minority populations. They included recruitment campaigns in areas with a predominant or significant presence of minority

populations and the organisation of workshops to provide support to candidates.

ECRI welcomes these positive developments in Serbia. However, despite the progress achieved, some issues give rise to concern.

The CPE still has not been granted prerogatives to conduct inquiries into discrimination cases *ex officio* and to request the production of relevant evidence and other material.

In the context of inclusive education, further efforts are needed to empower teachers to build competences related, *inter alia*, to sexuality education and to sensitise teaching staff on LGBTI issues. Moreover, the content of biology textbooks has been recently amended and they no longer include narratives aimed at countering stigma affecting LGBTI persons.

Prejudice against LGBTI persons remains widespread. Despite the fact that, in 2021, the authorities prepared the draft Law on Same-Sex Unions, the draft law was not tabled in the National Assembly.

There is no comprehensive data on hate speech and the actual number of hate speech cases is considered to be much higher than what is reflected in existing statistics. Hate speech is persisting in political and other public discourse, in particular online, and targets various groups, such as Roma and other ethnic minorities, LGBTI communities and refugees/migrants.

Important problems continue arising in respect of identification documents available for refugees and asylum-seekers. The fact that they do not contain foreign citizen's registration numbers (EBS) and the format of such documents generate obstacles in various administrative procedures. Moreover, despite the fact that according to the relevant legislation, travel documents should be issued to refugees, at the time of the ECRI visit to Serbia no secondary legislation concerning this matter had been adopted and refugees could not obtain travel documents.

With respect to Roma population, *de facto* segregation in education is relatively increasing and the school attendance and completion rates remain far lower for Roma children than for the general pupil population. Moreover, the housing situation of Roma remains very tense due to serious gaps in the implementation of an otherwise robust legal and policy framework. Forced evictions from settlements continued to

take place without consultations, due process or possibilities for alternative suitable accommodation.

The Social Card Law, adopted in 2021, and its implementation have raised serious questions over their implications for the right to social assistance and its impact on the most vulnerable categories of the population, in particular Roma, who were most impacted by the withdrawal of social assistance.

In this report, ECRI requests that the authorities take action in a number of areas and makes a series of recommendations, including the following.

The authorities should give the CPE the prerogative to conduct inquiries into cases of discrimination *ex officio* and, upon request, to obtain evidence and other material.

The authorities should ensure that the curricula and textbooks address LGBTI issues in a manner which is sensitive, age-appropriate and easy to understand and that discussions on LGBTI issues at all levels of education are evidence-based and place particular emphasis on equality, diversity and inclusion.

As regards LGBTI equality, the authorities should build on the progress made in the elaboration of a draft law on same-sex partnerships in recent years and submit such a draft law to the National Assembly without undue delay, following meaningful consultations with relevant civil society actors.*

The authorities should commission a comprehensive study on the different forms of hate speech in Serbia, their sources and impact on target groups with the aim of developing and implementing measures to prevent and eliminate these phenomena.*

They should also step up their efforts in encouraging public figures, in particular high-level officials, politicians and religious leaders, to refrain from using racist and other forms of hate speech themselves, to firmly and promptly condemn the use of such speech by others, to use counter-speech and alternative speech.

In the field of integration and inclusion of refugees, the authorities should take further action to ensure that refugees are provided with appropriate travel and ID documents and that asylum seekers are provided with proper ID documents in practice.

The authorities should take determined action to end all forms of *de facto* segregation of Roma children in schools, in line with the anti-discrimination legislation as amended in 2021.

They should also take the necessary measures to ensure strict adherence to the legal provisions regulating forced evictions of Roma persons and to make sure that these are not carried out without consultation, due notice and effective opportunities for rehousing in decent, affordable accommodation.

The authorities should fundamentally review the decision-making process involving algorithmic systems in the provision of social assistance with a view to ensuring that Roma and other groups of concern to ECRI have equal opportunities in benefiting from social assistance and are not subjected to discrimination. Particular emphasis should be placed on addressing potential bias in the production of training data, ensuring transparency in the operation of algorithmic systems and in the decision-making, organising appropriate awareness-raising activities amongst relevant professionals, developing effective remedies and establishing a powerful oversight mechanism.

* The recommendations in this paragraph will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

FINDINGS AND RECOMMENDATIONS

I. EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

A. Equality bodies¹

1. The Commissioner for the Protection of Equality (CPE) and the Protector of Citizens (Ombudsman) are the two main institutions having equality body functions in Serbia. Regarding the legal framework governing these institutions, ECRI refers to its previous reports.² In the present report, it will focus mainly on major changes in the functioning of the CPE brought about in recent years.³
2. The CPE continued possessing most of the prerogatives and responsibilities advocated by ECRI in its relevant general policy recommendations.⁴ In a welcome development, the Law on Prohibition of Discrimination (LPD), to which the function of the CPE is anchored, was amended in 2021, mandating i) the national courts to provide the CPE with anonymised judgments and other legally binding decisions pertaining to discrimination or violation of the principle of equality, passed in criminal, civil and misdemeanour proceedings,⁵ and ii) the CPE to keep records of these documents. At the time of the ECRI delegation's 2023 visit to Serbia, the Ministry of Justice (MoJ) had not yet enacted secondary legislation on the technicalities of such record-keeping, although the time-limit to do so had expired.⁶ ECRI strongly encourages the Serbian authorities to adopt the relevant secondary legislation without further delay.
3. In its previous report, ECRI recommended that the Serbian authorities grant the CPE the prerogatives to take up discrimination cases *ex officio* and to request the production of relevant documents and other elements.⁷ During its visit to Serbia, ECRI learned that in the process of amending the LPD, there were proposals concerning providing the CPE with the power to conduct inquiries into cases of discrimination on its own initiative. However, the CPE was unwilling to be granted this power. Consequently, no changes were made or planned to be made.⁸ In this context, ECRI takes note of the fact that other Serbian independent bodies with an equality mandate are vested with the power to examine cases on its own initiative.⁹
4. ECRI recommends that the authorities give the Commissioner for the Protection of Equality the prerogative to conduct inquiries into cases of discrimination *ex officio* and, upon request, to obtain evidence and other material, in the light of its General Policy Recommendation No. 2 (revised) on equality bodies to combat racism and intolerance at national level.

¹ The term "national specialised bodies" was updated to "equality bodies" in the revised version of GPR No. 2 which was published on 27 February 2018.

² See respectively: ECRI (2011a): §§ 27-37 and ECRI (2017): §§ 16-18.

³ During its visit, the ECRI delegation also met with representatives of the [Commissioner for Information of Public Importance and Personal Data Protection](#) and the [Protector of Citizens – Ombudsman of the Autonomous Province of Vojvodina](#).

⁴ See principle 3 of ECRI's GPR No. 2 and §§ 24 and 52 of GPR No. 7. In particular, the CPE may issue recommendations and opinions on specific cases of discrimination, impose measures prescribed by law and alert the public to grave cases of discrimination, as well as monitor the enforcement of the law and other regulations within the institution's remit. The Commissioner is also authorised to initiate the adoption or amendments of regulations and issue opinions on preliminary drafts of laws and other regulations related to the prohibition of discrimination, as well as recommend measures ensuring equality to the State authorities and others.

⁵ Article 40a and 40b of the amended LPD.

⁶ CPE (2023): 15.

⁷ ECRI (2017): § 17.

⁸ See, in this connection, GPR No. 2, Explanatory Memorandum, paragraph 53.

⁹ For instance, the Protector of Citizens (Ombudsman) of the Autonomous Province of Vojvodina informed the ECRI delegation that approximately 40% of cases that she handled were taken up *ex officio*.

5. In the view of the CPE, the financial and human resources allocated to her Expert Service are insufficient.¹⁰ The CPE has been consistently requesting that the institution's staff be reinforced to reach the statutorily permitted number of 60.¹¹ The Commissioner has the legal power to decide independently on employing Expert Service members of staff.¹² However, in practice, the final decisions on the internal structure of the Office, the budget and the actual recruitment and deployment of staff are made by the Ministry of Finance. Such a situation is not compatible with §§ 27 and 28 of ECRI's General Policy Recommendation No. 2, thereby raising serious questions as to the CPE's *de facto* independence.
6. ECRI recommends that the authorities: i) provide sufficient budget for the CPE institution to fill all planned staff positions and carry out all its functions; and ii) secure the CPE institution's *de facto* independence in the management of its budget and the recruitment and deployment of its staff.
7. The CPE is elected for a five-year term in office.¹³ Important issues arose in May 2020, upon the expiry of the mandate of the Commissioner. In particular, the work of her Expert Service came to a standstill during the following six months, as the staff was not legally entitled to act on her behalf until the election of a new Commissioner or her re-election. Significant delays in the constitution of the National Assembly following the June 2020 elections resulted in the competent parliamentary committee reviewing the nominations only in November 2020. The outgoing Commissioner was re-elected for a second term through a fast-track procedure before the National Assembly, thereby raising concerns within the civil society.¹⁴ The overall six-month stalemate had negative consequences for victims of discrimination.¹⁵ The LPD, as amended in 2021, ultimately addressed the issue: it provides that the outgoing Commissioner shall remain in office until the election of his or her successor.¹⁶ ECRI welcomes this development and encourages the authorities to consider bringing forward similar changes to the law governing the election of the Protector of Citizens.

B. Inclusive education

8. This part of the report deals with policies aimed at combating exclusion and marginalisation through inclusive education and fostering a society that is respectful of diversity and tolerant (sections II and III of ECRI's General Policy Recommendation (GPR) No. 10 on combating racism and racial discrimination in and through school education). As regards specific measures concerning the education of migrant children and children belonging to ethnic minority groups, reference is made to chapter III.

¹⁰ The budget allocated to the CPE in 2022 amounted to RSD 112,722,000 (approx. EUR 960,950), compared with RSD 103,612,000 (approx. EUR 883,200) in 2021 and RSD 105,684,000 (approx. EUR 900,910) in 2020 (see CPE (2023): 230; CPE (2022): 207; and CPE (2021): 220 respectively). The CPE's Expert Service, which can statutorily employ up to 60 staff members, was employing 36 persons at the end of 2022.

¹¹ The electronic record-keeping will require additional financial and human resources, as recognised in the Strategy for Prevention of and Protection against Discrimination 2022-2030.

¹² LPD, Article 32.

¹³ Article 29 LPD.

¹⁴ See the relevant joint public statement of more than 50 leading CSOs of 24/11/2020 [here](#). See also: Gajin, S. (2021): 15-21.

¹⁵ Belgrade Centre for Human Rights (2020a): 257-259.

¹⁶ Article 30 of the amended LPD.

9. Achieving inclusive education is a declared objective in the Serbian legislation.¹⁷ Since the 2018/2019 school year, new, outcomes-based curricula have been introduced into the education system. Topics pertaining to human rights education are mainly covered in the Civics curriculum, an elective subject available throughout primary and secondary education. Nevertheless, this curriculum is not followed by all pupils¹⁸ and its content reportedly places more emphasis on concepts and notions rather than a practical understanding of human rights.¹⁹ In addition, when human rights-related topics are touched upon in class, the most controversial topics (such as human rights violations during wars in the region and LGBTI equality) are routinely skipped.²⁰ ECRI encourages the authorities to take further action in the area of human rights education, in the light of the above remarks.
10. ECRI was informed that, from 2019 to 2021, a total number of 35 programmes aimed at raising awareness about *inter alia* discrimination issues were made available to teaching staff. 315 relevant trainings involving 8,608 persons were conducted.²¹ The Ministry of Education, Science and Technological Development (MoESTD) cooperates with NGOs for the provision of teacher training on civic education²² and LGBTI equality.²³ However, the provision of such trainings rests upon the initiative of NGOs and further efforts are reportedly needed to empower teachers to build competences related, *inter alia*, to sexuality education.²⁴ ECRI also notes that the Protector of Citizens called upon the MoESTD on several occasions to provide teacher training aiming at sensitising teaching staff on LGBTI issues.²⁵ ECRI invites the authorities to ensure that training designed to foster awareness on issues pertaining to racism and intolerance, including LGBTI-phobia, is made available to all teaching staff.²⁶
11. In its previous report, ECRI highlighted the importance of removing discriminatory content from schoolbooks.²⁷ Following a thorough analysis, the Organisation for Lesbian Rights LABRIS made concrete proposals to the MoESTD for the review of textbooks and teaching material that contained discriminatory content. All material with such content was subsequently withdrawn by the Serbian Institute of Textbooks.²⁸
12. However, in September 2022, the Serbian Orthodox Patriarch and the *Dveri* party leader publicly challenged the content of new biology textbooks²⁹ for promoting

¹⁷ In particular, the Constitution of the Republic of Serbia calls for the education to give “impetus to the spirit of tolerance and intercultural dialogue” (Art. 81). The Law on Primary Education and Upbringing foresees responsible participation in a democratic society as one of the general interdisciplinary competencies that must be developed by the end of primary education (Art. 21a, par. 3, point 2.), whereas the Law on the Foundations of the Education and Upbringing System sets forth equality and respect for human rights, both as a general principle of the education system and as an envisaged outcome thereof (see, in particular, Articles 7 and 8 § 1, points 14-15).

¹⁸ As per the estimate of the teachers the ECRI delegation met, about half of the total number of pupils choose to follow Civics.

¹⁹ Civil Rights Defenders (2021): 18.

²⁰ Civil Rights Defenders (2021): 19.

²¹ In this respect, the Serbian authorities drew attention to the organization of the seminar entitled “All our identities”, which has been attended by 140 teachers at primary and secondary level, including civic education teachers. Furthermore, the new catalogue of training activities for the school years 2021-2024 includes 14 and six programmes pertaining respectively to interculturalism and the Holocaust. An overview of the relevant training programmes is available [here](#).

²² Council of Europe (2017): 71.

²³ For instance, the Lesbian Rights Organisation LABRIS has been organising teacher training on LGBTI issues since 2011. In 2020, it held two training sessions for 40 teachers and school psychologists in high schools (IGLYO (2022): 137).

²⁴ European Commission (2021): 105.

²⁵ See, e.g., Republic of Serbia, Protector of Citizens (2023): 49.

²⁶ ECRI’s GPR No. 10, Rec. III.2; GPR No. 17, Rec. 44.

²⁷ ECRI (2017): § 92; see also ECRI’s GPR No. 2, Rec. II.2.(f)-(g).

²⁸ IGLYO (2022): 137.

²⁹ Introduced ahead of the 2021-2022 academic year as a follow-up to the 2018/2019 reforms of the educational system.

“LGBT Ideology” over descriptions of gender and sexual identity, and called for their replacement. The *Dveri* party leader pledged to introduce legislation banning the “promotion of homosexual propaganda and transgenderism to minors”.³⁰ The Minister in charge of education subsequently ordered a new assessment of the syllabus and tasked the National Education Council with evaluating whether the programme was “in accordance with scientific theories” and whether “the national interest” was reflected in them.³¹ The working group entrusted with this task ultimately recommended the amendment of seven out of the eight challenged textbooks.³² The amended textbooks that were prepared for the 2023-2024 school year contain explanations and terminology on sexual orientation and gender identity (SOGI). However, they no longer include narratives aimed at countering stigma affecting LGBTI persons.³³

13. ECRI recommends that the authorities ensure that the curricula and textbooks at all levels of education address LGBTI issues in a manner which is sensitive, age-appropriate and easy to understand and that discussions on LGBTI issues are evidence-based and place particular emphasis on equality, diversity and inclusion.
14. Violence and discrimination in schools are prohibited by law.³⁴ The 2020-2023 Strategy for the Prevention and Protection of Children from Violence recognises that there is an issue of violence against LGBTI youth, including in education.³⁵ As a result of secondary legislation,³⁶ every school is obliged to develop an annual action plan against discrimination and violence, to set up a school board³⁷ to deal with bullying incidents and to report annually such incidents to the Ministry. In parallel, the national platform entitled “I look after you” (*Čuvam te* in Serbian)³⁸ started operating in 2021. Aiming at strengthening coordination among all competent institutions, the platform provides information and online trainings on preventing and responding to school violence.³⁹ It is also envisaged to make it available as a tool for pupils and their parents to report violent incidents directly. In December 2022, the MoESTD also approved a 10-point protocol to prevent and combat school bullying.⁴⁰
15. ECRI welcomes these initiatives. However, it emerged during the ECRI visit that their implementation raises questions. Teachers participating in the school boards reported a lack of concrete guidance on how to respond to violent incidents and of effective follow-up to reports of incidents from schools. Furthermore, the *Čuvam te* reporting platform displayed technical shortcomings.

³⁰ Radio Free Europa/Radio Liberty (2022, September 25).

³¹ *Ibid.*

³² The adequacy of the composition of the working group (which included no biology experts but mostly experts on philosophy, among whom several had allegedly demonstrated LGBTI bias in the past) has been challenged. (Belgrade University Institute for Philosophy and Social Theory (2022, November 24); Danas (2022, October 25)).

³³ For example, references to the facts that homosexuality is present among other species and that some countries do not harbour prejudice against same-sex marriages figure among those that have been deleted. Scientific experts have [protested this development](#).

³⁴ Law on the Foundations of the Education and Upbringing System, Articles 111 and 112.

³⁵ Nevertheless, the 2020-2021 Action Plan for the Implementation of the Strategy did not envisage any activities specifically addressing violence against LGBTI children. Both documents are available [here](#).

³⁶ The Rulebook on More Detailed Criteria for Recognising Forms of Discrimination by an Employee, Child, Student or Third Party in an Educational Institution, followed by the Rulebook on Institutions' Actions in the Case of Suspected or Determined Discriminatory Behaviour and Insult to Reputation, Honour or Dignity of the Person are the most important among them.

³⁷ Consisting of the school principal, representatives of the parents' association and a psychologist or education specialist.

³⁸ The platform is available [here](#).

³⁹ By the end of 2022, 39,054 employees in educational institutions, 4,120 parents and 13,103 pupils had followed trainings available on the platform.

⁴⁰ Serbia Monitor (2022, December 21).

16. In the view of ECRI, it is vital for the authorities to make further progress in the reporting, recording and monitoring of violence in schools, in particular LGBTI-phobic violence. According to the authorities, between September 2022 and April 2023, 635 violent incidents were notified to the MoESTD. A 2022 research conducted by civil society organisations also revealed that 56% of LGBTI children and youth of high school age had experienced some form of violence on grounds of sexual orientation and gender identity (SOGI) in the school environment.⁴¹ Bias-based violence was reported by 47% of pupils who experienced it.⁴² Approximately 54% of high school students believed that schools tolerate violence and discrimination against LGBTI pupils, whereas 72% of them stated having heard teachers speak negatively about LGBTI persons and 10% witnessed teachers publicly offending pupils or discriminating against them on SOGI grounds.⁴³
17. ECRI recommends that the authorities complete without delay the setting-up of a system capable of effectively monitoring racist and LGBTI-phobic incidents at school with a view to devising relevant long-term policies. Such system should include clear guidelines as to the type of incidents to be reported and concrete steps to be taken by school staff with a view to sanctioning the perpetrators and offering support and redress to victims.

C. Irregularly present migrants

18. In its GPR No. 16 on safeguarding irregularly present migrants from discrimination, ECRI calls for the creation of effective measures (“firewalls”) to ensure fundamental human rights of irregularly present migrants in fields such as education, health care, housing, social security and assistance, labour protection and justice. Such firewalls should decouple the activities of state authorities that provide social services from immigration control and enforcement obligations to make sure that migrants irregularly present in the country are not deterred from accessing their rights due to fear of deportation.
19. Irregular entry and irregular stay in Serbia are considered to be misdemeanours, in respect of which courts can impose a fine or issue an order for the foreign national to leave the country. Data on the number of migrants who are irregularly present in Serbia are limited.⁴⁴ Although tens of thousands of foreign nationals enter Serbia every year, only a handful of them do apply for asylum,⁴⁵ while the vast majority seeks to move on and claim asylum in other countries.
20. It emerged from the ECRI visit to Serbia that “firewalls” appear to exist in a number of fields. More specifically, all migrant children, regardless of their legal status, enjoy access to basic education.⁴⁶ As a result, according to the authorities’ estimations, 85% of the migrant population of school age who are accommodated in reception and asylum centres have access to the Serbian education system. Furthermore, although the Serbian legislation does not explicitly entitle irregularly present migrants to be accommodated in reception facilities, the authorities made

⁴¹ Centre for Research and Social Development IDEAS - Regional Info Center (2022): 5.

⁴² *Ibid*: 8.

⁴³ *Ibid*: 9.

⁴⁴ Some data exist as regards migrants who were sanctioned for illegal entry or presence in Serbia. In 2021, the misdemeanour courts found 652 foreign nationals guilty of illegally crossing the borders, 43 were sanctioned for illegal entry and 947 were found guilty of illegal presence in Serbia (Belgrade Centre for Human Rights (2021b): 35).

⁴⁵ By way of illustration, in 2022, out of almost 120,000 newly arrived migrants, a total number of 4,181 registered their intention to claim asylum in Serbia (a procedural requirement in the asylum-seeking process), while only 322 asylum applications were eventually lodged (European Council on Refugees and Exiles (2023a): 13-14).

⁴⁶ Belgrade Centre for Human Rights (2022b): 142.

provisions allowing them to stay in such facilities.⁴⁷ All migrants, regardless of their legal status have the right to emergency health care.⁴⁸ According to the Serbian legislation, only asylum-seekers and recognised refugees are entitled to mandatory health insurance. Persons, who upon arrival and first registration in Serbia expressed their intention to apply for asylum, are treated in this respect as asylum-seekers and are allowed to receive medical treatment, even if they have not yet officially lodged an asylum application.⁴⁹

21. In March 2021, vaccination against Covid-19 was made available to foreign nationals regardless of their legal status. Residents of reception facilities could receive vaccination on site. Other foreign nationals had to register on a governmental platform or contact the dedicated call centre in order to get vaccinated.⁵⁰

D. LGBTI equality⁵¹

22. ECRI notes that there is no official data on the LGBTI population in Serbia, without which there can be no solid basis for developing and implementing policies aimed at addressing discrimination against LGBTI persons. ECRI encourages the authorities to establish a comprehensive, accurate and reliable system to collect relevant and disaggregated data regarding LGBTI people, adhering to international data collection standards, and ensuring an intersectional perspective and respect for the principles of confidentiality, voluntary self-identification, and informed consent, taking due account of its GPR No. 17 on preventing and combating intolerance and discrimination against LGBTI persons.
23. Prejudice against LGBTI persons remains widespread, although there have been some improvements in the general attitudes towards them. In a 2023 poll, 38% of the respondents stated that they had interacted with persons whom they knew to be LGBTI (18% in 2015). 11% of the respondents would stop communicating with friends if they would find out they were LGBTI (compared with 26% of the respondents in 2015), whereas 30% would support them completely (compared with 14% in 2015). 52% of the respondents still consider that being LGBTI is an illness (66% in 2015).⁵² As regards the experiences and perceptions of the LGBTI community members themselves, a survey led by a civil society organisation in 2020 revealed that 48% of the respondents did not feel free to express their LGBTI identity in everyday life, while 46% of them believed that they had been discriminated against in the previous year.⁵³ Research carried out in 2019 also revealed that LGBTI persons still face important problems in recruitment processes and at the workplace, with 38% of respondents having experienced discrimination in the labour market in the five years preceding the research, 46% having been exposed to psychological violence at work, and 19% and 18% having been threatened with dismissal and physical violence respectively.⁵⁴ ECRI is therefore pleased to note that several initiatives aiming at promoting inclusion and protection of LGBTI persons at the workplace have been carried out by civil society

⁴⁷ Belgrade Centre for Human Rights (2021b): 67-68; European Council on Refugees and Exiles (2022): 118-119.

⁴⁸ [Law on Health Care](#), Articles 238 and 240.

⁴⁹ European Council on Refugees and Exiles (2022): 142.

⁵⁰ Some had nevertheless to rely on civil society organisations to complete the procedure as the registration form as well as information on the time and place of vaccination were available only in Serbian and in Cyrillic script (Belgrade Centre for Human Rights (2021b): 150-151).

⁵¹ For terminology, see [ECRI's Glossary](#).

⁵² Equal Rights Association (2023): 36.

⁵³ Centre for Research and Social Development IDEAS - Regional Info Center (2020): 11, 9 and 4

⁵⁴ Centre for Research and Social Development IDEAS (2019): 5.

organisations, some of which benefitted from the support of the Ministry of Human and Minority Rights and Social Dialogue (MHMRSD).⁵⁵

24. In 2023, Serbia ranked 26th among 49 countries as regards respect for the human rights of the LGBTI persons according to ILGA-Europe's Rainbow Index and Map. Effective implementation of an equality legislation, otherwise considered to be rather satisfactory,⁵⁶ remains a chronic problem, as does the well-documented LGBTI-phobic rhetoric of the Serbian Orthodox Church.⁵⁷
25. The LPD, as amended in 2021, explicitly prohibits discrimination on the grounds of sex, gender and gender identity, as well as the denial of rights on grounds of sex, gender, gender identity and "sex change".⁵⁸ Furthermore, the National Youth Strategy until 2025 recognises LGBTI persons as one of the social groups that is more exposed to discrimination and aims at addressing LGBTI-phobic discrimination.⁵⁹ ECRI welcomes these developments.
26. In its last report, ECRI had positively assessed the content of the Anti-Discrimination Strategy for 2013-2018 and the corresponding Action Plan.⁶⁰ Nevertheless, the level of implementation left a lot to be desired.⁶¹ The Government adopted a new Strategy of Prevention and Protection against Discrimination and the corresponding Action Plan in January 2022.⁶² The newly adopted strategy explicitly refers to LGBTI persons.⁶³ This is yet to trickle down to the regional and local level. Research conducted in 2020 showed that local action plans (LAPs) of local communities still fail, in their vast majority, to recognise LGBTI persons.⁶⁴ ECRI encourages the authorities to assist local and regional authorities in developing strategies and policies aimed at improving LGBTI people's human rights and equality, in the light of the recommendations and other guidance issued by the Congress of Regional and Local Authorities of the Council of Europe.⁶⁵
27. The previous strategy foresaw the drafting of a law on registered partnerships for same-sex couples.⁶⁶ In 2021, the MHMRSD prepared a draft Law on Same-Sex Unions following consultations with independent bodies and LGBTI civil society organisations.⁶⁷ A Council of Europe expert opinion was sought and issued in May

⁵⁵ By way of example, in February 2021, Centre for Research and Social Development IDEAS, with the support of the MHMRSD, organised a three-day Conference entitled "[Game Changers Conference \(#GCC\) - In pursuit of balance](#)" on the role of the business sector in promoting diversity and inclusion, with a special focus on LGBTI persons. Furthermore, in October 2022, IDEAS [launched the Equality Business Alliance](#), a formal mechanism of cooperation between companies for the economic integration of LGBTI persons. In 2022, the Organisation for Lesbian Rights LABRIS launched an online campaign to map LGBTI-friendly businesses.

⁵⁶ Belgrade Centre for Human Rights (2021a): 267.

⁵⁷ See for instance: Helsinki Committee for Human Rights in Serbia (2022/2023): 265-267.

⁵⁸ Articles 14 and 20 § 2 of the amended LPD.

⁵⁹ Ministry of Youth and Sports (2015): 43.

⁶⁰ ECRI (2017): § 97.

⁶¹ Equal Rights Association (2018): 4; Belgrade Centre For Human Rights (2021a): 265.

⁶² Available [here](#) (in Serbian only).

⁶³ The Protector of Citizens nevertheless alerted to problematic formulations of some indicators and the lack of baseline and target values of the Action Plan (Belgrade Centre for Human Rights (2022a): 342).

⁶⁴ Asociacija DUGA (2020): 12-13.

⁶⁵ See in particular the [Report, Resolution 470 \(2021\) and Recommendation 458 \(2021\)](#) adopted by the Congress on 16 June 2021 on the role of local and regional authorities in protecting LGBTI people in the context of rising hate speech and discrimination.

⁶⁶ ECRI (2017): §§ 99 and 101.

⁶⁷ Prior to the preparation of the Draft Law, in 2020, LABRIS had published its Model Act on Civil Partnerships, which met with civil society's approval. CSOs criticised the process for the preparation of the draft law for not taking into account the Model Act on Civil Partnerships (Belgrade Centre for Human Rights (2022a): 359).

2021.⁶⁸ The development of the draft law was met with controversy⁶⁹ but was ultimately completed by the MHMRSD.⁷⁰

28. ECRI regrets to note that the draft law was not subsequently tabled in the National Assembly. In May 2021, the Serbian President stated that he would not promulgate a law on same-sex unions and would return it to the National Assembly should the latter adopt it, as the Constitution defines marriage as a legally regulated union of a man and a woman.⁷¹ In June 2022, the MHMRSD announced that the process for the adoption of the law on same-sex unions was to start from the beginning as a result of the formation of a new Government and National Assembly following general elections. LGBTI civil society organisations promoting LGBTI equality protested against this development.⁷²
29. ECRI commends the MHMRSD for having completed the elaboration of a draft law on same-sex unions in 2021. However, it is concerned by the failure to have the draft tabled in the National Assembly for debate and adoption. ECRI underlines that the absence of legal recognition for same-sex couples falls short of providing protection of private and family life of LGBTI persons⁷³ and exposes them to social and financial vulnerability. Reference is made to recommendation 16 of GPR No. 17 on preventing and combating intolerance and discrimination against LGBTI persons.
30. ECRI recommends, as a matter of priority, that the authorities build on the progress made in the elaboration of a draft law on same-sex partnerships in recent years and that they submit such a draft law to the National Assembly without undue delay, following meaningful consultations with relevant civil society actors.
31. Transgender persons remain one of the most marginalised groups in Serbia. According to a civil society survey, before the Covid-19 pandemic, only 32% of transgender persons were employed. Their situation was further exacerbated as a result of the pandemic as 21% of those employed lost their job.⁷⁴
32. The health system still categorises transgender as a mental disorder.⁷⁵ In a welcome development, secondary legislation adopted in 2018 set forth a greatly simplified legal gender recognition (LGR) procedure. Sterilisations are no longer requested. However, psychiatric monitoring and hormone therapy still constitute requirements.⁷⁶
33. The 2019 amendments to the Law on Civil Registers ensured the change of name and sex markers in the birth register.⁷⁷ During the 2023 visit, the ECRI delegation nevertheless learned that practical implementation of the new provisions is an issue, especially in smaller municipalities.⁷⁸ The lack of sensitisation of medical personnel is also an issue. In 2021, upon the recommendation of the Protector of

⁶⁸ The Council of Europe Opinion is available [here](#).

⁶⁹ In particular, 212 public figures signed a petition calling for blocking the adoption of the draft law, on the ground that the human rights of same-sex partners could be better protected through amendments of several laws already in force (Politika (2021, March 19)). More than 500 other public figures reacted by signing a petition supporting the adoption of the law on same-sex unions (Danas (2021, March 20)).

⁷⁰ Politika (2021, November 19).

⁷¹ Belgrade Centre for Human Rights (2022a): 274. See also: European Western Balkans (2021, May 6).

⁷² Danas (2022, June 22).

⁷³ ECHR, Fedotova and Others v. Russia (GC), nos. 40792/10, 30538/14 and 43439/1473225/01, 17 January 2023, § 224.

⁷⁴ See Kolektiv Talas TIRV (2022): 16, 17, 20-21 and 24 respectively.

⁷⁵ Belgrade Centre for Human Rights (2022a): 360. This is despite the fact that trans identities were depathologised by the World Health Organisation in 2019.

⁷⁶ CSOs therefore continue to advocate for the full depathologisation of the LGR process in line with the Model law on gender identity they developed in 2015 (available [here](#)).

⁷⁷ Law on Civil Registers, Articles 41 and 45.

⁷⁸ See, in this connection, European Commission (2023): 49.

Citizens, the Health Insurance Fund included medicines for achieving the appropriate hormonal status of transgender persons in the list of prescribed medication. Nevertheless, according to civil society partners met during the visit, the list is incomplete, which means that hormone therapy remains very expensive. ECRI encourages the authorities to address these issues within the framework of a national action plan on LGBTI equality.

34. There exists no official data on intersex persons in Serbia. There is also no official data on the carrying out of so-called “sex-normalising” surgeries performed on intersex children in the country.
35. It emerged during the 2023 visit that a number of doctors had recently started taking a public stance against such surgeries, underlining that they are medically unnecessary. This is a welcome development. However, the stigmatisation of intersex persons is reported to be high, in particular in rural areas.⁷⁹ ECRI strongly encourages the authorities to take action with a view to prohibiting the performance of medically unnecessary surgeries until such time as intersex children are able to participate in decisions, based on the principle of free and informed consent, in the light of recommendation 32 of GPR No. 17 on preventing and combating intolerance and discrimination against LGBTI persons.
36. More generally, ECRI learned that the authorities are in the process of preparing a Human Rights Strategy that would also pertain to LGBTI equality. However, it notes the scepticism voiced by many interlocutors during the 2023 visit to Serbia about addressing intolerance and discrimination against LGBTI persons within the framework of a much broader human rights strategy. Reference is made in this regard to recommendation 11 of ECRI’s GPR No. 17 on preventing and combating intolerance and discrimination against LGBTI persons.
37. It also emerged during the 2023 visit to Serbia that specific civil society initiatives were developed to address intersectional discrimination that LGBTI people experience. Against this background, the ECRI delegation visited an NGO-run safe house for lesbian Roma women at risk of gender-based and homophobic violence. In the view of ECRI, these initiatives should be strongly supported. At the same time, it appeared that the authorities should adopt an intersectional approach to LGBTI equality in a number of areas. For instance, during the visit, the ECRI delegation heard consistent accounts of LGBTI refugees and asylum-seekers who did not feel safe in the facilities they were accommodated.
38. ECRI recommends that the authorities develop and secure the adoption of a national strategy and a corresponding action plan for LGBTI equality, in close consultation with relevant civil society organisations, in the light of its General Policy Recommendation No. 17 on preventing and combating intolerance and discrimination against LGBTI persons. In this context, they should mainstream an intersectional approach into their design, structure and application, and undertake periodic reviews to monitor the implementation of that approach. If necessary, Council of Europe support should be sought.

II. HATE SPEECH AND MOTIVATED VIOLENCE

A. Hate speech⁸⁰

39. In Serbia, there are no comprehensive data on hate speech. According to partial data provided by the Ministry of Interior, between 2019 and 2021, criminal complaints were filed against 17 persons for the offence of damaging a person’s reputation on the grounds of racial, religious, national or other affiliation under Article 174 of the Criminal Code (CC). Criminal charges were filed against 52 persons for the offence of incitement to national, racial or religious hatred under

⁷⁹ Belgrade Centre for Human Rights (2022a): 364.

⁸⁰ See definitions of hate speech and hate crime in [ECRI's Glossary](#).

Article 317 CC and against 7 persons for the criminal offence of racial and other discrimination under Article 387 CC. Furthermore, in 2022, the CPE issued 63 opinions on complaints concerning violations of Article 12 of the LPD (prohibition of harassment and humiliating treatment on the basis of personal characteristics).⁸¹ That said, all ECRI delegation's interlocutors met during the visit agreed that the actual number of hate speech cases is much higher.⁸²

40. ECRI is concerned about persisting hate speech in political and other public discourse, in particular online,⁸³ and the exposure of various groups such as Roma and other ethnic minorities, LGBTI communities and refugees/migrants. A 2022 study on media monitoring revealed that hateful comments are aimed at ethnicity (25%), sexual minorities (14.6%), and refugees/migrants (9.4%). Journalists and media workers (25.2%) together with politicians, state officials and political parties (24.3%), make up almost half of the perpetrators of hate speech.⁸⁴
41. Roma and members of other ethnic minorities are also particularly exposed to hateful rhetoric. In March 2023, the Mayor of Belgrade stated that the capital city's Roma live on stealing and do not want to comply with "civilised" standards.⁸⁵ At the time of the ECRI visit, court proceedings were pending as regards the use of the word "Shqiptar", a pejorative equivalent for "Albanian", by a Minister of Interior when referring to a senior representative of the Albanian minority.⁸⁶ In November 2023, it was announced that Serbia's football stadium would be partially closed when the country would host Bulgaria in a Euro 2024 qualifier game as punishment for fans' racist behaviour during a win over Montenegro.⁸⁷
42. Anti-LGBTI hate speech remains a serious issue and became particularly widespread in the context of the 2022 EuroPride in Belgrade.⁸⁸ By way of illustration, the leader of the Sandžak Democratic Action Party compared LGBT people to "cattle".⁸⁹ During a TV appearance before EuroPride, a gynaecologist stated that homosexuality had always been a disease and should be treated as such.⁹⁰ A bishop said that the EuroPride event would "desecrate" Belgrade.⁹¹ Back in 2020, a famous actor became the target of hate speech on social networks for playing a character who kissed another man in the local series *South Wind*.⁹²
43. Around 2020, there was a significant increase in anti-refugee/anti-migrant rhetoric in the run-up to the local and parliamentary elections. Refugees and migrants were increasingly portrayed by the media and on the internet as a threat to the safety of Serbian citizens.⁹³ During a protest that took place in Belgrade in October 2020, far-right politicians were referring to "deviant migrants", encouraging reporting

⁸¹ Out of these 63 complaints, 53 concerned the same incident.

⁸² Indicatively, the Center for Media Professionalization and Media Literacy (CEPROM) conducted a study from 15 September to 15 October 2019, which showed that during this period in print and online media, around 20,000 texts were published with elements of aggressive communication and hate speech (Krstić, I. (2020): 47).

⁸³ According to the CEPROM study, texts with elements of aggression and hate speech are predominantly present in online media in which as many as 86% of such texts were published online (17,169 texts).

⁸⁴ Jovanovic, I. and Andušić, A. (2022): 7-8.

⁸⁵ Balkan Insight (2023, March 13).

⁸⁶ Helsinki Committee for Human Rights in Serbia (2021): 49.

⁸⁷ Reuters (2023, November 15).

⁸⁸ For more details about the organisation of this event, see Council of Europe, Commissioner for Human Rights (2023).

⁸⁹ Danas (2022, August 18).

⁹⁰ <https://www.facebook.com/dasezna.lgbt/posts/pfbid02D6ifrZp2fgWBb5hHvn7ps6Eh1mBSzCbJdzD1Dk3o5nizWJxHckqjQXHNA6zLgSsNI>

⁹¹ Pipanews.com (2022, August 16).

⁹² Danas (2020, April 2).

⁹³ Belgrade Centre for Human Rights (2020b): 173ff; Media Diversity (2021, March 24).

them to groups on social networks and encouraging people to apprehend them.⁹⁴ Moreover, far-right “people’s patrols” harassed refugees and migrants as well as individuals assisting them.⁹⁵ For instance, in Sombor, in north-western Serbia, the owner of a hostel hosting migrants was the target of hate speech by right-wing extremist groups, who made death threats against him on social media.⁹⁶

44. Glorification of war criminals and denial of judicially established facts, including by public officials, remained virtually unchanged. In December 2021, the Chief of General Staff of the Armed Forces presented a medal to a retired general who was sentenced by the International Criminal Tribunal for the former Yugoslavia, for war crimes and crimes against humanity in Srebrenica.⁹⁷ In September 2022, the Mayor of Belgrade posted on social media his photograph with retired army major convicted as war criminal.⁹⁸ The Youth Initiative for Human Rights had to request local authorities to remove 308 graffiti, symbols and murals across Serbia dedicated to war criminal Ratko Mladić. Approximately 250 of these are in Belgrade, some of which were observed by the ECRI delegation during the 2023 visit to Serbia.⁹⁹

45. ECRI recommends, as a matter of priority, that the authorities commission a comprehensive study on the different forms of hate speech in Serbia, their sources and impact on target groups with the aim of developing and implementing measures to prevent and eliminate these phenomena.

Responses to hate speech

46. ECRI notes that there are a few examples of political leaders and representatives of public institutions condemning hate speech. For instance, the Prime Minister condemned the homophobic comments made by a bishop in the context of the EuroPride.¹⁰⁰ Following the above-mentioned LGBTI-phobic comments made by a gynaecologist, the Serbian Medical Chamber issued a statement indicating that it sharply condemned discrimination and any conduct aimed at harassing, disparaging or offending individuals or specific groups.¹⁰¹ It is also common for the CPE to issue press releases and warnings about hate speech and develop counter-speech.¹⁰²

47. In December 2020, the National Assembly adopted a Decision introducing a Code of Conduct for Members of Parliament, which was amended in September 2021. ECRI welcomes this development. However, no such code was adopted for government officials.¹⁰³

48. ECRI recommends that the authorities step up their efforts in encouraging public figures, in particular high-level officials, politicians and religious leaders, to refrain

⁹⁴ Belgrade Centre for Human Rights (2020b): 178-179.

⁹⁵ Belgrade Centre for Human Rights (2021b): 171.

⁹⁶ Radio Free Europe/Radio Liberty (2021, October 14).

⁹⁷ Belgrade Centre for Human Rights (2022a): 237.

⁹⁸ *Ibid*: 330.

⁹⁹ In November 2021, two human rights activists who were painting over one of such murals were apprehended by the police. The incident prompted a [reaction](#) from the Rapporteurs of the Parliamentary Assembly of the Council of Europe for the monitoring of Serbia.

¹⁰⁰ Bloomberg (2022, August 17).

¹⁰¹ According to the information received from the authorities, the CPE also intervened in this case by initiating court proceedings for discrimination before the High Court in Belgrade.

¹⁰² For instance, there were 35 press releases in 2015, 25 in 2016, 20 in 2017, 24 in 2018 and 34 in 2019. Furthermore, nine warnings were issued in 2015, 9 in 2016, 13 in 2017, 17 in 2018 and 23 in 2019. Out of all warnings in 2019, 91.3% were related to hate speech (Goran Miletic, *The analysis of the work of the CPE in the field of combating hate speech in: Gajin, S. (2020)*). See also Balkan Insight (2023, March 13) and ILGA-Europe (2023): 128, as regards sanctions concerning the leader of the Sandžak Democratic Action Party.

¹⁰³ See also European Commission (2023): 12.

from using racist and other forms of hate speech themselves, to firmly and promptly condemn the use of such speech by others, to use counter-speech and alternative speech, and to promote intergroup understanding, including by expressing solidarity with those targeted by hate speech, in the light of ECRI's General Policy Recommendation No. 15 on combating hate speech, the Council of Europe's Committee of Ministers Recommendation CM/Rec(2022)16 on combating hate speech and the revised Charter of European Political Parties for a non-racist and inclusive society, as endorsed by the Parliamentary Assembly of the Council of Europe in its Resolution 2443 (2022).

49. In the media field, the situation has basically remained the same when compared with the state of affairs described in the previous report.¹⁰⁴ Amendments of the Public Information and Media Act¹⁰⁵ and to Electronic Media Act¹⁰⁶ also raised serious concerns over their potential to further restrict the Regulatory Body for Electronic Media's independence and its inability to respond to disinformation challenges.¹⁰⁷
50. ECRI recommends that the authorities ensure that the Regulatory Body for Electronic Media enjoys *de jure* and *de facto* independence, in the light of Recommendation CM/Rec(2022)16 of the Committee of Ministers of the Council of Europe on combating hate speech.
51. The legal provisions criminalising recourse to hate speech, including incitement to hatred, remained by and large unchanged¹⁰⁸ and continue to display shortcomings, such as the absence of provisions addressing the glorification of war criminals and denial of judicially established facts.¹⁰⁹ ECRI invites the authorities to review fundamentally the existing criminal law provisions with a view to further specifying which expressions of hate speech are subject to criminal liability, such as public denial, trivialisation and condoning of genocide, crimes against humanity or war crimes and ensuring their effectiveness, in the light of ECRI's relevant general policy recommendations and the Committee of Ministers' Recommendation Rec(2022)16 on combating hate speech.
52. From 1 January 2019 to 31 December 2021, the criminal complaints filed under Articles 174, 317 and 387 CC respectively resulted in 3, 19 and 4 convictions. In this context some reports suggest that criminal justice actors have not been sufficiently trained in dealing with all types of complaints of hate speech of a criminal nature and other hate crime.¹¹⁰ ECRI invites the authorities to provide suitable training to police officers, prosecutors, as well as judges on how to make the best use of the existing legal provisions on combating hate speech and hate crime,¹¹¹ taking due account of the relevant principles and guidelines contained in ECRI's General Policy Recommendation No. 15 on combating hate speech and in

¹⁰⁴ ECRI (2017): §§ 39-40.

¹⁰⁵ Available [here](#).

¹⁰⁶ Available [here](#).

¹⁰⁷ The controversies included *inter alia* the process of the appointment of the members of the Regulatory Body and a failure to oblige this body to introduce a code of ethics. See, indicatively: Balkan Insight (2023, October 26); European Federation of Journalists (2023, October 4); Reporters Without Borders (2023, November 14); Euractiv (2023, October 26).

¹⁰⁸ These provisions include: Article 317.1 of the Serbian Criminal Code (CC) (criminalising incitement to national, racial or religious hatred or intolerance); Article 174 CC (on damaging a person's reputation on the grounds of racial, religious, ethnic or other affiliation); Article 387.5 CC (criminalising public threats against a person or group on a number of discriminatory grounds); Article 387.3 CC (prohibiting the public expression of ideas of superiority of one race over another) and Article 387.4 CC (criminalising the dissemination of texts, images or any other representation of ideas or theories that support or incite hatred, discrimination or violence against any person or a group on a basis of a number of protected characteristics).

¹⁰⁹ See, in this connection, ECRI (2017), §§ 3 and 7.

¹¹⁰ Krstić, I. (2020): 39.

¹¹¹ The authorities informed ECRI that the CPE had conducted training for over 1,000 police officers, judges and lawyers. The training including recognising and responding to hate speech and discrimination in general. In addition, online training has been created and is available for the trainees of Judicial Academy.

the Committee of Ministers' Recommendation CM/Rec(2022)16 on combating hate speech.

B. Hate-motivated violence

53. Serbia regularly reports data on hate crimes to the OSCE/ODIHR.¹¹² In 2021, the authorities reported 109 hate incidents. Indictments were filed in respect of 11 of these cases and an equal number of convictions were handed down. Nevertheless, there is no distinction in the recording and reporting processes between cases of criminal hate speech and other hate crimes. In a welcome development, a software for the digitalisation of recording of statistical data regarding hate speech and hate crime in the criminal justice system appeared to be ready to enter into use at the time of the ECRI delegation's visit to Serbia.
54. Article 54a of the Criminal Code (CC) foresees a general aggravating circumstance, motivated by prejudice, for ordinary criminal offences.¹¹³ According to the authorities, as of 20 October 2022, Article 54a CC had been applied in 35 cases, including two instances in 2022. There were convictions in 12 cases.
55. In its annual hate crime report, the *Da se zna!* association documented, in 2021, the highest number of anti-LGBTI hate incidents since 2017, i.e. 83 cases of anti-LGBTI incidents (including hate speech of criminal nature), marking a 38% increase compared to 2020.
56. The number of instances of LGBTI-phobic hate-motivated violence sharply increased in August and September 2022, following a series of hateful statements by political and religious leaders (see Section II.A. on hate speech). Several LGBTI people were the victims of violence, including sexual violence, before,¹¹⁴ during,¹¹⁵ and in the weeks following the 2022 EuroPride in Belgrade.¹¹⁶ The lack of trust in the state institutions was mentioned to the ECRI delegation during the visit as one of the main reasons for the underreporting of these incidents to the police and prosecution services, followed by the lack of knowledge about reporting and complaints procedures.
57. After the dismembered body of a murdered transgender teen was found by the police in Belgrade in July 2023, civil society organisations called for 'the most severe punishment' of the perpetrator.¹¹⁷
58. In 2022, a can of red paint was hurled at the entrance to the offices of Women in Black, a day after this association commemorated the anniversary of the Srebrenica genocide.¹¹⁸ In 2021, the European Roma Rights Centre (ERRC) reported three attacks against property and one violent attack against Roma. In 2021, the OSCE Mission to Serbia reported three antisemitic attacks against property, as well as and one violent attack against Muslims. In another anti-Muslim incident in 2021, the walls of an Islamic Community building were vandalised with a swastika graffiti.
59. In 2018, with the support of the OSCE Mission to Serbia and the ODIHR, guidelines were developed for the prosecution of hate crimes. The ECRI delegation was pleased to learn that, on the basis of these, prosecutors were invited to make explicit reference to Article 54a CC in the indictments, as previously recommended

¹¹² See the ODIHR reporting platform for Serbia [here](#).

¹¹³ The grounds protected by the provision are race, religion, national or ethnic origin, sex, sexual orientation or gender identity.

¹¹⁴ Five men were arrested in August after they lured several men on dates, took them to a forest, raped, beat, or robbed them (Kurir (2022, August 2)).

¹¹⁵ The *Da se zna!* Association registered 14 LGBTI-phobic incidents on the day the 2022 EuroPride was held, eight entailing physical assaults and six harassment and demolition of property cases.

¹¹⁶ Belgrade Centre for Human Rights (2022a): 154.

¹¹⁷ Balkan Insight (2023, July 7).

¹¹⁸ Belgrade Center for Human Rights (2022a): 160.

by ECRI.¹¹⁹ A network of contact persons working on hate crime within the prosecution services was established and their contribution appears to be positive. With the OSCE Mission's assistance, the Judicial Academy also developed and implemented a hate crime training plan and programme, which is welcome. ECRI's various interlocutors met during the visit nevertheless acknowledged that there was still a lack of understanding among many criminal justice actors about the appropriate way of handling hate crime complaints.

60. ECRI notes with great interest that the Constitutional Court adopted, on 27 January 2022, a decision¹²⁰ upholding a constitutional appeal and finding that the Belgrade First Basic Prosecution Service had violated the plaintiff's right to physical and mental integrity under Article 25 of the Constitution in conjunction with the prohibition of discrimination under Article 21 as a result of the prosecution service's failure to investigate whether the attack against the victim, an LGBTI person, was motivated by hate. In this connection, ECRI invites the authorities to take further action to provide suitable training to police officers, prosecutors and other relevant criminal justice actors on how to make the best use of the existing legal provisions on combating hate crime.

III. INTEGRATION AND INCLUSION

A. Refugees and other persons in need of international protection

61. In 2022, the total number of persons registered in asylum and reception centres in Serbia doubled (119,127, as compared to 60,407 in 2021).¹²¹ However, only a small number of asylum-seekers decides to stay in Serbia, even after being granted asylum or subsidiary protection. By way of illustration, only 320 persons in 2022 and 174 in 2021 applied for asylum.¹²² Overall, the Asylum Office had upheld 219 asylum applications filed between 2008 and 2022.¹²³ According to the authorities, there are still 25,330 refugees from other former republics of Yugoslavia living in Serbia.
62. The Law on Asylum and Temporary Protection (LATP)¹²⁴ provides that a foreign national may access the asylum procedure by expressing intention to apply for asylum before the Ministry of Interior (MoI), which subsequently issues a registration certificate.¹²⁵ This certificate constitutes the basis for residence in an asylum or reception centre, to which a registered foreign national should report within 72 hours.¹²⁶

¹¹⁹ ECRI (2017): § 63.

¹²⁰ No. UŽ – 79/51/2015

¹²¹ Belgrade Centre for Human Rights (2022b): 15, and Belgrade Centre for Human Rights (2021b): 15.

¹²² Belgrade Centre for Human Rights (2022b): 18, and Belgrade Centre for Human Rights (2021b): 18.

¹²³ Information submitted by the Serbian authorities. See also, in this connection, Belgrade Centre for Human Rights (2022b): 19.

¹²⁴ Available [here](#).

¹²⁵ Art. 4 and 35(11) LATP.

¹²⁶ Art. 35(3), LATP.

63. In addition to the LAMP, a 2016 regulation, amended in 2018, sets forth standards for the integration of persons who obtained international protection in Serbia.¹²⁷ The regulation in question provides for one-year individualised integration programmes. However, at the time of the ECRI visit to Serbia, there were serious questions about their actual implementation. On a more positive note, a number of initiatives aimed at supporting the overall integration of foreign nationals have been developed by civil society organisations.¹²⁸ While welcoming these initiatives, ECRI strongly encourages the authorities to ensure the effective implementation of individualised integration programmes.
64. Regarding accommodation, refugees may be housed in asylum centres and asylum-seekers are entitled to stay in temporary reception centres (which provide basic material reception conditions).¹²⁹ According to the authorities, the total capacity of those facilities amounts to approximately 6,000 places. In February 2023, 835 persons were residing in asylum centres and 1,463 in temporary reception centres. Asylum seekers may also opt for private accommodation if they can afford paying a rent.¹³⁰ Unaccompanied children may be accommodated in designated asylum centres, residential care facilities or with foster families.¹³¹
65. Refugees from former Yugoslavia benefit from the Regional Housing Programme (RHP).¹³² At the same time, the LAMP grants beneficiaries of international or subsidiary protection the right to housing in the form of accommodation in a facility under the authority of the Commissariat for Refugees and Migration (CRM) or of financial assistance for temporary accommodation. Such support is provided for a period of one year. The extension of such assistance to two years was being considered at the time of the visit to Serbia. ECRI encourages the authorities to make every effort to secure the adoption of such an extension.
66. Regarding education, according to the LAMP, asylum-seeking children have the right to free primary and secondary education, while refugee children are also entitled to preschool as well as higher education under the same conditions as Serbian citizens. Asylum-seeking children have access to education no later than three months as from the date of application for asylum.¹³³ That said, according to civil society actors met during the 2023 visit, the lack of preparatory classes in the Serbian language constitutes an issue. ECRI invites the authorities to make arrangements for the organisation of such classes.
67. In the field of employment, the 2021-2026 Employment Strategy of the Republic of Serbia¹³⁴ which identified a number of less employable groups, did not specifically acknowledge refugees and asylum-seekers as one of these groups. ECRI strongly encourages the authorities to do so in context of the next national strategy and to

¹²⁷ Regulation on integration of persons who have been granted asylum or subsidiary protection into the social, cultural and economic life in Serbia, available [here](#).

¹²⁸ For instance, in April 2021, the Belgrade Centre for Human Rights initiated a “Refugees for Refugees” pilot project focusing on providing asylum-seekers and refugees peer support from more experienced refugees who can support them in navigating through the asylum procedure (Belgrade Centre for Human Rights (2021b): 160. Further information is available [here](#)). Furthermore, the “Refugee Buddy” programme, developed by the Centre for Research and Social Development IDEAS, aims at strengthening social cohesion at local level by bringing together refugees with Serbs motivated to provide informal support to them and introduce them to social activities and networks (more information is available [here](#)). In late 2022, 16 civil society organisations formed the Rainbow Migration Network with the aim of providing comprehensive support to LGBTI refugees, asylum-seekers and people on the move (more details are available [here](#)).

¹²⁹ For a detailed description of the living conditions in each of those centres, see: European Council on Refugees and Exiles (2022): 128-138.

¹³⁰ Belgrade Centre for Human Rights (2021b): 69.

¹³¹ For more details, see Belgrade Centre for Human Rights (2021b): 69, 81, 86 and 88.

¹³² Financed by the EU and 14 donor countries, see further information [here](#).

¹³³ LAMP, Articles 48, 55, 59 and 64.

¹³⁴ Available [here](#).

take action to facilitate prompt access of refugees and asylum-seekers to the labour market.

68. Important problems continue arising in respect of identification documents available for refugees and asylum-seekers. The fact that they do not contain foreign citizen's registration numbers (EBS) and the very poor format of such documents generate serious obstacles in various administrative procedures, in the sense that public officials reportedly did not recognise or accept the documents as official identity documents.¹³⁵ The CPE found that this may constitute discrimination.¹³⁶
69. Pursuant to Article 91 of the LAMP, travel documents for persons who were granted asylum should be issued. At the time of the ECRI visit to Serbia, there was no secondary legislation.¹³⁷ Consequently, refugees who did not possess a passport issued by their country of origin or whose passport had expired could not legally leave Serbia. In July 2023, the European Court of Human Rights found a violation by Serbia of Article 2 of Protocol No. 4 to the European Convention on Human Rights in a relevant case. It considered, under Article 46 of the Convention, that the adoption of statutory and operational measures was needed to secure the effective right to leave the country.¹³⁸ The authorities subsequently informed ECRI that the necessary secondary legislation had been issued in November 2023 and would enter into force on 1 February 2024.
70. ECRI recommends that the authorities take further action to ensure that refugees are provided with appropriate travel and ID documents and that asylum-seekers are provided with proper ID documents in practice.

B. Roma

71. According to estimates, the Roma population in the Republic of Serbia ranges from 250,000 to 600,000 people.¹³⁹ Nevertheless, only 131,936 persons self-identified as Roma in the 2022 general population census (as opposed to 147,604 in 2011), despite the extensive campaigning of the MHMRSD aimed at increasing Roma participation in the census. Roma are now the third largest national minority in the Republic of Serbia.¹⁴⁰
72. The Serbian authorities do not collect ethnically disaggregated data. Roma are nevertheless recognised as a particularly vulnerable group in Serbia¹⁴¹. The Roma who fled Kosovo* between 1999 and 2004 are registered as Internally Displaced Persons (IDPs) and require specific protection.¹⁴² In 2022, the largest number of complaints about discrimination on the ground of national affiliation filed with the CPE concerned discrimination against Roma (87.7%).¹⁴³ According to a 2020 survey, Roma face discrimination more than ten times in their life during schooling (56.9%), job search (57.9%), at work (59.7%) and in the context of informal social

¹³⁵ Belgrade Centre for Human Rights (2021b): 126.

¹³⁶ See the CPE's [Opinion](#) issued in 2021 in a case of refusal of a bank to open accounts to persons who have an ID card issued by the Asylum Office.

¹³⁷ Belgrade Centre for Human Rights (2021b): 125.

¹³⁸ [S.E. v. Serbia](#) (no. 61365/16), judgment of 11 July 2023, final on 11 October 2023.

¹³⁹ See Civil Rights Defenders (2018): 5, also regarding the difficulties in determining the exact number of Roma in Serbia.

¹⁴⁰ The census detailed results are available [here](#).

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

¹⁴¹ Government of the Republic of Serbia (2022, February 3): 113.

¹⁴² At the end of 2019, 68,514 out of 199,684 IDPs that fled Kosovo in the period 1999-2004 still had displacement-related needs (UNHCR Serbia (2023)). Among them, some 23,000 persons in the register of IDPs in Serbia were Roma in 2015 (UNHCR (2015): 8).

¹⁴³ CPE (2023): 5.

contacts (77,2%).¹⁴⁴ Less than one third (28,5%) of the majority population would agree to marriage with a Roma person and more than one fifth (20,5%) would prefer not to live in the same country with Roma persons.¹⁴⁵ Further research revealed that 80% and 10% of the Roma respondents respectively considered that police officers and judges are prejudiced against them, whereas 50% of the practicing lawyers and 60% of the judges interviewed suggested that criminal justice professionals were likely to consider Roma defendants as presumably guilty.¹⁴⁶

73. In a welcome development, the 2021 amendments to the LPD prohibited segregation as a severe form of discrimination (Article 13). A number of legislative and policy developments, both at national and at international level,¹⁴⁷ triggered the revision of the 2016-2025 Strategy for Social Inclusion of Roma in the Republic of Serbia. Following public consultation,¹⁴⁸ the 2022-2030 Strategy for the social inclusion of Roma men and women in the Republic of Serbia¹⁴⁹ was adopted. ECRI welcomes in particular that, in addition to the continuous focus on five thematic areas, the new strategy contains three declared objectives: equality, inclusion and participation.¹⁵⁰ ECRI learned that local action plans for Roma inclusion have been adopted by a majority of the local self-governments. ECRI encourages the authorities to support the effective implementation of these plans.
74. In the field of education, according to the Protector of Citizens, *de facto* segregation is relatively increasing following legislative amendments enabling parents to enrol their children to the school of their choice.¹⁵¹ In 2021, 13% of Roma children aged 6–15 were attending schools where all or most pupils were Roma,¹⁵² their number having almost doubled since ECRI's previous report.¹⁵³ Roma children also continue being overrepresented in "special schools".¹⁵⁴
75. ECRI recommends that the authorities take determined action to end all forms of *de facto* segregation of Roma children in schools, in line with the anti-discrimination legislation as amended in 2021.
76. ECRI is pleased to note that progress has overall been made in securing better preschool and school attendance of Roma pupils. The enrolment of Roma pupils in compulsory preparatory preschool programmes increased (76% of Roma pupils living in substandard settlements have been enrolled, when compared with 63% when ECRI's last report was adopted).¹⁵⁵ 85,4% of Roma children attended primary school (compared to 88% in ECRI's last report).¹⁵⁶ Primary school completion rate

¹⁴⁴ Ethnicity Research Centre (2020): 38.

¹⁴⁵ *Ibid*: 32.

¹⁴⁶ European Roma Rights Centre (2023): 23-25.

¹⁴⁷ Including the adoption of the [Law on the Planning System](#) in 2018, the endorsement by Serbia of the Declaration of Western Balkans Partners on Roma Integration within the EU Enlargement Process ([Poznań Declaration](#)) in 2019, and the adoption of the [EU Roma Strategic Framework for Roma Equality, Inclusion and Participation until 2030](#).

¹⁴⁸ Invitations for comments were sent to more than 1,000 addressees. However, deadlines for comments and the ECRI delegation met have reportedly not been invited to take part in the consultation process.

¹⁴⁹ Available [here](#).

¹⁵⁰ These respectively entail: i) combating antigypsyism and discrimination; ii) the reduction of poverty and exclusion and the closing of the socio-economic gap between Roma and the general population; and iii) empowerment and improvement of cooperation and trust between the majority population and Roma.

¹⁵¹ Government of the Republic of Serbia (2022, February 3) (henceforth also "2022-2030 Strategy"): 36.

¹⁵² EU FRA (2022): 40.

¹⁵³ ECRI (2017): § 78.

¹⁵⁴ 2022-2030 Strategy: 36. About 30% of children in special schools are Roma, while their representation in the general population is about 3-4% (Government of the Republic of Serbia (2016, March 3)): 25

¹⁵⁵ [The National Report on Inclusive Education of Serbia from 2019-2021](#) (henceforth "NRIES"): 4; ECRI (2017), § 77.

¹⁵⁶ ECRI (2017): § 78.

is at 64% (compared to 46% in ECRI's last report).¹⁵⁷ 28% of Roma children living in settlements enrolled in secondary school (compared to 22% during ECRI's previous monitoring cycle),¹⁵⁸ with the number of girls remaining lower than that of boys. The transition rate from primary to secondary school for Roma pupils has been of 52.6%. The secondary school completion rate is of 61%. However, the attendance and completion rates remain far lower for Roma children than for the general pupil population as, comparatively, 99% of children from the general population completed primary school and 98% completed secondary school.¹⁵⁹

77. Schools implement an early identification and response system to prevent drop-outs.¹⁶⁰ Furthermore, in 2021, the MoESTD introduced the Unique Educational Number for each pupil,¹⁶¹ which facilitates the monitoring of and responses to drop-outs. In the view of ECRI, this constitutes a **promising practice**. In addition, taking into consideration connections between higher drop-out rates among Roma girls and the persisting phenomenon of early marriages,¹⁶² ECRI notes with interest the action taken by the authorities to end child marriage, including the creation, in 2019, of a National Coalition to End Child Marriage in Serbia.¹⁶³
78. In its previous report, ECRI considered that the successful model of pedagogical assistants, who provide support to Roma pupils facing difficulties in school, should be replicated and developed throughout the country.¹⁶⁴ The adoption of relevant secondary legislation¹⁶⁵ created the conditions for expanding the network of pedagogical assistants. A total number of 260 pedagogical assistants supporting approximately 6,000 Roma pupils¹⁶⁶ were employed in 2020/2021¹⁶⁷. The MoESTD furthermore continued employing 200 mentors.¹⁶⁸ The ECRI delegation had an opportunity to learn about success stories in the context of the mentorship programme during its field visit to the Technical High-School of Bečej. ECRI encourages the authorities to strengthen their efforts to recruit a higher number of pedagogical assistants and mentors and to ensure that they are employed under sustainable conditions.
79. 1,894 Roma students were enrolled in secondary schools through special measures in the school year 2020/2021, whereas 6,533 scholarships in total were granted to Roma pupils (65% of whom were girls) from 2014 to 2021.¹⁶⁹ The Roma Education Fund also offers scholarships for studies in higher education institutions.¹⁷⁰ Research showed that pupils supported by such measures are much

¹⁵⁷ ECRI (2017): § 78; NRIES: 5.

¹⁵⁸ ECRI (2017): § 78; 2022-2030 Strategy: 36.

¹⁵⁹ NRIES: 4 and 5; ECRI (2017): § 77; 2022-2030 Strategy: 36-37.

¹⁶⁰ The system is based on a local-level protocol, which connects each school with the local centre for social work, health centres, local self-governments, interdepartmental commissions and other relevant mechanisms,

¹⁶¹ NRIES: 8.

¹⁶² See, among many sources, PRAXIS (2023b).

¹⁶³ Further information is available [here](#).

¹⁶⁴ ECRI (2017), § 81. In May 2021, in his [Opinion on the Draft Strategy for the Development of Education in the Republic of Serbia until 2030](#), the Protector of Citizens also requested that the number of pedagogical assistants be increased.

¹⁶⁵ In particular, the Rulebook on the Pedagogical and Andragogical Assistants.

¹⁶⁶ Bašić, G. (2021): 23.

¹⁶⁷ 219 pedagogical assistants were deployed in primary schools and preschool institutions. 41 of them assistants were financed by the local self-governments (2022-2030 Strategy: 39). See, however, Commissioner for Protection of Equality (2023): 147, as regards shortcomings in recruitment.

¹⁶⁸ 2022-2030 Strategy: 38.

¹⁶⁹ NRIES: 5.

¹⁷⁰ See the relevant website [here](#).

less prone to drop out of school.¹⁷¹ In the view of ECRI, such measures constitutes a **good practice**.

80. In the field of employment, data available from the National Employment Service (NES) indicate that registered unemployment amongst Roma has been slowly but steadily increasing, from 22,437 persons in 2015 to 27,595 in 2020.¹⁷² In the periods ranging from 1 January to 30 November 2021 and from 1 January to 31 October 2022, 6,125 and 5,803 Roma persons were employed respectively (out of whom 2,589 and 2,561 Roma women).¹⁷³ In the public sector, Roma are still represented by less than 0.1% therein (in other words, far below the approximate 2% representation of Roma in the overall population).¹⁷⁴
81. The 2021-2026 Employment Strategy was issued in April 2021.¹⁷⁵ In its action plan for the period 2021-2023, unemployed Roma figure among the categories of less employable persons who have priority in the context of active employment measures. By way of example, 6,033 Roma (out of whom 2,793 Roma women) benefited from such measures from January to October 2021. Out of 10,000 beneficiaries, 36 Roma men and 22 Roma women were included, from November 2020 to April 2021, in the "My First Salary" programme aimed at training high-school and college first-time jobseekers registered with the NES.¹⁷⁶ In 2020, the NES awarded 202 subsidies for self-employment to unemployed Roma (out of which 75 to Roma women).¹⁷⁷ Furthermore, the programme "Encouraging the employment of highly educated Roma and Roma women in local self-government units", launched in 2020, resulted in the employment of 19 persons.¹⁷⁸
82. ECRI recommends that the authorities pursue their action aimed at targeting a greater number of highly-skilled Roma persons and strengthen their efforts to offer low-threshold vocational trainings and skills-building activities to enhance the employability of low-skilled Roma. Such activities should place particular emphasis on the specific needs of Roma women.
83. Regarding housing, a 2020-2030 National Housing Strategy was adopted during the reference period.¹⁷⁹ The authorities continued relying on the European Commission's Instrument for Pre-Accession Assistance (IPA) funding and other international donors to address the problem of housing of Roma.¹⁸⁰ The IPA 2018 project (27 million euros) aimed at enabling the construction, purchase and reconstruction of social housing for 421 families with about 1,500 members in 19 cities and municipalities.¹⁸¹ Furthermore, approx. EUR 1 million has been allocated

¹⁷¹ In particular, the rate of drop-out from high school among beneficiaries of scholarships from 2014 to 2020 only ranged between 1% and 7% per school year (2022-2030 Strategy: 38).

¹⁷² This accounts for between 3 to 5% of the total number of unemployed persons in Serbia (2022-2030 Strategy: 47). It is useful to clarify that this is not a negative development *per se*, but rather a positive result of the initiatives undertaken by NES aimed at increasing the registration of Roma on the unemployment register, thereby increasing the opportunities for their inclusion in the measures of active employment policy.

¹⁷³ *Ibid*: 45, in conjunction with information provided by the Serbian authorities in the context of the ECRI delegation's visit.

¹⁷⁴ 2022-2030 Strategy: 56. See, in this connection, ECRI (2017), § 91.

¹⁷⁵ Available [here](#).

¹⁷⁶ Government of the Republic of Serbia, Office for Human and Minority Rights (2021): 32.

¹⁷⁷ 2022-2030 Strategy: 53.

¹⁷⁸ The programme was launched by the MHMRSD, in cooperation with the German Agency for International Cooperation (GIZ), the Office for Roma Inclusion of the Autonomous Province of Vojvodina and the Association of Roma Students.

¹⁷⁹ In a [letter of concern](#) of February 2022 to the UN Special Rapporteur on the right to adequate housing, a number of civil society organisations nevertheless pointed out procedural shortcomings in the process of adopting the Strategy, as well as significant substantive shortcomings in the document, including the failure to address the issues of forced evictions, housing affordability and growing residential segregation.

¹⁸⁰ ECRI (2017): § 87.

¹⁸¹ 2022-2030 Strategy: 74; Government of the Republic of Serbia, Office for Human and Minority Rights (2021): 54; CERD (2021): § 75.

annually to the improvement of living conditions of IDPs.¹⁸² However, it clearly appeared during the ECRI 2023 visit to Serbia that the housing situation of Roma remains very tense due to serious gaps in the implementation of an otherwise robust legal and policy framework. A 2020 survey mapped 702 substandard Roma settlements in 94 local self-government units with a total population of 167,975 people. 32,843 (approx. 20%), 93,050 (approx. 55%), and 24,104 (approx. 15%) residents of these settlements respectively had no or irregular access to safe drinking water, sewer networks, and electricity, whereas 14,000 persons (more than 8% of the overall settlements population) had no or irregular access to all these utilities combined.¹⁸³ The Covid-19 state of emergency further exacerbated an already dire situation, as restrictions on freedom of movement also resulted in restrictions in access to water for many Roma persons.¹⁸⁴ ECRI invites the authorities to speed up their efforts to address the housing problem among the Roma population.

84. Forced evictions from settlements continued to take place, albeit apparently on a smaller scale than in the past. Although the Law on Housing and Building Maintenance, enacted in 2016, now sets forth in detail the modalities of forced evictions, these are reportedly often carried out without consultation, due process of law or possibilities for alternative suitable accommodation.¹⁸⁵ There is a general ignorance of human rights standards on the part of local self-government officials that carry out forced evictions.¹⁸⁶
85. ECRI recommends that the authorities take the necessary measures to ensure strict adherence to the legal provisions regulating forced evictions of Roma persons and to make sure that these are not carried out without consultation, due notice and effective opportunities for rehousing in decent, affordable accommodation.
86. In the field of social protection, significant progress has been achieved towards resolving the problem of lack of personal identity documents for Roma. According to the information provided by the authorities, it is now estimated that only 253 Roma living in informal settlements are not registered in the birth register (corresponding to 0,45% of that population, compared to 1.8% in 2010 and 1% in 2015) and 1,032 had not been issued with an ID card at the time of the ECRI visit. However, ECRI learned that, in cases where parents do not possess an ID card or a birth certificate, it was not possible to register new-born children upon birth, which rendered them legally invisible and at risk of statelessness.¹⁸⁷ ECRI invites the authorities to ensure that parents of all children born in Serbia have access to timely birth registration.
87. Approximately 2,000 Roma persons do not have a registered place of residence. The 2011 Law on Permanent and Temporary Residence of Citizens allowed the possibility to register residence at the address of a social welfare centre. Irregularities in the procedure nevertheless persist.¹⁸⁸ In addition, persons who already have a registered permanent residence are denied such a possibility, even in cases where they have not been living in that place of permanent residence for years or even decades.¹⁸⁹ ECRI invites the authorities to ensure that the regulations

¹⁸² Information provided by the Serbian authorities.

¹⁸³ Office of the United Nations High Commissioner for Human Rights (2020): 4, 10, 14, 16.

¹⁸⁴ A11 Initiative for Economic and Social Rights (2020): 12.

¹⁸⁵ CERD (2018): § 22.

¹⁸⁶ 2022-2030 Strategy: 81.

¹⁸⁷ PRAXIS (2023): 2.

¹⁸⁸ For example, in some municipalities, social welfare centres do not give their consent to the registration of permanent residences at their address, which is a requirement for the completion of the procedure (*ibid.*: 6).

¹⁸⁹ This primarily affects Roma IDPs from Kosovo.

governing the procedures for registering a permanent residence are consistently applied.

88. Roma without an ID card and permanent residence were excluded from official measures aimed at mitigating the consequences of the Covid-19 pandemic.¹⁹⁰ The CPE pointed out that these requirements for access to support measures mainly affected Roma.¹⁹¹ In March 2022, the United Nations Committee on Economic, Social and Cultural Rights expressed concerns about the absence of specific Covid-19 response measures to protect disadvantaged and marginalised individuals and groups and recommended that corrective measures be taken by providing the Covid-19-related cash benefits to those who were excluded, including due to a lack of permanent residence and identity documents.¹⁹² ECRI strongly encourages the authorities to take proper follow-up action in the light of the Guidelines of the Committee of Ministers of the Council of Europe on upholding equality and protecting against discrimination and hate during the Covid-19 pandemic and similar crises in the future.¹⁹³

C. Other ethnic minorities

89. At the outset, ECRI refers to the work of the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC). The activities of ECRI and the ACFC are based on complementarity: the ACFC covers issues related to the expression of a separate identity, such as mother-tongue education, while ECRI looks at the situation of minorities from an integration and inclusion perspective.
90. Serbia has traditionally been a multi-ethnic country. According to the 2022 general population census, 6,647,003 citizens lived in the Republic of Serbia, 5,360,239 of which being Serbs (approximately 80%), and 828,553 belonging to minorities (about 12.5%).¹⁹⁴
91. The attitudes of the majority population towards minorities vary. Living in the same country with members of ethnic minorities is acceptable for Serbian respondents at a rate ranging from 79.2% concerning Croats to 88,8% concerning Slovaks, as opposed to 63,9% concerning Albanians.¹⁹⁵ It is also noteworthy that the ground of ethnic origin constituted the basis of the complaints of discrimination most frequently received by the CPE in 2022 (18.9% of the total number of cases handled).¹⁹⁶
92. In 2020, ECRI considered that the number of Roma and persons belonging to other minorities employed in the public sector remained far from being proportionate and therefore concluded that its previous priority recommendation on this matter was only partially implemented.¹⁹⁷ ECRI is pleased to note that special measures have been taken to diversify the police force, including recruitment campaigns run by the Centre for Basic Police Training in areas with a predominant or significant presence of minority populations and the organisation of workshops to provide support to candidates. These measures resulted in the recruitment of 128 persons

¹⁹⁰ In particular, the one-off payment of EUR 100 in 2020 and EUR 80 in 2021, which all adult Serbian citizens with an ID and registered permanent residence were eligible for.

¹⁹¹ CPE (2021, August 26).

¹⁹² UN Committee on Economic, Social and Cultural Rights (2022).

¹⁹³ The [Guidelines of the Committee of Ministers of the Council of Europe on upholding equality and protecting against discrimination and hate during the Covid-19 pandemic and similar crises in the future](#) were adopted on 5 May 2021 (CM(2021)37-add1final).

¹⁹⁴ About 460,000 citizens did not declare their national affiliation. The most numerous minorities are Hungarians, Bosnians, Roma, Albanians, Slovaks and Croats with recorded populations of 184,442, 153,801, 131,936, 61687, 41,730 and 39107 persons respectively.

¹⁹⁵ Ethnicity Research Center (2020): 31-32.

¹⁹⁶ CPE (2023): 235.

¹⁹⁷ ECRI (2020).

belonging to minority populations in the police from 2017 to 2022. In the view of ECRI, these are **promising practices**.

93. However, unofficial data made available to the ECRI delegation by the Albanian Minority Council in the context of the 2023 visit to Serbia indicates that, overall, minorities remain under-represented in the public sector, including in the regions densely inhabited by minority populations.¹⁹⁸
94. ECRI recommends that the authorities further diversify staff working in the public sector by developing suitable recruitment, promotion and retention policies (including equal opportunities for career development).
95. ECRI received a number of reports about the authorities' undue resort to the administrative practice of suspension of permanent addresses, in particular in southern Serbia. This practice is referred to as the "passivisation" of residences. According to the law, permanent addresses may be suspended when it can no longer be determined that a given citizen's permanent residence represents "his or her core life activities and professional and economic ties".¹⁹⁹ The persons concerned are removed from the list of residents of a given municipality, which *inter alia* results in being prevented from exercising their right to vote and the inability to renew IDs and passports. Most often, such decisions are not recorded in an official document,²⁰⁰ which results in the persons in question ignoring the fact of "passivisation" and being deprived of seeking redress.²⁰¹ Unofficial data show that municipalities with large Albanian populations are disproportionately affected.²⁰² ECRI invites the Serbian authorities to carry out an effective investigation into allegations of undue resort to such practices vis-à-vis ethnic Albanian citizens and to ensure that all persons concerned by a measure of suspension of permanent address are notified in writing and duly informed of appeal procedures.

IV. TOPICS SPECIFIC TO SERBIA

A. Resort to algorithmic systems in the provision of social assistance: impact on groups of concern to ECRI

96. The Social Card Law, which was adopted in February 2021 and entered into force in March 2022, provides for the creation of a centralised database that processes some 130 personal data of beneficiaries of or applicants for social assistance and for the decision-making on the applicants' eligibility for social assistance involving algorithmic systems.²⁰³ The declared objectives of the law was to provide a fairer distribution of social welfare benefits, reduce poverty and combat fraud. However, the law and its implementation have raised serious questions over their implications for the right to social assistance and its impact on the most vulnerable categories of the population, in particular Roma.²⁰⁴

¹⁹⁸ For instance, according to first data from the 2022 census, the municipalities of Bujanovac, Preševo and Medveda registered 122,147 citizens, of whom 96,359 (79%) were ethnic Albanians. Nevertheless, statistics provided by the Albanian National Council showed that only 30% staff of the police force, 13% in the judiciary, 9% in the prosecution service, and 2% in other public institutions personnel in the region were ethnic Albanians.

¹⁹⁹ Law of Residence and Temporary Residence of Citizens, Art. 3, paragraph 2.

²⁰⁰ Out of 1,000 cases examined only in less than 18% of the ethnic Albanians concerned were notified. The majority of the affected persons are informed about it orally on random occasions (e.g. when attempting to exercise their right to vote). For more details, see Flora Ferati-Sachsenmaier (2023): 40.

²⁰¹ Euractiv.com (2023, September 13).

²⁰² Although the rate of "passivized" citizens between 2011 and 2021 in different Serbian municipalities ranged from 0,075 to 0,85%, the number of "passivisations" in the municipalities of Bujanovac and Medveda, which are densely inhabited by ethnic Albanians, affected 3,09% and 23,96% of the population respectively. Flora Ferati-Sachsenmaier (2023): 17.

²⁰³ The algorithm automatically collects such data from registers handled by various public administrations, such as the Tax Administration and the Ministry of Interior (Balkan Insight (2023, July 25)).

²⁰⁴ See Amnesty International (2023a).

97. The Law on Social Protection stipulates that, as a general condition for eligibility for financial social assistance, an individual must not earn other income exceeding the statutory amount of such assistance, which was fixed at RSD 11,122 (approximately EUR 95) at the time of the ECRI visit to Serbia.²⁰⁵ Once the eligibility threshold income has been exceeded (e.g. due to extra work activities), the Social Card algorithm sends notifications to social workers about possible fraudulent application for social support. Between March 2022 and August 2023, out of 211,266 beneficiaries, 34,686 (i.e. more than 16%) were excluded from the social protection system. Most of the beneficiaries concerned were Roma.²⁰⁶ Admittedly, decisions may be appealed within 15 days. However, the decision-making process reportedly greatly lacks transparency and accountability, which makes it virtually impossible for the persons impacted to challenge the decisions concerning them.²⁰⁷
98. ECRI acknowledges that algorithmic systems may create opportunities in various areas of life. It nevertheless considers that their design, development and operation should be supported by strong safeguards against discrimination (including indirect discrimination). This not only requires setting out effective equality and non-discrimination as key principles, but also action to address potential bias in the production of training data, to ensure transparency in the operation of algorithmic systems and in the decision-making, to organise appropriate awareness-raising activities amongst relevant professionals, to develop effective remedies to challenge potentially arbitrary or discriminatory decisions and to set up a powerful oversight mechanism.
99. ECRI recommends that the authorities fundamentally review the decision-making process involving algorithmic systems in the provision of social assistance with a view to ensuring that Roma and other groups of concern to ECRI have equal opportunities in benefiting from social assistance and are not subjected to discrimination. Particular emphasis should be placed on addressing potential bias in the production of training data, ensuring transparency in the operation of algorithmic systems and in the decision-making, organising appropriate awareness-raising activities amongst relevant professionals, developing effective remedies and establishing a powerful oversight mechanism. Such a review should involve equality bodies and civil society organisations.

B. The situation of persons displaced from Ukraine as a result of the Russian Federation's war of aggression

100. In March 2022, the government issued a decision on providing temporary protection to displaced persons coming from Ukraine,²⁰⁸ who also have unhindered access to different forms of temporary residence and the asylum procedure. Between March 2022 and April 2023, 1,237 were granted temporary protection.²⁰⁹ About 148,000 Ukrainian citizens entered Serbia and around 26,000 were granted some form of temporary residence between February 2022 and February 2023.²¹⁰ In addition, six Ukrainians applied for asylum in Serbia in 2022.²¹¹
101. Persons benefiting from temporary protection in Serbia receive an official document confirming their status and have access to housing (in designated facilities), employment and health care, and their children have access to primary

²⁰⁵ In this connection, reference is also made to the 2021 conclusions of the European Committee of Social Rights on Serbia as regards the right to social and medical assistance (Council of Europe, European Committee on Social Rights (2022)).

²⁰⁶ A11 Initiative for Economic and Social Rights (2022, October 14).

²⁰⁷ See Amnesty International (2023a). See also Amnesty International (2023b).

²⁰⁸ On the basis of Article 74 (2) of the Asylum Act and Article 43 (1) of the Law on the Government.

²⁰⁹ European Council on Refugees and Exiles (2023b): 7.

²¹⁰ Rts.rs (2023, February 24).

²¹¹ See also European Council on Refugees and Exiles (2022): 18.

and secondary education free of charge.²¹² ECRI notes that the authorities designated a newly renovated facility in Vranje for the accommodation of persons displaced from Ukraine. In January 2023, 83 beneficiaries of temporary protection were housed in Vranje, whereas the CRM provided support to around 4,500 Ukrainian residing on a private address.²¹³

102. In the view of ECRI, the authorities' efforts to protect the rights of persons displaced from Ukraine are commendable.²¹⁴ However, the same cannot always be said of persons in need of international protection arriving from other countries.²¹⁵ In this regard, ECRI refers to its 2022 statement on the consequences of the aggression of the Russian Federation against Ukraine, in which it called for the solidarity shown by Council of Europe member States towards Ukrainian nationals in need to remain the norm in the management of current and future humanitarian crises for all people fleeing war and other emergencies.²¹⁶

²¹² Belgrade Centre for Human Rights (2022c): 10 -11.

²¹³ European Council on Refugees and Exiles (2023b): 17 and 6.

²¹⁴ Belgrade Centre for Human Rights (2022c): 12.

²¹⁵ See, in this connection, European Council on Refugees and Exiles (2022): 13.

²¹⁶ [Statement on the consequences of the aggression of the Russian Federation against Ukraine](#) (adopted by ECRI at its 88th plenary meeting, 29 March-1 April 2022).

INTERIM FOLLOW-UP RECOMMENDATIONS

The two specific recommendations for which ECRI requests priority implementation from the authorities of Serbia are the following:

- (§30) ECRI recommends that the authorities build on the progress made in the elaboration of a draft law on same-sex partnerships in recent years and that they submit such a draft law to the National Assembly without undue delay, following meaningful consultations with relevant civil society actors.
- (§45) ECRI recommends that the authorities commission a comprehensive study on the different forms of hate speech in Serbia, their sources and impact on target groups with the aim of developing and implementing measures to prevent and eliminate these phenomena.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§4) ECRI recommends that the authorities give the Commissioner for the Protection of Equality the prerogative to conduct inquiries into cases of discrimination ex officio and, upon request, to obtain evidence and other material, in the light of its General Policy Recommendation No. 2 (revised) on equality bodies to combat racism and intolerance at national level.
2. (§6) ECRI recommends that the authorities: i) provide sufficient budget for the CPE institution to fill all planned staff positions and carry out all its functions; and ii) secure the CPE institution's de facto independence in the management of its budget and the recruitment and deployment of its staff.
3. (§13) ECRI recommends that the authorities ensure that the curricula and textbooks at all levels of education address LGBTI issues in a manner which is sensitive, age appropriate and easy to understand and that discussions on LGBTI issues are evidence-based and place particular emphasis on equality, diversity and inclusion.
4. (§17) ECRI recommends that the authorities complete without delay the setting-up of a system capable of effectively monitoring racist and LGBTI-phobic incidents at school with a view to devising relevant long-term policies. Such system should include clear guidelines as to the type of incidents to be reported and concrete steps to be taken by school staff with a view to sanctioning the perpetrators and offering support and redress to victims.
5. (§30) ECRI recommends, as a matter of priority, that the authorities build on the progress made in the elaboration of a draft law on same-sex partnerships in recent years and that they submit such a draft law to the National Assembly without undue delay, following meaningful consultations with relevant civil society actors.
6. (§38) ECRI recommends that the authorities develop and secure the adoption of a national strategy and a corresponding action plan for LGBTI equality, in close consultation with relevant civil society organisations, in the light of its General Policy Recommendation No. 17 on preventing and combating intolerance and discrimination against LGBTI persons. In this context, they should mainstream an intersectional approach into their design, structure and application, and undertake periodic reviews to monitor the implementation of that approach. If necessary, Council of Europe support should be sought.
7. (§45) ECRI recommends, as a matter of priority, that the authorities commission a comprehensive study on the different forms of hate speech in Serbia, their sources and impact on target groups with the aim of developing and implementing measures to prevent and eliminate these phenomena.
8. (§48) ECRI recommends that the authorities step up their efforts in encouraging public figures, in particular high-level officials, politicians and religious leaders, to refrain from using racist and other forms of hate speech themselves, to firmly and promptly condemn the use of such speech by others, to use counter-speech and alternative speech, and to promote intergroup understanding, including by expressing solidarity with those targeted by hate speech, in the light of ECRI's General Policy Recommendation No. 15 on combating hate speech, the Council of Europe's Committee of Ministers Recommendation CM/Rec(2022)16 on combating hate speech and the revised Charter of European Political Parties for a non-racist and inclusive society, as endorsed by the Parliamentary Assembly of the Council of Europe in its Resolution 2443 (2022).
9. (§50) ECRI recommends that the authorities ensure that the Regulatory Body for Electronic Media enjoys de jure and de facto independence, in the light of

Recommendation CM/Rec(2022)16 of the Committee of Ministers of the Council of Europe on combating hate speech.

10. (§70) ECRI recommends that the authorities take further action to ensure that refugees are provided with appropriate travel and ID documents and that asylum seekers are provided with proper ID documents in practice.
11. (§75) ECRI recommends that the authorities take determined action to end all forms of de facto segregation of Roma children in schools, in line with the anti discrimination legislation as amended in 2021.
12. (§82) ECRI recommends that the authorities pursue their action aimed at targeting a greater number of highly-skilled Roma persons and strengthen their efforts to offer low-threshold vocational trainings and skills-building activities to enhance the employability of low-skilled Roma. Such activities should place particular emphasis on the specific needs of Roma women.
13. (§85) ECRI recommends that the authorities take the necessary measures to ensure strict adherence to the legal provisions regulating forced evictions of Roma persons and to make sure that these are not carried out without consultation, due notice and effective opportunities for rehousing in decent, affordable accommodation.
14. (§94) ECRI recommends that the authorities further diversify staff working in the public sector by developing suitable recruitment, promotion and retention policies (including equal opportunities for career development).
15. (§99) ECRI recommends that the authorities fundamentally review the decision-making process involving algorithmic systems in the provision of social assistance with a view to ensuring that Roma and other groups of concern to ECRI have equal opportunities in benefiting from social assistance and are not subjected to discrimination. Particular emphasis should be placed on addressing potential bias in the production of training data, ensuring transparency in the operation of algorithmic systems and in the decision-making, organising appropriate awareness-raising activities amongst relevant professionals, developing effective remedies and establishing a powerful oversight mechanism. Such a review should involve equality bodies and civil society organisations.

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APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Serbia.

ECRI, in accordance with its country-by-country procedure, engaged into confidential dialogue with the authorities of Serbia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, in line with ECRI's standard practice and unless otherwise indicated, could only take into account developments up until 7 December 2023, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

Annex of the Republic of Serbia
to the Report on Serbia by the European Commission against Racism and
Intolerance (ECRI) within the sixth monitoring cycle

GENERAL COMMENTS

The authorities acknowledge that the ECRI report on Serbia was developed based on the analysis of a large amount of information collected from various sources, which certainly include a series of interviews during the contact visit. Nevertheless, to achieve the objectivity of the conclusions, we believe that the Report as a whole should reflect the views of all relevant actors involved in the process.

ECRI Report was prepared in accordance with the mandate of the delegation that visited Serbia, excluding AP Kosovo and Metohija. A quarter of a century of internal displacement people is a very specific topic for the Republic of Serbia. During the dialogue with the ECRI delegation, the representatives of the Office for Kosovo and Metohija submitted material with relevant data, which were not included in the Report.

In the ECRI report on Serbia for the sixth monitoring cycle, the most prominent and long-lasting problem in the domain of human rights protected by regional and international conventions is omitted, namely the internally displaced population whose return is prevented precisely by extreme intolerance. Since June 1999, the Republic of Serbia has close to 200,000 internally displaced persons of all nationalities, mostly Serbs, forced to leave their homes and livelihoods in the AP of Kosovo and Metohija. Most of them fled in two separate large waves of displacement after intense violence: in the summer of 1999 and March 2004, and the rest in a continuous flow of individual or group displacement due to various types of low-intensity violence and pressure. However, unilateral measures by the so-called second government by A. Kurti intensified that violence both physically and in terms of scope and thereby produced the third wave of mass emigration of entire families, which is currently underway. In Republic of Serbia, all displaced persons are equal citizens with equal rights, while those who need help have the right to institutional assistance (free legal aid, housing, financial and social assistance, economic empowerment packages, etc.). According to official records, about 10% of the displaced persons are Roma, who are still the focus of international interest, while the remaining 90% of the displaced population, which consists mainly of Serbs, typically remains under the radar of international human rights actors.

For the past almost a quarter of a century, a very modest number of displaced Serbs, up to 2%, managed to return and/or be allowed to return to AP Kosovo and Metohija and successfully remain. The core reason for this failure lies in the strong opposition and unimaginable levels of intolerance on the part of the local Kosovo Albanian population, their politicians and, surprisingly, their civil society sector. This intolerance over time evolved into systematic institutional discrimination at all levels and all walks of life, from legislation, politics, security, language-related rights, prosecution, judiciary, property, administration, media, etc. The internally displaced Serbs only sporadically manage to repossess their properties, or exercise various other rights. For instance, not a single murderer of more than 1,000 Serbs killed from June 1999 onwards has been duly apprehended, prosecuted, convicted and sent to serve sentence.

EFFECTIVE EQUALITY AND ACCESS TO RIGHTS

EQUALITY BODIES

At the meeting with the representatives of ECRI, the Commissioner for the Protection of Equality explained that in fact she already has the authority to act on her own initiative, namely: 1) send recommendations of measures to public authorities and other persons for achieving equality and protection against discrimination, 2) warn the public about the most common, typical and severe cases of discrimination 3) submit a request for initiation of misdemeanor proceedings 4) submit lawsuits to the High Court in own name and on behalf of the discriminated person. The CPE indicated that only in the procedure based on citizen complaints she cannot initiate the procedure, because she acts as the body that makes an opinion in the procedure based on the complaint, between the plaintiff and the person against whom the complaint was filed. In terms of obtaining evidence, the CPE has the authority to request the submission of evidentiary materials from the parties to the proceedings.

The Law on the Protector of Citizens (Art. 18, Paragraph 1) from 2021 stipulates that in the event of the expiry of the mandate, the Protector of Citizens continues to perform the new function until the new Protector of Citizens takes office.

INCLUSIVE EDUCATION

In relation to ECRI's statement that "topics related to human rights education are mostly included in the curriculum of civic education, an elective subject available in primary and secondary education." However, not all students follow this curriculum."

Given that said conclusion was drawn on the basis of "the assessment of the teachers with whom the ECRI delegation met" and not on the basis of analyzing the curriculum, the Ministry of Education believes that the ECRI assessment does not provide sufficient information regarding the study of human rights related topics in the education system, in view of the fact that the system prescribes general and cross-curricular competencies as the most relevant for adequately preparing students for active participation in society and lifelong learning, among others Communication, A Responsible Attitude Towards the Environment, Responsible Participation in a Democratic Society, Problem Solving, Cooperation and Responsible Attitude Towards Health. The curriculum is outcome-oriented and should ensure the development of all cross-curricular competences. We emphasize that outcomes related to the respect of human rights, gender equality, diversity and inter-cultural dialogue are introduced as part of all teaching subjects. Some of the outcomes related to human rights, which are present in teaching and learning programs, are: respect for democratic procedures, responsible, humane and tolerant behavior in society, sensitivity to social injustice and cooperation and team work.

Since 2017, the Council of Europe Reference Framework of Competences for Democratic Culture has been implemented as a project (RFCDC), which is a binding part of the education system from 2021 and is an integral part of the Education Development Strategy 2030 (2021). The National Guidelines for the integration of RFCDC in selected teaching and learning programs at the national level were also developed (a systemic connection was established between RFCDC and the national level teaching and learning programs – 10 subjects are connected to RFCDC and all 477 descriptors). The manuals were distributed to the addresses of 1,800 schools in Serbia and are available on the website of the Ministry and Institute for the Advancement of Education and Upbringing (IAEU).

In 2022, the Ministry of Education established a network of external advisors for democratic culture in schools and appointed 20 advisors (employees in schools in the territory of all school administrations) financed by the Ministry of Education, who provide support to all schools and inform them about ways to implement Competences for Democratic Culture (CDC). In the new school year, at least 1200 teachers and school support staff improved their knowledge and skills. Furthermore, in addition to the mandatory elective subject Civic Education, new elective programs for high school have been introduced: The Individual, Group and Society, Language, Media and Culture, Health and Sports, Education for Sustainable Development, Art and Design, Applied Sciences, Fundamentals of Geopolitics, Economics and Business, Religions and Civilizations.

In the Catalog of Programs for Continuous Professional Development of Teachers, Educators and School Support Staff for the school year 2022/2023, 2023/2024. and 2024/2025, <https://zuov-katalog.rs/>, there are also seven accredited programs with the theme of interculturality, five programs whose theme is gender equality, and the theme of protection against discrimination is represented by 20 programs. All said programs address the LGBT topic, as a basis for discrimination. During 2022 and 2023, the Ministry of Education implemented 11 programs and 37 trainings that included 933 employees from educational institutions (78% female, 22% male) and the topics were related to prevention and protection against discrimination. On the website of the Ministry of Education, there are resources important for strengthening the competences of participants in education in the field of prevention and protection against discrimination: Guide to Preventing and Responding to Discrimination for Employees in Education and Training Institutions - From Recognition to Action; Brochure for Parents - Prevention, Protection and Action in Cases of Discrimination in Education; <https://prosveta.gov.rs/kategorija/publikacije/page/2/>.

Also, employees in the education system have their disposal resources whose topics are related to the promotion of democratic culture

The Ministry of Education indicates once again points out that the reviewed biology textbooks still have the content covering the terms - gender, sex, gender and sexual identity, developing tolerance and the prohibition of discrimination, which actually is the meaning of this lesson, and the external Working Group analysed the content - only and exclusively - from the standpoint of the suitability of the given content to the age of the students, their developmental level and prior knowledge, while the biological profession and the relevance of the professional aspect of the content was not the subject of this analysis nor was it questioned.

Also, the Ministry of Education, in Article 13 of the Law on Textbooks ("Official Gazette of the RS", no. 27/18, 92/23), clearly prohibits discrimination in textbooks in accordance with the law regulating the prohibition of discrimination, and this included all personal properties.

On the website of the Ministry, you can find the following publications related to the prevention of discrimination <https://prosveta.gov.rs/kategorija/publikacije/>

In September 2022, the Ministry of Education sent a request to the Institute for the Improvement of Education to review the way of presenting the content of approved biology textbooks for the eighth grade of primary school education, in the part related to the Biological meaning of adolescence (gender and sexual identity in the context of hormonal activities and individual genetic variability), and based on the conclusion of the National Education Council "that the psychological and sociological prior knowledge of students must be taken into account when it comes to the interpretation of the content of

the syllabus." (Conclusion from the Session on the opinion on the biology syllabus for the eighth grade of primary school).

Based on the request of the Ministry, the Institute formed a working group consisting of experts from the fields of psychology and sociology, and the task of that working group was to analyse the way of presenting the content of the syllabus for the above grade, in the eight approved textbooks, in the part related to the Biological Meaning of Adolescence. After reviewing the mentioned lessons, the Working Group gave the opinion that it was necessary to review seven approved textbooks, so that the way of presenting the content would be suitable for the age, prior knowledge, and developmental level of the students. The opinions of the Working Group were written down for each textbook individually, because the corrections also related to the different way of presenting the content of different publishers (e.g. for one of the textbooks, the Working Group stated that too much space was devoted to the influence of the environment, so students may wrongly conclude that that influence is decisive; in another textbook it was stated that inadequate examples should be omitted in which assumptions were made for which there was no evidence or the given example could be interpreted as offensive to supporters of non-traditional sexual orientations, and could be a starting point for the development of prejudices against LGBT fellow citizens among heterosexual adolescents orientation, etc.). On the basis of the Working Group's opinion, the Institute sent a request to the publishers to amend the textbooks, which they did within the stipulated time.

Also, employees in the education system have their disposal resources whose topics are related to the promotion of democratic culture in schools Publications - <https://prosveta.gov.rs/kategorija/publikacije>

The Ministry of Education once again points out that the corrected biology textbooks still include content that includes the concepts of gender, sex, gender and sexual identity, the development of tolerance and the prohibition of discrimination, which is the meaning of this lesson, and the external Working Group analysed the content - only and exclusively - from the position of adaptation of the given content to the age of the students, their developmental level and prior knowledge, while the biology professionals and the relevance of the professional aspect of the content was not the subject of this analysis nor was it questioned. We believe that the explanation of the Ministry of Education regarding item 12 should be an integral part of the ECRI report on Serbia, Sixth cycle.

- *Rulebook on the Protocol of Behaviour in the Institution in Response to Violence, Harassment and Neglect* (from 2010, 2019, 2020 and 2024)

<https://pravno-informacioni-sistem.rs/eli/rep/sgrs/ministarstva/pravilnik/2024/11/6/reg>, as amended, regulated in detail the actions of educational institutions regarding prevention, but also intervention when there is suspicion or knowledge that a certain form of violence has occurred or is occurring. The last amendments to the Rulebook on the Protocol of Behavior in the Institution in Response to Violence, Harassment and Neglect (2024), defined the steps of action by the employees in crisis situations with the aim of empowering them to respond more effectively and provide support to children when a certain crisis situation occurs.

- *Rulebook on More Detailed Criteria for Recognizing Forms of Discrimination by an Employee, Child, Student or Third Party in an Educational Institution* (2016)

<http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/ministarstva/pravilnik/2016/22/1>

- *Rulebook on the Institution's Actions in Case of Suspected or Known Discriminatory Behavior and Insult to the Reputation, Honor or Dignity of a Person*

<https://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/ministarstva/pravilnik/2018/65/2/>

All three by-laws regulate very precisely the procedures on how the educational institutions should act in situations of suspected or known discriminatory behavior and how to recognize such behavior, that is, how the institutions should act in response to violence, abuse and neglect. It is prescribed, among other things, that the institution intervenes in cases of suspected or proven insult to the reputation, honor or dignity of a person and discriminatory behavior from racist, sexist, homophobic, xenophobic, Islamophobic, anti-Semitic, anti-Gypsy or other forms of discriminatory behavior. Every educational institution is obliged to set up mechanisms for the prevention and protection against violence and discrimination, such as the Team for the protection against discrimination, violence, harassment and neglect, and to prepare an annual program for the prevention of discrimination, in addition to the annual program for protection against violence, abuse and neglect. The role of the Protection Team is to implement preventive activities defined by annual discrimination prevention program, but also to intervene in situations of suspicion or knowledge of discriminatory behavior.

As part of the annual Program for Protection from Violence and the Program for the Prevention of Discrimination, every educational institution is obliged to draw up a concrete plan of preventive activities that includes the promotion of equality and the fight against racism and LGBTI phobia. Schools evaluate the implementation of these activities through an annual report on the work and implementation of the mentioned programs. On the website of the Ministry of Education - Publications - <https://prosveta.gov.rs/kategorija/publikacije/>, there are numerous resources for schools that are available in online format, as well as video training for the application of the Rulebook on the Protocol of Behavior in the Institution in Response to Violence, Harassment and Neglect and other publications.

Therefore, we believe that ECRI's conclusion about the lack of "specific instructions on how to react to the occurrence of violence and effective action after reporting incidents in schools" is arbitrary and is not based on relevant data on the application of procedures in practice.

Also, the National Platform "I am Protecting You" (Čuvam te) is fully functional as of May 19, 2023, so citizens can also report situations of violence on this platform using a form that contains predefined fields. Citizens have also submitted their applications electronically or by mail to the Ministry of Education in the past too. Citizens also receive consultative and advisory assistance, as do schools at the invitation of the Department for Human and Minority Rights in Education in the Ministry of Education. We also add that the National Platform I am Protecting You includes trainings for employees, parents and children on topics in the field of protection from violence, discrimination, how to recognize it, respond to it and provide support in situations where violence occurs. At the moment (May 2024), there are 15 trainings on said platform on those topics. Some of the trainings available are: "Support for Children from Vulnerable Social Groups in Situations of Discrimination, Violence, Harassment and Neglect" - Training for Parents (447 parents attended the training); "What a Parent Should do When They Have Knowledge About Violence at School" - Training for Parents (4907 parents attended the training); "What Can You Do If You Know That Your Friend is Targeted by Violence" - Training for Students (12797 attended the training).

IRREGULARLY PRESENT MIGRANTS

According to Serbian legislation, health care is provided from the budget of the Republic of Serbia to asylum seekers, registered foreigners who have expressed their intention to apply for asylum, and foreigners who have been granted asylum, which is implemented in practice.

In Article 239 of the Law on Health Care ("Official Gazette of the RS", no. 25/2019 and 92/2023 - authentic interpretation) includes, in addition to asylum seekers, foreigners who have registered their intention to apply for asylum. From the budget of the Republic of Serbia, according to the price list of health care services that has adopted the organization of compulsory health insurance for health services covered by compulsory health insurance, compensation is paid to health institutions for health services provided to: 2) asylum seekers, registered foreigners who have expressed their intention to apply for asylum, persons included in the program of voluntary repatriation and foreigners who are staying in the Republic of Serbia at the invitation of state authorities, and do not meet the conditions for acquiring the status of a compulsorily insured person in accordance with the law regulating health insurance, during their stay, in accordance with the principles of reciprocity; 3) foreigners who have been granted asylum in the Republic of Serbia, if they are financially vulnerable.

LGBTI EQUALITY

In practice, the registration of sex change in the register of births takes place in accordance with the prescribed procedure. Given that in practice the need has been identified to provide the necessary information in cases where the sex change was performed abroad, in March 2023 detailed information was sent to the Ministry of Foreign Affairs to be forwarded to diplomatic and consular missions of the Republic of Serbia abroad, so that citizens of the Republic of Serbia who have changed their sex abroad, could receive the necessary information about the procedure for recording data on sex change in the birth register.

In the Report it was stated that the amendments to the LPD from 2021 expressly prohibited discrimination on the basis of sex, gender and gender identity. However, gender and gender identity existed as grounds for discrimination in the LPD from 2009. Even then, the list of personal characteristics was non-exhaustive. With the amendments to the LPD from 2021, discrimination on the basis of gender and sexual characteristics is expressly prohibited.

INTEGRATION AND INCLUSION

REFUGEES AND OTHER PERSONS IN NEED OF INTERNATIONAL PROTECTION

Refugees are recognized in the National employment strategy as a less employable group, with the term refugees recognizing persons who, due to the events of 1991 to 1998 and their consequences, fled or were exiled from the former Yugoslav republics to the territory of the Republic of Serbia. In August 2023, the Law on Employment of Foreigners and the Law on Foreigners, two key documents that regulate their immigration status in Serbia, were amended. The implementation of some provisions, such as the provision of a single residence and work permit, began on February 1, 2024, which should facilitate access to rights, especially the right to work, to a single work and residence permit for foreigners. A personal work permit constitutes a permit allowing a foreign citizen residing in the Republic of Serbia unrestricted employment, self-employment and the exercise of rights in the event of unemployment, in accordance with the law.

Good practice - learning Serbian as a foreign language in schools

Bearing in mind that the Law on the Foundations of the Education System, Article 23, stipulates that the institution organizes the learning of Serbian as a foreign language for students who do not know the language in which the educational work is carried out, the

Ministry created a teaching and learning program for Serbian as a foreign language. With the aim of sustainably addressing this challenge, Serbian as a foreign language became part of the teaching and learning plan as an elective program in elementary school. The Ministry of Education has so far improved the competences of 600 Serbian and foreign language teachers for the implementation of the new curriculum for Serbian as a foreign language, and the materials, as well as the Teacher's Manual, are available on the website of the National Education Portal of the Institute for the Improvement of Education and Training [https:// zuov.gov.rs/srpski-kao-strani-jezik](https://zuov.gov.rs/srpski-kao-strani-jezik). This model of learning the Serbian language in the institution by school support staff, during the regular teaching process, with additional classes for students who do not know the Serbian language, such as migrants and refugees, yields positive results and good practice, and one of the important outcomes of this inclusive approach in the learning of the Serbian language is also reflected in the more active involvement of migrant and refugee students in school life, as well as in the strengthening of peer support in schools.

ROMA

In the Republic of Serbia, every child is registered in the birth register immediately after birth, and the reasons for the child's legal security impose the obligation to identify the mother when registering the child's birth. The fact that the child's mother does not have personal documents does not constitute an obstacle for registering the child's birth in the birth register. On the contrary, the child's birth is registered immediately after receiving the birth report, and the identification procedure for the mother is initiated in cooperation with the officials of the Ministry of the Interior, in the manner provided by the Instruction for proceedings in cases of the birth of a child whose mother does not have personal documents - which was adopted by four ministers in December 2020, with the aim of ensuring the efficiency and coordination of officials, i.e. that in these cases they act according to the principle of urgency and the best interest of the child.

For ensuring a proper and uniform application of this instruction in the period from 2021 until today, around 650 employees (employees in maternity hospitals who work on registering the birth of a child, registrars, police officers, officers of social work centres, providers of free legal aid, etc.) have passed required training.

These trainings are conducted by the Operational Group, acting as a coordination mechanism of several ministries the scope of which includes tasks related to registration in the registers, obtaining personal documents and exercising other rights from personal status. Also, for representatives of the Roma community, the Operative Group holds information campaigns (since December 2022, five information campaigns have been held), in order to get the necessary information on how persons who do not have an identity card or who are not registered in the birth register can exercise that right.

Special emphasis in the Republic of Serbia is aimed at preventing the risk of statelessness in cases of new-born children. By implementing the standard of identification in procedures in which children's rights are decided, we provide a protection mechanism in order to prevent any possible type of abuse (for example, trafficking in children and people). In this way, the Republic of Serbia respects and implements the obligations it has undertaken in accordance with the Council of Europe Convention on Combating Trafficking in Human Beings.

Also, this action aims to completely eliminate the risk of statelessness, to solve the generational problem of persons who are not registered in the birth register, and to determine at the same time whether the mother has any more children who are not registered in the birth register, so that those cases are also identified and resolved.

Aware of the challenges accompanying the phenomenon of segregation in the education system, and with the aim of eliminating this negative phenomenon, the Ministry of Education is continuously working on improving legislation, strengthening the competences of employees in the education system to recognize and react to this phenomenon, as well as on providing continuous support measures to children and students of Roma nationality.

The Ministry of Education regulated the area of protection against discrimination in the system of education and upbringing through two regulations as to how to address and act in situations of discrimination and discriminatory behavior (in 2016 and 2018) with the aim of recognizing and preventing discrimination, including particularly severe forms of discrimination, such as segregation. So far, more than 800 employees in the education system have enhanced their knowledge and skills for the application of these by-laws. In cooperation with the Ministry of Education and the Center for Interactive Pedagogy, with the support of the Pestalozzi Children's Foundation, the Guide for Preventing Segregation in Educational and Upbringing Institutions and Taking Measures for Desegregation was developed, which is available at

<https://prosveta.gov.rs/wp-content/uploads/2022/12/vodic-za-sprecavanje-sagregacije.pdf> and constitutes an activity that completes the resources in education for the implementation of legislation contributing to fair and non-discriminatory education and society as a whole.

We hereby briefly mention only some of the continuous support measures for the inclusion of Roma children in the education system, increasing coverage and prevention of discrimination, which affect the desegregation education policy: mandatory and free preparatory preschool program, prescribed priority enrolment of children from sensitive social groups in preschool upbringing and education; diversification of the program offer of preschool institutions was legally introduced in order to increase the inclusion of children from vulnerable social groups in preschool upbringing and education; the unconditional enrolment of children in primary school was prescribed; the method of enrolling children older than 7.5 years in primary school was regulated, affirmative action measures were implemented for the enrolment of students in secondary school and students in higher education institutions, compensation for the costs of staying in a preschool institution, the obligations of educational institutions in the prevention of student dropouts, free transportation for children/students and their personal assistants are defined; scholarships, meals, accommodation in students' homes, free textbooks for primary school students, teaching assistants who provide support to children and students of Roma nationality who need additional support in education.

Regarding ECRI's conclusion that Roma children are still overrepresented in "special schools", we note that according to the regulations, a student can enroll in a school for students with developmental impediments and disability only based on the positive opinion of the interdepartmental committee and with the consent of the parents, which excludes the possibility that a child is sent to such schools without the proper justification. If there are deviations from this procedure, the educational inspectorate shall react in such cases.

OTHER ETHNIC MINORITIES

The right to vote can be exercised by persons registered in the Unified Electoral Roll, and the place of residence is the data used to determine which local self-government unit registers the voter in the part of the electoral roll that it keeps, and any change of place of residence is the basis for updating the data.

The issue of residence is regulated by the Law on Permanent and Temporary Residence of Citizens and is under the jurisdiction of the Ministry of Interior, which is obliged to electronically submit all changes to the Ministry of Public Administration and Local Self-Government in order to update the electoral roll. From late September 2023, according to the notification of the Ministry of Interior, data on persons whose residence address has been suspended will not be submitted.

We believe that there is no basis for the allegations that "municipalities with large Albanian population (Bujanovac, Preševo, Medveđa) are disproportionately affected", especially since the ECRI Report refers to unofficial data for this claim.

In the reporting cycle (2018-2023), only three complaints were submitted to the Ministry of Public Administration and Local Self-Government against decisions on the removal from the electoral roll, for which updating the municipalities of Bujanovac, Preševo, Medveđa are responsible.

The Law on Permanent and Temporary Residence of Citizens („Official Gazette of the RS“, No 87/11) prescribes registration and deregistration of permanent residence, registration and deregistration of temporary residence, registration of temporary residence abroad, as well as the jurisdiction and manner of keeping relevant records. The law applies to all citizens equally.

In accordance with the provisions of this law, permanent residence is the place where a citizen has settled with the intention of living there permanently, i.e. the place where the centre of his life activities is, as well as his professional, economic, social and other ties that prove his permanent connection with the place where he settled.

Also, the citizen is obliged to report his place of residence to the competent organisational unit of the Ministry of Interior within eight days from the day of settling at the address where he registers his place of residence.

In accordance with Article 6 of the aforementioned law, when registering and deregistering permanent and temporary place of residence, as well as reporting temporary stay abroad and returning from abroad, citizens are obliged to provide true information.

Article 18 of the above law regulates the passivisation of permanent and temporary residence and stipulates that at the request of a court, public administration body, other body or organisation, as well as another legal or physical person, who has a justified legal interest, the authority in charge shall verify the fact of permanent residence, i.e. temporary residence, at the address where the citizen registered his permanent residence, i.e. temporary residence.

If this verification confirms that the citizen does not live at the address, where he has registered permanent or temporary residence or confirms that he has provided untrue information when registering permanent residence or temporary residence, the authority in charge issues a decision by which the address of permanent or temporary residence is passivized.

After the authority in charge passivise the address of permanent residence or temporary residence, the citizen is obliged, if he lives in the territory of the Republic of Serbia, to register his residence at the address where he lives within eight days of receiving the decision on passivisation. A citizen can file a complaint with the Ministry of Interior against the aforementioned decision. After the finality of the decision on the passivisation of the residence, it is indicated in the records of the Ministry of the Interior that the citizen does not live at the address of the registered residence.

It is necessary for the citizen, after the passivisation of residence, to report the address where he actually lives. This means that the citizen's request for the issuance of documents can only be decided upon after the citizen reports the actual address of residence.

In connection with the allegations about the passivisation of residence addresses of members of the Albanian national minority in the municipalities of Medveđa, Bujanovac and Preševo, we point out that in the previous period, initiatives and requests for the passivisation of residence addresses came from various state authorities and local self-government bodies, and that based on them, the Ministry of Interior acted in accordance with the aforementioned Article 18 of the Law on Permanent and Temporary Residence of Citizens. In this sense, the Ministry of Interior was obliged to passivise residence for citizens who were registered at addresses where there are no residential buildings, i.e. in cases where it was confirmed that citizens did not live at the address where they were registered.

In the Final Report of the ODIHR International Election Observation Mission, the Ministry of Public Administration and Local Self-Government was recommended to introduction of objective, reasonable and non-discriminatory procedures for the registration of citizens without permanent residence in the voter register, and the possibility for those citizens to exercise their voting rights in order to guarantee universal right to vote and prevent unjustified disenfranchisement or unequal treatment of voters.

In communication with the Ministry of Interior, considering that the passivated address of the citizen's residence is his last place of residence in the Republic of Serbia, according to which the local jurisdiction for conducting administrative proceedings is determined, in accordance with Article 34, paragraph 1, point 5 of the Law on General Administrative Procedure, and with the aim of legal and uniform treatment, the method of treatment was agreed upon, so that the Ministry of Public Administration and Local Self-Government was informed in late September 2023 that the Ministry of Interior would not in the future provide data on persons whose residence address has been deactivated.

The Ministry of Interior applies the regulations in the field of permanent and temporary residence of citizens equally to all citizens of the Republic of Serbia, regardless of their national, religious and other affiliations, so in connection with this, the passivisation of the address is carried out if the citizen does not live at the address at which he has his registered permanent place of residence, that is, temporary place of residence, regardless of national, religious and other affiliation.

In order to exercise the right to self-government in culture, education, information and the official use of language and script, members of national minorities in the Republic of Serbia can elect their national councils. 24 national minorities are registered in the Register of National Councils of National Minorities. Funds for financing the work of national councils are provided from the budget of the Republic of Serbia, the budget of the autonomous province and the budget of the local self-government unit, donations and other revenues. The procedure for allocating funds from Budget Fund and the implementation of the public tender are regulated by the Regulation on the procedure for the allocation of funds from the Budget Fund for National Minorities, according to which every year, based on the proposal of the Council for National Minorities, the minister in charge of human and minority rights adopts a Program for the allocation of funds from this fund, which determines the priority area of financing.

Within the project "*Promotion of diversity and equality in Serbia*", which is part of the joint program of the European Union and the Council of Europe "*Horizontal Facility for the Western Balkans and Turkey 2019-2022*", a Manual for the work of national councils of national minorities in the Republic of Serbia was prepared. Purpose of the Manual is to be a useful tool for national councils of national minorities as a form of help and support

in the exercise of their powers, in a way that offers practical instructions and advice that have not been dealt with in a unified and comprehensive way, including model acts. The Manual has been translated into 13 languages of national minorities.

Mechanisms for the protection of national minorities in the Republic of Serbia are harmonized with international standards for the protection of national minorities. It is extremely important that for a long period of time in the Republic of Serbia we have had a minority-inclusive Government, where members of national minorities are represented at the highest level of executive power, which has resulted in a greater number of ministers from among national minorities, a greater number of state secretaries, assistant ministers, advisers and other government officials. In addition, according to the principle of affirmative action, members of national minorities are also represented in the highest body of legislative power in the National Assembly of the Republic of Serbia. Members of national minorities occupy important positions in other public authorities, both at the national, provincial and local levels. With various strategic documents, special emphasis is placed on particularly vulnerable and sensitive national communities, with which the aforementioned documents additionally develop the mechanisms of their protection and integration. Our goal is the complete integration of all national minorities and a high level of minority rights for all national minorities. With quality and detailed protection of national minorities, we are creating a modern multinational democratic society of equal chances and opportunities in which every citizen has a guaranteed level of individual and collective rights, regardless of whether he belongs to the majority or minority nations.

The fifth periodic report on the implementation of the Framework Convention for the Protection of National Minorities, which was adopted by the Government on September 1, 2022, after which it was forwarded to the competent bodies of the Council of Europe. In that report, all novelties in legislation aimed at creating progress in terms of the representation of national minorities in public administration were presented, as well as changes in legislation that created the basis for collecting data on the nationality of employees. The report also contains percentage data on the national structure of employees in provincial bodies and professional services of the provincial government of AP Vojvodina, but does not contain data on representation at other levels of government - the republic and local self-government units. For this reason, the Ministry organized a special meeting in 2024 with the aim of identifying challenges and exchanging information of all relevant institutions that, in accordance with their competences at the republican and provincial levels, are responsible for keeping records, which, among others, should also include information on the national affiliation of employees, as well as institutions that are in charge of implementing regulations in this area.

TOPICS SPECIFIC TO REPUBLIC OF SERBIA

RESORT TO ALGORITHMIC SYSTEMS IN THE PROVISION OF SOCIAL ASSISTANCE: IMPACT ON GROUPS OF CONCERN TO ECRI

The basic function of the Social Card Registry (SCR) is to be used as a source of data for the purposes of administrative procedures in exercising rights. This is not a register of all residents of the Republic of Serbia, but contains data on persons who are in the process of exercising a right, who use the right and who used the right (10 years back compared to the day of observation, after which they are deleted).

The statistics on the number of beneficiaries of cash social assistance cannot be linked to the Law on the Social Card, because it does not prescribe any conditions for the exercise of rights and services, but the exercise of this right is prescribed by the Law on Social Protection. In this regard, the Law on the Social Card (LSC) does not have any formal-

legal influence on the trends in the number of beneficiaries of social benefits, whereas other laws do.

The use of SCR resulted in a more efficient use of data, that is, the facts on which the exercise of rights depends, and that was the goal of passing the law through raising the quality of data in the social sector. The Law on the Social Card and the established Register are only a means or a tool to achieve that goal. Based on the use of accurate and up-to-date data, SCR contributed to achieve greater fairness in the exercise of rights and services as the goal that was set. The time for obtaining facts for the purposes of administrative action on the part of public administration bodies has been significantly reduced, while the citizen can exercise his/her rights more easily and in a shorter time.

One of the advantages of the Registry is that it reveals the so-called "errors of exclusion", which are actually notifications that the beneficiary may exercise some other additional rights for which they did not submit a request, in which case social work centers can react proactively and inform the citizens about the possibilities of exercising other rights (most often the right to child allowance, compensation for the costs of children's stay in kindergarten and an increase in the amount of social welfare based on the coming of age of a family member).

Data kept in the social card are data on social economic status (personal income, movable and immovable property, etc.) and data on exercised rights (data from the decision - type of right, amount, participants, etc.). What is important is that personal data is kept in relation to the right, that is, not all data is kept in the same scope for each person, but only the necessary data in connection with the realization of a right. Officials from the social protection system use data from SCR for the purposes of conducting administrative procedures and deciding on the law. The regulations related to the conditions under which a material right is exercised, such as financial social assistance, have not changed, and therefore neither has the Register.

The social card has no influence on whether someone will exercise this right or not. The Law on the Social Card (LSC) stops short of prescribing the conditions for exercising rights, so the number of persons who received social benefits before and after the start of the application social card does not depend on the Registry, because the conditions for exercising rights have not changed.

The use of SCR resulted in a more efficient use of data, that is, facts on which the exercise of rights depends, but this should not be interpreted as a reason for reducing the number of rights beneficiaries, considering that the goal is for a right to be exercised by those who meet the conditions prescribed by law.

The trend in the number of beneficiaries of social benefits, for example cash social assistance, showed a tendency to decline even before the implementation of the Social Card Register, which can be verified through the database kept by the Ministry of Labour, Employment, Veterans and Social Affairs, and therefore this should be interpreted in a complex manner and not only through the application of SCR (economic developments in the country, increase in employment, greater visibility of income, movable and immovable property, significant population migration, etc.).

Furthermore, there is no automated decision-making on a right, considering that the expert of the center for social work is obliged to check all established facts, to go to the field and establish how a particular family lives and to make a decision based on all available data and conversations with the family in the administrative procedure. The Law on the Social Card is a technical law that regulates the establishment of the Register, as a type of record and nothing beyond that, and SCR does not provide for the conditions for exercising rights.

When deciding on rights in the field of social protection, centers for social work are obliged to use data from SCR, i.e. to inspect all official records that are kept in electronic form, which are important for the determination of a certain right and, in addition to the above, to determine other facts and circumstances that can influence the decision (enable the parties to express their opinions on facts and circumstances that are important for making a decision, conduct a field visit to the family...) and, with the correct application of the rules of procedure, to make a decision based on the law.

The legal basis for implementing the procedure for exercising rights in the field of social protection is solely the Law on Social Protection and not the Law on the Social Card.

Beneficiaries also have the option of lodging an appeal, given that rights are decided in a procedure according to the law governing administrative proceedings. It is one of the fundamental human rights that is guaranteed. In each specific procedure, the beneficiary is served with an administrative act containing an instruction on the legal remedy, namely that an appeal can be filed with the relevant second-instance authority, within what time frame and in what exact manner. After the second-instance authority, it is possible to conduct the appropriate court proceedings.

In relation to the number of data, the authorized official, when establishing the facts, obtains only the data necessary for decision-making. Therefore, only the necessary data are obtained, and it should be borne in mind that the Law on the Social Card (LSC) does not prescribe all data for all rights and services, since not all data exists in electronic form, i.e., in electronic records from which they could be obtained. The volume of data obtained ex officio through the social card is smaller than the evidence submitted in paper form, and the processing of personal data is proportionate to the purpose. The data is processed in relation to the right or service requested. The authorized official does not process the same set of data for all rights, but only those that are necessary for deciding on a specific right.

Depending on the type of right, different data are downloaded, but not all data because different sets of data are determined for different rights. SCR is a source of data for about 40 rights and services from only three areas (social protection, child protection and veterans' and disability protection). The data are collectively listed in articles 7, 8 and 9 of the LSC. Some rights require a larger amount of data (CSA), while others require a much smaller amount of data (e.g. a special financial allowance). LSC also prescribes access to protection measures that include authentication of a high level of reliability, authorization of an authorized official of the data user, which prevents unauthorized access to data, records of every access to the system, as well as physical protection of data and storage of security copies. Each beneficiary of rights can inspect their data that is kept in the SCR through the e-Government Portal. Also, on the Portal itself, a request for the correction of inaccurate data can be easily submitted if a citizen notices such an inaccuracy.

We remind you that during the drafting of the Law on the Social Card, the opinion of the Commissioner for the Personal Data Protection was also requested, and a bylaw on the impact assessment on the protection of personal data was drawn up. The best examples of practice and implemented provisions of all laws related to the protection of personal data, data confidentiality, information security, electronic identification, and electronic administration were used in the drafting of the Law. Furthermore, the World Bank provided expert support in the drafting of the Law on the Social Card through consultancy assistance and agreed with the text of the law before its adoption by the Government.

There is no negative impact of the Law on the Social Card on any category of the population of the Republic of Serbia. Rights in the field of social protection are exercised

by all residents of the Republic of Serbia under the same conditions, according to the Law on Social Protection.

One of the functionalities of SCR is the formation of notifications about changes in personal data during the exercise of rights that are important for the exercise of rights (for example, when the beneficiary changes his life status - when he passes away, when his income increases, when his assets increase, etc.) in order to react to them. The official, based on the information about the increase in income, obtains factual data from the register, includes the beneficiary in the administrative procedure and makes a decision, which may be that the increase in income has no effect on the exercise of the right, that it has an effect in the sense of reducing the right by a certain amount or in the sense of the right being revoked. If there is a change in the amount or the right is revoked, the beneficiary has the right to an appeal procedure and legal assistance. The appeal procedure is prescribed for all citizens in the same way and unified manner in all areas of administrative procedure and is regulated by the Law on General Administrative Procedure and not by laws in the field of social protection. Financially disadvantaged citizens have the right to free legal aid based on the law, so there are no elements of discrimination regarding the impossibility of exercising rights after the decision has been issued.

Algorithmic decision-making systems can lead to discrimination and inequality, but when it comes to the Law on the Social Card and the Social Card Register, such phenomena do not occur because they are not applying an algorithmic decision-making system.

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The European Commission against Racism and Intolerance (ECRI) is a unique human rights monitoring body which specialises in questions relating to the fight against racism, discrimination (on grounds of “race”, ethnic/national origin, colour, citizenship, religion, language, sexual orientation and gender identity), xenophobia, antisemitism and intolerance in Europe; it prepares reports and issues recommendations to member States.