

COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL OF EUROPE

DUNJA MIJATOVIĆ

REPORT FOLLOWING HER VISIT TO SERBIA
FROM 13 TO 17 MARCH 2023

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SUMMARY

Commissioner Dunja Mijatović and her team visited Serbia from 13 to 17 March 2023. During the visit, the Commissioner held discussions with the Serbian authorities, national human rights structures and civil society. This report focuses on three main issues raised during the visit: transitional justice and dealing with the past, freedom of expression and assembly and women's rights and gender equality.

Transitional justice and dealing with the past

The Commissioner urges Serbia to end impunity for war crimes committed during the 1990s' wars in the former Yugoslavia. This is crucially important for the victims and for society as a whole in Serbia and in the region. To this end, the authorities are called on to step up the prosecution of wartime crimes by fully using all the available human and financial resources, which have been strengthened in recent years. The Commissioner further calls on the authorities to prosecute all incidents of threat, intimidation or pressure against victims and witnesses, and to address the persistent shortcomings in the witness protection system. The Commissioner also urges Serbia to take improve their judicial co-operation with the International Residual Mechanism for Criminal Tribunals (IRMCT) and with neighbouring countries, including by executing the international arrest warrants in the pending contempt case before the IRMCT.

Noting that still large groups of survivors of war crimes and families of victims are unable to obtain reparation for the harm they suffered in the existing legal framework in Serbia, the Commissioner urges Serbia to expand the scope of this framework to ensure that all victims of wartime crimes have access to prompt, adequate and effective reparation in line with established international standards, and to remove the existing obstacles facing victims when seeking monetary compensation in civil or criminal judicial proceedings.

In reference to the resolution of pending cases of missing persons as a result of the wars in the region, the Commissioner is concerned about the slow pace of the resolution of about 9800 remaining cases. She urges Serbia to take all necessary steps to enable effective and continuing search for missing persons, including by opening its military archives and enhancing its cooperation with neighbouring countries. The Commissioner also encourages Belgrade and Pristina to recommit to constructive dialogue about issues relating to the past and to cooperate on the resolution of the remaining cases of missing persons, putting the families of the missing persons at the centre of all their considerations.

The Commissioner is gravely concerned about and calls on Serbia to counter the widespread public glorification of war criminals, denial and relativisation of war crimes and genocide, and to stop giving public platform to war criminals and war crimes suspects to spread a narrative of denial. The authorities should instead develop and support initiatives which honour the victims and make their voices heard so that they play a crucial role in the construction of memory. The Commissioner reiterates her call on the authorities, which she conveyed during the visit, to remove all murals, symbols and graffiti dedicated to war criminals.

The Commissioner emphasises the importance of inclusive memorialisation and addressing of the past with critical and reflective lenses. She is concerned about the continuous promotion of a one-sided view and nationalistic narrative of the wars in the majority of the pro-government and government-controlled media that have been shaping the public discourse for decades. Of particular concern is the effect this policy has had in education, preventing young people from learning about the events of the 1990s with multiple perspectives and from developing critical and reflective thinking based on respect for diversity and cultural differences. She urges the authorities to ensure that their approach to the memorialisation of the past is inclusive and critical. In the same vein, the authorities are urged to ensure that history teaching reflects multiple perspectives, condemns all atrocities, and promotes tolerance and openness.

Freedom of expression and assembly

The Commissioner calls on the authorities to ensure the safety of journalists, which remains a serious human rights concern in Serbia. The authorities should promptly and effectively investigate all crimes committed against journalists, leading to prosecution and appropriate punishment for the perpetrators. Serbian public officials on their part must refrain from discourse that encourages attacks, vilification, or smear campaigns against journalists and emboldens the perpetrators. The authorities are also urged to finally bring to justice all those responsible for the three killings of journalists Slavko Ćuruvija, Radislava Dada Vujasinović and Milan Pantić that occurred between 1994 and 2001.

The Commissioner is seriously concerned about the unfavourable working environment for civil society organisations and human rights defenders and calls on the authorities to foster a safe and enabling environment for their work. Serbian public officials must refrain from spreading inflammatory rhetoric against human rights defenders and civil society organisations, which undermines their safety and ability to carry out their vital work. The Commissioner also calls on the authorities to counter the widespread use of the strategic lawsuits against public participation (SLAPPs) against journalists, human rights defenders and activists, drawing on her recommendations to the Council of Europe member states in this regard.

The Commissioner notes with concern increasing restrictions of the right to freedom of peaceful assembly which discourage participation and create a chilling effect. She calls on the authorities to facilitate this right by refraining from unjustified restrictions and bringing Serbia's legislative framework and practice fully in line with relevant international human rights standards. This includes the need for prompt and effective investigation of allegations of excessive use of force and of other human rights violations committed by law enforcement officials in the context of the exercise of the right to freedom of assembly. Stressing the specific responsibilities of the police to facilitate safe and peaceful assemblies, the Commissioner urges the authorities to integrate human rights standards in all aspects of the planning, preparation and policing of assemblies with clear guidelines, protocols and training.

The Commissioner considers that the collection and processing of sensitive data through mass surveillance could have far-reaching consequences on individual rights and freedoms including on the right to privacy, freedom of assembly and right to protection against discrimination. She therefore calls on the authorities to refrain from introducing biometric surveillance of public spaces and biometric data processing and amend the Bill on internal affairs in this regard. She stresses that legislation governing the use of any such technology that the authorities may still decide to put in place must be fully in line with relevant human rights standards.

Women's rights and gender equality

Whilst welcoming the strengthening of the legislative and policy framework for gender equality in recent years, the Commissioner calls on the authorities to step up their implementation. She invites the authorities to redouble their efforts aimed at combating persisting discriminatory gender stereotypes, which influence women's choices, prospects and opportunities in all areas of their lives and contributes to the perpetuation of gender-based violence against women. In this regard, the authorities should strengthen the Coordination Body for Gender Equality, by providing it with adequate human and financial resources.

The Commissioner commends the progress made in the field of political participation of women. However, the authorities need to make further efforts on advancing gender equality in other areas, in particular with regard to access to employment for women, by removing barriers and implementing special measures to facilitate women's re-entry into the labour market. The authorities should

continue to pay particular attention in this regard to the specific needs of Roma women, women with disabilities and women from rural areas.

The Commissioner is seriously concerned about the high prevalence of all forms of violence against women in Serbia and urges the authorities to address this phenomenon by stepping up the implementation of the existing legislation, with a view to better preventing all forms of violence and protecting the victims. In doing so, the authorities should build on the recommendations made by GREVIO and the Committee of the Parties to the Istanbul Convention. The Commissioner also calls on the authorities to take resolute action in addressing digital violence against women and girls.

As concerns access to justice, the Commissioner calls on the authorities to amend the definition of rape and sexual violence in the Criminal Code to align it with the requirements of Article 36 of the Istanbul Convention, by including the element of consent. Stressing that the perpetrators of gender-based violence must be prosecuted and adequately punished, the Commissioner calls on the authorities to address the shortcomings underpinning the disparity between the number of charges and the number of convictions for such crimes. To that effect, the authorities are encouraged to continue strengthening the capacities of legal professionals in this field.

The Commissioner stresses the need for an increased capacity and availability of support services for women victims of violence. She invites the authorities to improve access to such services for Roma women, women with disabilities and migrant women and to fight resolutely discrimination and prejudice facing these women in this context.

Finally, the Commissioner commends the crucial work carried out by civil society organizations in this field. She calls on the authorities to provide these organisations with stable funding, and to cooperate with and make better use of their support services, including by ensuring routine referral of victims to the services that they run.

INTRODUCTION

1. The Commissioner for Human Rights of the Council of Europe, Dunja Mijatović (the Commissioner), carried out a visit to Serbia from 13 to 17 March 2023. The visit focused on transitional justice and dealing with the past (chapter 1 of this report), freedom of expression and assembly (chapter 2) and women's rights and gender equality (chapter 3).
2. During her visit, the Commissioner met with the Serbian Prime Minister Ana Brnabić; the First Deputy Prime Minister and Minister of Foreign Affairs Ivica Dačić; the Minister of Justice Maja Popović; the Minister for Human and Minority Rights and Social Dialogue Tomislav Žigmanov; and the Minister of Culture and Chair of the Coordination Body for Gender Equality Maja Gojković. In addition, the Commissioner met with the Ombudsman Zoran Pašalić, the Commissioner for the Protection of Equality Brankica Janković and the Commissioner for Information of Public Importance and Personal Data Protection Milan Marinović, as well as representatives of civil society organisations and media associations.
3. In the framework of the visit, the Commissioner visited the premises of the NGO 'Women in Black' (Žene u crnom) and paid her respects at the memorial dedicated to the murdered journalist Slavko Ćuruvija along with Veran Matić, Chairman of the commission tasked to investigating the three high-profile killings of journalists in the past included that of Slavko Ćuruvija. The Commissioner also participated in and delivered a speech at a conference organised by the Commissioner for the Protection of Equality to present the results of research on the causes for non-reporting of domestic violence by women, carried out as part of the project "Integrated response to violence against women and girls", implemented by the Government of the Republic of Serbia and UN agencies.

4. The Commissioner would like to thank the Serbian authorities in Strasbourg and Belgrade for their assistance in organising her visit and for providing her with additional information following the visit. She expresses her gratitude to all her interlocutors in Serbia for sharing with her their knowledge, experiences and insights.¹

1. TRANSITIONAL JUSTICE AND DEALING WITH THE PAST

1.1 THE NEED TO END IMPUNITY FOR WARTIME CRIMES AND TO PROVIDE REPARATIONS TO ALL WAR VICTIMS

1.1.1. DOMESTIC CRIMINAL PROCEEDINGS FOR WARTIME CRIMES

5. The Commissioner underlines that impunity for serious human rights violations must be fought against as a matter of justice for the victims, as a deterrent to prevent new violations, and to uphold the rule of law and public trust in the justice system.²
6. The Commissioners' predecessors have been concerned by the persistent impunity in Serbia for certain serious violations of international human rights and humanitarian law, which adversely affect the efforts aimed at achieving justice and durable peace in the region. They urged the Serbian authorities to take all necessary measures to end impunity, and effectively prosecute and sanction wartime crimes in line with international and European standards.³
7. There are reported to be more than 3,000 suspected perpetrators of war crimes, crimes against humanity and genocide committed during the 1990s wars still to be investigated and prosecuted in Serbia, Bosnia and Herzegovina and Croatia.⁴ Serbia has a backlog of more than 1700 wartime crime cases pending preliminary investigation.⁵ In this regard, the Commissioner has noted some measures taken by the Serbian authorities, since her predecessor's visit in 2018, to strengthen the institutional and policy framework for the prosecution of wartime crimes. This includes the adoption in 2021 of the National Strategy for the Investigation and Prosecution of War Crimes for the period 2021- 2026, and an accompanying action plan, as well as the adoption in December 2022 of a new prosecutorial strategy for wartime crimes. The Strategy highlights Serbia's commitment to bringing the perpetrators of wartime crimes to justice; enabling access to justice for all victims; establishing the truth about missing persons; and facilitating the culture of remembrance and dialogue. Additionally, the capacities of the War Crimes Department and the War Crimes Prosecutor's Office (WCPO), have been strengthened, with plans for further increase of the number of assistant prosecutors and other staff in the WCPO.
8. The Commissioner is concerned that, notwithstanding these steps, impunity for wartime crimes persists. She shares the concerns expressed by the UN Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of non-recurrence (the UN Special Rapporteur), Mr Fabian Salvioli, about the low prosecution rate in the country despite the resources and support

¹ This report was finalised on 4 September 2023. All online documents quoted in the report were last accessed on that date.

² Council of Europe Committee of Ministers, [Guidelines on eradicating impunity for serious human rights violations](#) adopted in 2011.

³ See [Preliminary observations](#) by Commissioner Muižnieks on his visit to Serbia in 2018; [Report](#) by Commissioner Muižnieks on his visit to Serbia, CommDH(2015)14, 8 July 2015; [Report](#) by Commissioner Hammarberg on his visit to Serbia, CommDH(2011)29, 22 September 2011.

⁴ [Address](#) by the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz's to the UN Security Council, June 2022.

⁵ See [Preliminary observations from the official visit to Serbia and Kosovo](#) of the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence Fabian Salvioli, December 2022, p. 3.

devoted to this endeavour, and despite the substantial files at the disposal of the authorities.⁶ In the 20 years since its establishment, the WCPO indicted 238 persons. Not all the indictments resulted from the WCPO own work, with many brought from cases transferred from other countries in the region. For example, 65% of the 34 indictments (against 45 persons) brought to the Serbian courts between 2016 and 2020, had been transferred from Bosnia and Herzegovina.⁷

9. The Commissioner is concerned that given the reported backlog of more than 1700 war crime cases pending preliminary investigation, against the background of persistent shortcomings in the domestic prosecution of war crimes and aging witnesses, victims and suspects, the timeline is narrowing for the prosecution of such crimes.⁸ Like her predecessors, the Commissioner is also concerned that the WCPO continues to focus only on low or mid-level police and military officers and does not process officers higher in the chain of command.⁹
10. One of the persisting obstacles to establishing accountability for wartime crimes is the lack of effective protection for witnesses and victims. The Commissioner is concerned that threats against and intimidation of witnesses and victims continue to be reported, while shortcomings in the witness protection system identified by her predecessors persist. This includes a lack of legal action by the authorities to counter such intimidation, despite the existence in the Criminal Code of a specific criminal offence relating to violence or threats against witnesses, as noted also by the UN Special Rapporteur.¹⁰
11. In her discussion with the Commissioner, the Minister of Justice, Ms Maja Popović, acknowledged that securing the attendance of witnesses in wartime crime trials is one of the biggest challenges facing the judiciary. In 2020 the authorities adopted the National Strategy for the Exercise of the Rights of Victims and Witnesses of Crime for the period 2020-2025. The strategy foresees the establishment of a comprehensive system for protecting and improving the rights of victims and witnesses of crime, in line with international and European standards, but its implementation has reportedly proceeded at a slow pace.¹¹

1.1.2. INTERNATIONAL AND REGIONAL COOPERATION

12. In May 2023 the International Residual Mechanism for Criminal Tribunals (IRMCT), which is mandated to deal, *inter alia*, with the remaining cases of the International Criminal Tribunal for the former Yugoslavia (ICTY), rendered its last judgement relating to war crimes committed in the former Yugoslavia in the case of *Stanišić and Simatović*, senior officials in the State Security Service of Serbia.¹² In this judgement the Appeals Chamber of the IRMCT found the accused liable as members of a joint criminal enterprise for war crimes committed by various Serb forces in Bosnia and Herzegovina in 1992 and in 1995. It also found them responsible for a murder committed in Croatia, in June 1992. The Appeals Chamber increased Stanišić's and Simatović's respective sentences to 15 years of imprisonment.
13. The Commissioner emphasises the significance of the legacy of the ICTY and the IRMCT, including the vast amount of evidence and testimonies, for the processing of wartime crimes at the national

⁶Ibid, p. 4.

⁷ Ibid, p. 3.

⁸ See also Organisation for Security and Co-operation in Europe (OSCE), [Report](#) on war crimes proceedings in Serbia (2020-2021), June 2022; European Commission, [Serbia 2022 Report](#), October 2022, p.27; [Concluding observations](#) of the UN Human Rights Committee on the third periodic report of Serbia, CCPR/C/SRB/CO/3, April 2017, para. 22.

⁹ Humanitarian Law Centre, [Report](#) on war crimes trials in Serbia during 2021 , p. 8; European Commission, [Serbia 2021 Report](#), October 2021, p.25.

¹⁰ See above mentioned [Preliminary observations](#) of Fabian Salvioli from December 2022.

¹¹ European Commission, [Serbia 2022 Report](#), October 2022, p. 44.

¹² See, final decisions in the cases of [Stanišić and Simatović](#), adopted by the Appeals Chamber of the International Residual Mechanism for Criminal Tribunals on 31 May 2023.

levels. She believes that without a strong domestic justice system and independent judiciary in Serbia, as well as in other countries in the region, and effective regional and international judicial co-operation there can be no progress in the fight against impunity. She therefore stresses the need for the international community to keep these issues at the forefront of their considerations.

14. The Commissioner notes Serbia's reported progress in cooperating with war crimes prosecutors in the region, including in relation to requests for more support for prosecutors' efforts around accountability and for the take up of expertise and practical skills from the IRMCT Prosecutor's Office.¹³ She is concerned, however, about Serbia's refusal to execute the arrest warrants, issued by the ICTY (in 2015 and 2016), in the pending contempt case before the IRMCT against *Petar Jojić* and *Vjerica Radeta*, despite three reports by the President of the IRMCT to the Security Council for Serbia's breach of its international obligations, most recently in 2021.¹⁴
15. The authorities informed the Commissioner about the positive state of judicial cooperation between Serbia and Bosnia and Herzegovina, which is corroborated by reports of the IRMCT Prosecutor, Serge Brammertz. In its latest report to the Security Council, the Prosecutor reported that this cooperation included the transfer by the Serbian WCPO of a number of investigative files to the Prosecutor's Office of Bosnia and Herzegovina, as well as the signing of a memorandum of understanding between the Serbian WCPO and the Bosnian Prosecutor's Office regarding support for the participation of witnesses, injured parties, and victims in criminal proceedings.¹⁵ Furthermore, the WCPO organised two regional conferences on the prosecution of wartime crimes in Belgrade, with the help of the OSCE Mission to Serbia, in October and November 2022.
16. Serbia, Bosnia and Herzegovina and Croatia continue to ban extradition of their own nationals wanted on wartime crimes charges. This includes war crimes fugitives who fled to a country whose nationality they already possessed, and those who were granted the nationality subsequent to fleeing there.¹⁶ Serbia recently started to use trials *in absentia* because of the inability to secure the presence of suspects from other countries. While the use of this legal avenue is not problematic from a human rights point of view *per se*, provided certain guarantees are respected in line with the European Court of Human Rights (hereafter: the Strasbourg Court) caselaw,¹⁷ it may not be so effective in terms of achieving justice for the victims. Civil society organisations from the region have repeatedly shared concerns about this with the Commissioner since trials *in absentia* are used in several other jurisdictions in the region. Notably, the suspects usually continue to enjoy impunity in the country where they reside.
17. The Commissioner observes that there are exceptions to the rule of non-extradition of nationals for other offences, under certain circumstances. She maintains her position that such an exception should be introduced by all countries in the region in regard to the most serious crimes under international law, such as war crimes, crimes against humanity and genocide. This would send the signal that these crimes are so abhorrent that no safe haven can be provided to those who commit

¹³ See [Progress Report](#) of the International Residual Mechanism for Criminal Tribunals (IRMCT), S/2022/866, 17 November 2022.

¹⁴ Ibid, para. 10. Petar Jojić and Vjerica Radeta were charged with contempt for having threatened, intimidated, offered bribes to or otherwise interfered with two witnesses in the case against Vojislav Šešelj, who was convicted of war crimes by the ICTY in 2018.

¹⁵ [Progress Report](#) by the IRMCT Prosecutor, Serge Brammertz for the period from 16 May to 15 November 2022, S/2022/866, p. 49.

¹⁶ The most prominent cases of non-extradition in Serbia are those of [Mirko Vrućinić](#), [Novak Djukić](#), [Milomir Savčić](#), and [Zoran Vuković](#).

¹⁷ European Court of Human Rights judgment of 12 February 2015 in the case of [Sanader v. Croatia](#). If a convicted person is given the possibility to obtain from a court which has heard him a fresh determination of the merits of the charge, in respect of both law and fact.

them. It would allow suspects to be tried close to the location of the crimes, facilitate participation by the victims and would thus be an important step to ensure meaningful justice.

18. However, considering that this has been a long-standing issue in the region and that based on all information available, there is a lack of political will to address it, the Commissioner shares the view of the IRMCT Prosecutor that, in order to achieve justice, investigative cases should be transferred to the state where the suspect lives, for prosecution there. The Commissioner underscores that all states in the region are obligated under several international treaties to extradite or prosecute a suspect of war crimes found on their territory.¹⁸ Refusing to extradite nationals without investigating and prosecuting allegations of such crimes against them is in clear breach of these obligations. When trials take place in a country other than the one where the crimes occurred, appropriate measures should be taken for the participation of victims and protection of witnesses.

1.1.3 PROVISION OF ADEQUATE AND EFFECTIVE REPARATIONS TO VICTIMS

19. The Commissioner underlines the importance of provision by Serbia of adequate, effective and prompt reparations for harm suffered to all victims, in line with the 2011 Council of Europe Committee of Ministers' Guidelines on Eradicating Impunity for Serious Human Rights Violations and [2005 UN Basic Principles and Guidelines](#) on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. According to the Principles, this includes the following forms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition. These principles and guidelines underline that reparation should be proportionate to the gravity of the violations and the harm suffered by victims.
20. There have been long-standing concerns about the lack of inclusiveness of administrative reparations in Serbia.¹⁹ The Law on the rights of veterans, disabled veterans, civilian disabled war victims and their family member, which was adopted in 2020, provides for, *inter alia*, the right to disability pension, monthly financial aid and free health care. The Commissioner considers it positive that under this law the families of victims of enforced disappearance are not obliged to declare the disappeared person dead in order to be eligible for benefits, in line with international human rights standards. She, however, regrets that the major shortcomings identified by civil society organisations and reported by her predecessors remain in law, namely: that victims whose injuries or loss of life resulted from actions of Serbian state agencies, or who did not suffer injuries on the territory of the Republic of Serbia; victims whose injuries resulted in bodily disability below a certain threshold; and camp detainees, cannot benefit from this law. The law sets bodily disability threshold for veterans and military victims at 20%, while for civilian victims it is 50 %. According to the Humanitarian Law Centre, 15 000 civilian war victims, including most of the women victims of war related sexual violence, and their families cannot benefit from administrative reparations provided by this law.
21. The Commissioner is furthermore concerned that obstacles persist in relation to victims' access to monetary compensation as a form of reparation through judicial proceedings. As regards civil proceedings, obstacles include the requirement of a criminal conviction in order that the victim can seek compensation in civil proceedings; the high standard of proof and the practice of placing the burden of proof on the victim; the cost and length of proceedings; and a restrictive interpretation of provisions related to the statute of limitation. With regards to the request for monetary

¹⁸ See Articles 49, 50, 129, and 146, respectively, of the First, Second, Third, and Fourth Geneva Conventions; Article 7 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Serbia in 2001.

¹⁹ See [Preliminary observations](#), by Commissioner Muižnieks on his visit to Serbia in 2018; [Report](#) by Commissioner Muižnieks on his visit to Serbia in 2015, p.7; [Report](#) by Commissioner Hammarberg on his visit to Serbia, p.7.

compensation within the framework of criminal proceedings, there is a practice of domestic courts of systematically referring the victims to civil courts instead of deciding their claims in criminal proceedings. This practice has continued even after the Serbian Supreme Cassation Court issued guidelines in 2019 which instructed domestic courts to decide, as a rule, on victims' compensation claims in criminal proceedings, and only exceptionally refer them to a civil court. These guidelines aimed at improving access to justice for victims of grave criminal offences and avoiding their revictimization.²⁰

1.2 ESTABLISHING THE TRUTH ABOUT MISSING PERSONS

22. The Commissioner considers the resolution of pending cases of missing persons as a result of the 1990s' wars of pivotal importance for justice and durable peace in the region. According to the International Committee of the Red Cross, as of July 2022 9,876 persons remain missing in the region: 6,302 in Bosnia and Herzegovina, 1,953 in Croatia and 1,621 persons as a result of the conflict in Kosovo.* The Commissioner reiterates that accounting for about 70% of the missing in the region has been an unprecedented achievement, at a global level, after a violent conflict. She is, however, concerned about the slowing pace of the resolution of missing persons cases in recent years.
23. The Commission on Missing Persons, established by the Serbian government in 2006, coordinate the search, exhumation and identification of persons who went missing during the wars, found on the territory of Serbia. According to information provided by the authorities, from January to June 2022, nine requests for the search of missing persons were processed in Serbia, out of which four related to the war in Croatia, two were from Bosnia and Herzegovina and three from Kosovo. In the same period, 10 missing persons cases were resolved in the context of the Belgrade – Pristina dialogue, while the remains of three persons from the war in Croatia were exhumed.
24. The regional cooperation agreements on the search for missing persons have led to the joint monitoring of excavations and exhumations and transfers of human remains and the exchange of information and materials among the authorities of Bosnia and Herzegovina, Croatia and Serbia. However, this cooperation has slowed down significantly as a result of a lack of exchange of information across borders and of effective investigation and prosecution of war crimes. This process is also hampered by Serbia's refusal to open its military archives that may contain important information about missing person, which the Commissioner's predecessors consistently raised with the authorities.²¹
25. The Working Group on Missing Persons (WGMP), chaired by the ICRC, continues to be the framework within which Belgrade and Pristina maintain the dialogue on the search for missing persons under UN auspices. Unfortunately, tensions between Belgrade and Pristina have impacted this process and the Working Group has not met since April 2021. On a more positive note, technical levels of this mechanism (Sub-Working Group on Forensic Issues and Analytical Team) have continued to work on concrete cases and sites and reportedly held 13 meetings since April 2021.²²
26. Five mass graves have been found so far on the territory of Serbia: Batajnica (744 persons), Petrovo Selo (61 persons), Perućac (84 persons), Rudnica (52 persons), and more recently, in 2020, the Kiževak mine (nine persons). The men, women and children who were found in these mass graves

²⁰ See [Report](#) on "The right to reparation in compensation lawsuits: the practice of Serbian courts 2017-2020" by Humanitarian Law Centre, published on 12 March 2021.

* 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 (1999) and without prejudice to the status of Kosovo.

²¹ See [Preliminary observations](#), by Commissioner Muižnieks following his visit to Serbia in 2018; and [Report](#) by Commissioner Muižnieks on his visit to Serbia in 2015, p.13.

²² European Commission, [Serbia 2022 Report](#), October 2022, p. 28.

were victims from the wars in Kosovo and Bosnia and Herzegovina, and the majority were Kosovo Albanians. The Commissioner reiterates the importance of bringing to justice the members of those Serbian law enforcement, military and government structures who took part in operations to remove the remains of Kosovo Albanian victims from mass graves in Kosovo and their reburials in the mass graves found on the territory of Serbia.²³

27. The Commissioner has noted the endorsement by President of Serbia Aleksandar Vučić and Prime Minister of Kosovo Albin Kurti, in May 2023, of the [Declaration](#) on Missing Persons, reaffirming the urgent need for additional joint efforts for the resolution of cases of missing persons. In the Declaration, the authorities commit to closely cooperate on identifying burial sites and follow-up on the excavations, to ensure full access to reliable and accurate information that helps to locate and identify missing persons and to establish and work together through a Joint Commission chaired by the European Union and observed by the ICRC with the aim of resolving the fate of the remaining missing persons. The Commissioner is, however, seriously concerned about a negative impact that renewed tensions between Belgrade and Pristina may have on the search for missing persons, which is already marred by disagreements and lack of cooperation.
28. As regards the legal framework for the protection of the rights of families of missing persons, the Commissioner received information during the visit, concerning the preparation by the Serbian Ministry of Labour, Employment, Veteran and Social Affairs of a draft law on missing persons, in consultation with victims, international organisations and civil society. She was told that this law would provide for a more comprehensive and human rights-based approach to the issues and better protection of the victims. To the Commissioner's knowledge, at the time of the drafting of this report the draft law had not yet been put forward by the government. The Commissioner would appreciate receiving more information about the authorities' plans in this regard.

1.3 DENIAL OF WARTIME ATROCITIES AND GLORIFICATION OF WAR CRIMINALS

29. The Commissioner is gravely concerned about the extent of public denial of war crimes, the glorification of persons convicted for war crimes, crimes against humanity or genocide, and the reintegration in Serbian society of war criminals who continue to deny the crimes for which they were convicted. While instances of denial and glorification of war criminals were sporadic in the past, they are now widespread. The Commissioner's interlocutors from civil society stressed that the absence of public condemnation of such discourse by public officials and the fact that the authorities sometimes give war criminals a public platform to promote their narrative of denial, emboldened those who perceive war criminals as heroes. For example, in November 2019 the Ministry of Defence organised a promotion of a book misrepresenting the facts about a war crime that claimed the lives of 71, mostly young, people at the Tuzla Gate in Bosnia and Herzegovina in May 1995. In her statement about this event, the Commissioner stressed that propagating falsehoods and disinformation in a post-war context is a dangerous exercise; one that seriously undermines all efforts towards durable peace and reconciliation.²⁴
30. The Commissioner is also seriously concerned about the devastating and long-lasting impact that decades of ignorance and denial of genocide and war crimes by many Serbian politicians and public figures has had on young generations in Serbia and the region and how it has fed into the falsification and/or distortion of the historical record about the wars in the former Yugoslavia and glorification of war criminals.

²³ See, the Commissioner's [Memorandum](#) following her mission to Kosovo, 18 October 2022, para.26.; and the Dossier on "[The cover-up of evidence of crimes during the war in Kosovo: Concealment of Bodies Operation](#)", Humanitarian Law Centre, February 2017.

²⁴ See the Commissioner's [statement](#) on the 25th anniversary of Tuzla massacre, 25 May 2020.

31. During her visit to Serbia, the Commissioner was made aware of the request by the Youth Initiative for Human Rights to local authorities, to remove 308 graffiti, symbols, and murals across Serbia dedicated to Ratko Mladić, of which 250 are in Belgrade. In November 2021, the Council of Europe Parliamentary Assembly [urged](#) the authorities to remove one such mural from a wall near an elementary school in Belgrade, and to take strong measures against glorification of war criminals. This happened after the police prevented human rights activists from painting over the mural, detaining two activists.²⁵
32. In her discussions with the Prime Minister, Ms Ana Brnabić, the Commissioner stressed that a revisionist interpretation of the past, including denial and/or distortion of the facts established in judgments of international or domestic courts, sends worrying signals as to Serbia's adherence to justice and the rule of law, and undermines regional co-operation, sustainable peace and the process of reconciliation. During the meeting and in [her statement](#) following the visit, the Commissioner called for the removal of the murals dedicated to war criminals.

1.4 MEMORIALISATION

33. The Commissioner stresses that without remembering the past, there can be no right to truth, justice, reparation, or guarantees of non-recurrence. Remembering the wrongs of the past, unequivocally condemning them and telling the truth about history is essential to help promote commitment to a democratic society and human rights. Memorialisation helps foster respect for the human rights of other groups and promotes peace, justice and reconciliation.²⁶
34. Memorialisation includes building memorials, commemoration ceremonies, museums and the teaching of history. It is a long-term process and can be effective only if it genuinely aims at strengthening democracy and establishing a culture of peace. Memorialisation policies must be developed in compliance with human rights, namely ensuring the participation of victims, avoiding hate speech or discriminatory messages, and leaving no place for the denial of serious human rights violations.
35. Memorialisation of the suffering during the wars of the 1990s was identified by the Commissioner's interlocutors from civil society as one of the crucial issues for dealing with the past. They highlighted the dangers of a revisionist interpretation of past events based on mono-ethnic and subjective representations, either from a heroic or victimhood perspective, without duly considering the suffering and experiences of all victims of the conflicts. They also noted that in Serbia efforts to commemorate all civilian victims, regardless of ethnic background, are limited to civil society. One such initiative that was brought to the Commissioner's attention is ['The Forest'](#), a planned participatory project whereby a forest would be planted in commemoration of the victims of the genocide in Srebrenica.
36. The Commissioner was also told that proposals to erect memorials to non-Serbian victims are obstructed by regulations, such as the Law on War Memorials from 2018, which allows only the erection of memorials which are important "for cherishing the tradition of Serbia's wars of liberation".²⁷
37. Another important tool to eliminate prejudice and foster understanding and respect among communities is the teaching of history. The National Strategy for the Investigation and Prosecution of War Crimes for 2021-2026 mentions education, noting that "there is a need to include the topics

²⁵ See a joint [statement](#) of a group of INGOs and NGOs concerning this incident published on 10 November 2021.

²⁶ See [Report](#) by UN Special Rapporteur Fabian Salvioli on "Memorialization processes in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice", 2 October 2020.

²⁷ ForumZFD, Balkan Perspectives [Issue 11](#), 2019, p. 18.

on conflicts in the former Yugoslavia, war crimes perpetrated in that period and the norms of international humanitarian law in school curricula, in order to have continued control and improvement of the quality and contents of curricula in accordance with the mechanisms employed by the Ministry of Education, Science and Technological Development”.²⁸

38. However, transitional justice experts expressed concerns about the promotion of relatively uniform narratives in history teaching, regarding the recent wars. They noted that students in Serbia are being given a very one-sided view of the conflict, instead of a balanced representation of the wars from multiple perspectives, which prevents them from developing critical and reflective thinking based on respect for diversity and cultural differences.²⁹ According to the Commissioner’s interlocutors, the events of the past are taught superficially and with a selective choice of information, which often results in the Serbian nation being portrayed as the main victim of the conflicts.³⁰ When dealing with human losses and violations of human rights, emphasis is put on the crimes committed against ethnic Serbs, while the crimes committed against other ethnic groups are often ignored.³¹
39. The Commissioner has observed that key issues surrounding the conflicts of the 1990s tend to permeate into the broader cultural sphere in Serbia, in a way that is not conducive to critical examination or discussion. The Commissioner’s attention was drawn to state-funded cultural projects, such as films, TV series, or books, which cover the conflicts through a nationalist prism. One recent example which was also brought to the Commissioner’s attention during the visit relates to two books written for children, aged eight and above, that tackle certain events from the recent past in a manner that some parents and educators in Serbia consider to be indoctrinating and inappropriate for children’s age. The books have nevertheless been approved by the Ministry for Education and are available in bookshops in Serbia.
40. The Commissioner is seriously concerned about the impact of such divisive and one-sided narratives offered to children from such an early age on their understanding and perception of the past. This is even more concerning given that there appears to be no safe social space for young people to talk, inquire, and learn about transitional justice issues and the events of the 1990s in a way which will encourage them to think critically. In their discussions with the Commissioner, representatives of NGOs warned about the dangers of youth radicalisation, noting in particular the vulnerability of young people in the digital sphere, where leaders of many right-wing extremists’ organisations operating in Serbia are extremely active.³²
41. The Commissioner commends the pivotal work conducted in this field by NGOs, human rights defenders and activists over the past three decades, despite the numerous challenges and obstacles that they face. She, however, regrets that reconciliation efforts are almost exclusively undertaken by them, without the involvement of or support from the authorities. Most often, this takes the form of projects, such as research publications, panels, and discussions, as well as art exhibitions and festivals. Since 2014, the annual festival “[Mirëdita, dobar dan](#)”,³³ organized by a group of NGOs in Serbia and Kosovo, aims to bring together artists, activists and opinion makers from the two sides to foster cooperation and peacebuilding through art, culture, advocacy and public debate.

²⁸ [The National Strategy for war crimes prosecution for the period 2021 - 2026](#), published in the Official Gazette of the Republic of Serbia, number 30/18, p. 22.

²⁹ See for example, [Policy Paper](#): The 1990s wars in the Former Yugoslavia in History Education by Humanitarian Law Centre, September 2020, p. 35.

³⁰ Ibid, p. 11.

³¹ Ibid, p. 16.

³² European Commission, “[Violent Right-Wing Extremism in the Western Balkans: An overview of country-specific challenges for P/CVE](#)”, 2022.

³³ Meaning “Good day” in both Albanian and Serbian.

However, attempts to organize such events are often subject to [harassment and calls for banning](#) by nationalists and right-wing groups and parties.

1.5 CONCLUSIONS AND RECOMMENDATIONS

42. The Commissioner urges Serbia to end impunity for war crimes committed during the 1990s' wars in the former Yugoslavia, in line with the 2011 Council of Europe Committee of Ministers' Guidelines on Eradicating Impunity for Serious Human Rights Violations and the 2005 UN Basic Principles and Guidelines. This is crucially important for the victims and for society as a whole, because impunity leads to denial and perpetuates and legitimises violence. To this end, the authorities should step up the prosecution of war crimes using adequately and efficiently all available human and financial resources, which have been strengthened in recent years. Furthermore, priority should be given to cases with perpetrators higher in the chain of command.
43. The Commissioner calls on the Serbian authorities to prosecute all incidents of threat, intimidation or pressure against victims and witnesses of wartime crimes, and to address without further delay the persistent shortcomings in the witness protection system to ensure that witnesses are fully and effectively protected.
44. The Commissioner considers that regional judicial cooperation is a crucial element for ensuring accountability and calls on the Serbian authorities to take full and effective part in judicial co-operation with the IRMCT and with neighbouring countries to facilitate prosecution, trial and sentencing of war crimes. In particular, the authorities are called on to execute the international arrest warrants in the pending contempt case before the IRMCT.
45. Noting that large groups of survivors of war crimes and families of victims are still not recognised as victims and are unable to obtain reparations in the existing legal framework in Serbia, the Commissioner urges Serbia to expand the scope of the reparation framework to ensure that all victims of war-time crimes have access to prompt, adequate and effective reparation in line with established international standards. Furthermore, domestic courts need to remove the obstacles preventing victims from seeking monetary compensation in civil and criminal proceedings, including by following the guidance of the Supreme Cassation Court in this regard issued in 2019.
46. The Commissioner stresses that the cases of missing persons raise very serious human rights issues. The passage of time makes finding victims and, where necessary, identifying their remains, harder, increasing the suffering of their families. In this context, the Commissioner calls on Serbian authorities to take all necessary steps to enable effective and continuing searches for missing persons, including by opening its military archives. She encourages Belgrade and Pristina to recommit to constructive dialogue about issues relating to the past and to cooperate on the resolution of the remaining cases of missing persons, putting the families of the missing persons at the centre of all their considerations.
47. The Commissioner is gravely concerned about and calls on Serbia to counter the widespread public glorification of war criminals, denial and relativisation of war crimes and genocide, and to stop giving public platform to war criminals and war crimes suspects to spread a narrative of denial. She further calls for urgent removal of all murals, symbols and graffiti dedicated to war criminals. The authorities are called upon to develop and support initiatives which honour the victims and make their voices heard, so that victims and not war criminals play a crucial role in the construction of memory.
48. The Commissioner emphasises the importance of inclusive memorialisation and of addressing the past with critical and reflective lenses in the sphere of education and culture, in order to foster a

culture of understanding, peace and reconciliation in the country and region. Recalling the Council of Europe Parliamentary Assembly [Recommendation 1880 \(2009\)](#) on History teaching in conflict and post-conflict areas, the Commissioner calls on the authorities to enable young people in Serbia to learn about the events of the 1990s in an objective manner that allows multiple perspectives, condemns all atrocities, and promotes tolerance and openness. This is crucial to enable generations to gain critical knowledge about the past and democratic skills for the future and to ensure that future generations do not perpetuate the cycle of intolerance and hatred and instead strive towards reconciliation and durable peace.

49. Recognising the pivotal role played by civil society organisations and human rights defenders in the sphere of dealing with the past, the Commissioner calls on the Serbian authorities to strongly support and cooperate with these organisations and individuals and rely on them as valuable partners in this regard.

2. FREEDOMS OF EXPRESSION AND ASSEMBLY

2.1 PROTECTION OF JOURNALISTS FROM VIOLENCE

50. The safety of journalists remains a serious human rights concern in Serbia. There are currently 65 active alerts on the Council of Europe [Safety of Journalists Platform](#) in respect of Serbia, out of which 22 relate to physical attacks. In 2023 Serbia dropped from 79th to 91st place on the Press Freedom Index of Reporters Without Borders.
51. According to statistics provided by the authorities they registered 32 physical and 41 verbal attacks against media professional from 2020 and 2022, one of which resulted in grave and 11 in minor bodily injuries. Criminal charges were filed in 23 and misdemeanour charges in 13 of these cases. The authorities' statistics also indicate that from January to March 2023, law enforcement authorities registered five attacks against journalists and seven cases of threats sent via mobile phone and/or via social networks. The Independent Journalists' Association of Serbia, on their part, [registered](#) 47 physical and 129 verbal attacks, and 276 instances of pressure against media professionals from 2020 to 2022.
52. In discussions with the Commissioner, media professionals described the current environment for their work in Serbia as toxic and deplored the constant labelling of independent journalists as "criminals", "traitors" or "enemies of the state" by public officials, which is then amplified by tabloids or by fake profiles on social networks through orchestrated smear campaigns, aimed at silencing journalists. Concerns were also expressed that such repeated targeting of independent voices and critics has intensified the existing divisions in the media community and society at large. Media monitoring organisations have noted that repeated smear campaigns have encouraged and legitimised intimidation of journalists.
53. In its resolution on Serbia from March 2021, the European Parliament noted that it was appalled by the orchestrated attacks carried out by several MPs and pro-government tabloids against investigative journalists and members of civil society, portraying them as associates of organised criminal groups and as coup plotters. The Serbian authorities were urged to take immediate measures to guarantee freedom of expression and media independence and to ensure proper investigations into cases of intimidation, abusive language and hate speech.
54. The Commissioner has followed these developments in Serbia closely and been concerned by the many instances of threats and intimidation of journalists and other media professionals in recent years. For example, journalists of the independent daily newspaper Danas have received serious

threats on multiple occasions, which raised concerns for their physical safety. More recently, in November 2022, the authorities had to place police protection in front of their editorial office in Belgrade due to the seriousness of the online threats they received. Other notable recent cases include death threats against female journalists Jelena Obućina³⁴ and Brankica Stanković,³⁵ a physical assault by an unknown individual on Marko Dragoslavić, a journalist with *FoNet* news agency, the intimidation of Milan Nikić, a journalist working for N1 TV, as well as death threats against journalist and writer Marko Vidojković and his fellow journalist Nenad Kulačin.³⁶

55. The Commissioner has noted that in the wake of the tragic mass shootings in May³⁷ and the subsequent public protests against violence in Belgrade, which continue to date, attacks and pressure on independent voices, including independent journalists, have intensified. As noted by the UN Special Rapporteur on Freedom of Opinion and Expression, Ms Irene Khan, rather than promoting justice and accountability, recent speeches – including by members of the Government – appeared to have encouraged harassment and even physical attacks against opposition politicians, journalists and activists. She also stressed that freedom of expression was being weaponized to denigrate and suppress political dissent and feed ethnic and identity-based bias and hatred and that some political leaders and media outlets appear to interpret freedom of expression as the right of the majority to vilify the minority.³⁸

2.2 INVESTIGATION AND PROSECUTION OF CRIMES AGAINST JOURNALISTS

56. The Criminal Code of the Republic of Serbia provides for aggravated sentences for crimes committed against persons who perform work of public interest, which apply to journalists. This includes the criminal offences of aggravated murder, serious bodily harm and endangerment of safety. Online violence and threats against journalists are prosecuted as criminal offences of endangerment of safety and are dealt with by the Special Prosecutor's Office for Cybercrime. In December 2020, the Republic Public Prosecutor's Office issued a mandatory instruction for all public prosecutors ordering them to treat with urgency the cases of threats and attacks against journalists. Prosecutors are also obliged to keep special records about the criminal offences committed against journalists.
57. There are two working groups dealing with the safety of journalists. The standing working group on the safety of journalists was established in 2016 on the basis on an agreement between journalists' associations, state prosecution bodies and law enforcement for improving co-operation and information sharing between the state and civil society. Another working group established by the government in 2020 monitors and reports to the Prime Minister about individual cases of attacks and threats against journalists. Besides representatives from the Prime Minister's Office and the relevant ministries, this group is composed of members of the judiciary, the Ombudsman and representatives of various media associations. However, several journalists and media associations left this working group in 2021 because of the absence of a public reaction by the group to one of

³⁴ Coalition for Women in Journalism (CFWIJ), [Serbia: Journalist Jelena Obućina Receives Death Threats From The President's People](#), December 2022.

³⁵ CFWIJ, [Serbia: Hooligans Chant Death Threats at Award-Winning Journalist Brankica Stankovic](#), June 2023.

³⁶ See also the [joint statement](#) of the OSCE Representative on Freedom of the Media, Teresa Ribeiro, and the Head of the OSCE Mission to Serbia, Jan Braathu, 10 March 2023.

³⁷ In two separate mass shootings which took place in a local school in Belgrade and in villages near the city of Mladenovac, respectively on 3 and 4 May 2023, seventeen people, including seven students, died and 21 were injured.

³⁸ See [Press Release](#) on a rise in hateful rhetoric in public discourse after mass shootings in Serbia published by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, June 2023.

the many smear campaign launched by tabloids against Crime and Corruption Reporting Network (KRIK), an investigative journalist portal,³⁹ and have not re-joined it.

58. The Commissioner's interlocutors from the media sector noted a better response by the police to attacks against and threats against journalists in recent years, however they stressed the need for better judicial follow-up. Concerns were raised that prosecutors tend to consider threats as a legitimate expression of opinion and that they do not give sufficient consideration to repeated threats against the same journalist, which often leads to the dismissal of a case.
59. NGO research⁴⁰ on domestic judicial practice on freedom of expression for the period 2017-2020, showed that most of the criminal reports related to offences committed against journalists were dismissed by the prosecution. The proportion of reported cases of threats and attacks against journalists ended with a final court decision was one in ten. According to the research courts tend to impose lenient criminal sanctions for such crimes.
60. On a positive note, in March 2023, in a first instance proceedings, a local politician and his accomplices were found guilty of the arson attack on journalist Milan Jovanović and his family in December 2018. Furthermore, in January 2023, the High Court of Vranje upheld the first instance judgement, which found guilty and sentenced to imprisonment a local real-estate businessman who threatened Ms Olivera Vladaković, the owner of the "OK" radio from Vranje, and her employees.
61. Concerning the still-resonant, high profile killing of journalists in the past, only the murder of [Slavko Ćuruvija](#), owner and editor of the newspaper Dnevni Telegraf, has had a judicial epilogue. The criminal proceedings against the alleged perpetrators - four former state security officials, which started in June 2015, are pending before the Appeal Court at the time of the writing of this report. The Commissioner previously called on the authorities on several occasions to hold those responsible for this egregious crime to account with a final ruling. The killings of [Radislava Dada Vujasinović](#), reporter for the newspaper Duga, and [Milan Pantić](#), correspondent of the newspaper Večernje Novosti, in 1994 and 2001 respectively, have not yet been elucidated. In a [Resolution](#) adopted in June 2022, the Congress of the International Federation of Journalists (IFJ) called for an efficient judicial procedure to identify and punish the architects of the murder and murderers of journalist Milan Pantić.

2.3 UNFAVOURABLE WORKING ENVIRONMENT FOR CIVIL SOCIETY ORGANISATIONS AND HUMAN RIGHTS DEFENDERS

62. According to the applicable Council of Europe Guidelines, the right to civil participation in political decision-making should be secured to individuals, non-governmental organisations (NGOs) and civil society at large and an enabling environment should be created and maintained guaranteeing these actors effective rights of freedom of association, freedom of assembly, freedom of expression and freedom of information.⁴¹
63. In November 2020, the Serbian government abolished the Office for Cooperation with Civil Society, which was established in 2011, and transferred its competences to the Ministry of Human and Minority Rights and Social Dialogue. Over 70 Serbian NGOs signed a statement in which they criticised this decision and the lack of transparency of the process leading to its adoption. They

³⁹ [Analysis](#) of the International Press Institute on credibility of new working group after a smear campaign against KRIK, 1 April 2021.

⁴⁰ Slavko Ćuruvija Foundation and the Centre for Judicial Research (CEPRIS), [Research](#) on "Protection of Freedom of Speech in the Judicial System of Serbia" published in March 2021.

⁴¹ Council of Europe Committee of Ministers, [Guidelines](#) for civil participation in political decision making, adopted on 27 September 2017.

requested the authorities to secure resources and mechanisms for dialogue and cooperation with civil society.

64. In February 2022, Serbia adopted its [Strategy 2022 - 2030 for creating a stimulating environment for the development of civil society](#), along with an action plan, in February 2022. The action plan foresees the establishment of a council for cooperation with civil society as a platform for dialogue. During the visit, the Minister for Human and Minority Rights and Social Dialogue, Mr Tomislav Žigmanov, informed the Commissioner about the steps taken by the Ministry to intensify the cooperation with civil society. He mentioned as a positive example the organisation across Serbia of a series of thematic meetings in cooperation with NGOs, and the Ministry's intention to pursue this initiative. The Commissioner was also informed about the guidelines, developed by the Ministry for consultation with NGOs, on pending legislative initiatives, and the practice of appending NGO opinions to the authorities' reports submitted to international human rights monitoring bodies.
65. Notwithstanding these positive steps, the Commissioner is seriously concerned about the hostile working environment for civil society organisations and human rights defenders in Serbia, as a result of multiple factors which are addressed below. She was informed that because of such an environment a group of prominent NGOs refused to participate in the preparation of the above strategy. These organisations were especially concerned about a development which took place in July 2020 when the Directorate for the Prevention of Money Laundering and Terrorist Financing requested all commercial banks in Serbia to provide them with information on the accounts and financial transactions of 57 NGOs, media associations and other non-profit organizations, with the purported aim of fighting money-laundering and financing of terrorism. The list comprised organisations, media associations and individuals known for their human rights and investigative work. After the list was leaked to the media, tabloids launched repeated smear campaigns, with the goal of discrediting these organisations and individuals.
66. The co-rapporteurs on Serbia of the Council of Europe Parliamentary Assembly have expressed their deep concern about this financial investigation, which included the 2019 PACE Vaclav Havel Human Rights Prize winner Youth Initiative for Human Rights. They called on the authorities to refrain from any move that could amount to an act of intimidation or lead to the unfounded criminalisation of these organisations.⁴²
67. The above development also triggered a joint statement by the UN Special Rapporteurs on the promotion and protection of human rights while countering terrorism, on the situation of human rights defenders, and on the rights of peaceful assembly and association, in November 2020. In the statement they stressed that the broad and arbitrary implementation of the Serbian Law on the Prevention of Money Laundering and the Financing of Terrorism against non-profit organizations as well as individuals is inconsistent with Serbia's obligations under international law.⁴³
68. The Commissioner is gravely concerned about the use of hateful rhetoric and the labelling of civil society organizations and human rights defenders by public officials as "criminal organisations", "foreign agents", "foreign mercenaries" or "traitors". This rhetoric has amplified the hostile environment and threats and harassment of human rights defenders have become commonplace. Civil society organizations and human rights defenders working on the protection of the human

⁴² [Statement](#) made by the monitoring co-rapporteurs of PACE concerning financial investigations against prominent NGOs and media in Serbia, 30 July 2020.

⁴³ [Joint Press Release](#) by the UN Special Rapporteurs, including Ms Fionnuala Ní Aoláin, Special Rapporteur on the promotion and protection of human rights while countering terrorism; Ms Mary Lawlor, Special Rapporteur on the situation of human rights defenders; Mr. Clément Nyaletsossi Voule, Special Rapporteur on the rights of peaceful assembly and association, raising concerns about the misuse of Serbia's anti-terrorism laws to target and curb work of NGOs, 11 November 2020.

rights of LGBTI persons, environmental issues and transitional justice issues, have been particularly targeted.

69. Prior and during the visit, the Commissioner was informed about numerous instances of harassment and attacks against members of the NGO Women in Black (Žene u Crnom). This organisation is known for their tenacious advocacy for justice for victims of serious human rights violations committed during the wars in the 1990s' in the former Yugoslavia, including their annual commemorations of the victims of the Srebrenica genocide on the streets of Belgrade. In their [book](#), which they shared with the Commissioner during her visit to their premises, Women in Black depicted 30 years of administrative repression, physical attacks by non-state actors, smear campaigns by tabloids, misogyny and stigmatisation that they have faced because of their work. Among others, repressive state action that they have been subject to includes bans on their street actions and work in refugee camps, repeated police interrogations and misdemeanour proceedings, criminalisation through financial controls, the confiscation of their members' passports, phone tapping and police searches of their apartments. They also told the Commissioner about the failure of the authorities to protect them from threats and attacks by extreme right groups. For example, their offices were vandalized in November 2021 following the joint civil society action for removal of the mural dedicated to war criminal Ratko Mladić (see *Denial of wartime atrocities and glorification of War Criminals*), and again on 12 July 2022 the day after their public commemoration for the victims of the Srebrenica genocide. The Commissioner expressed her deep appreciation for their invaluable longstanding work and fight for justice for victims, despite the hostilities and many challenges that they have had to endure.
70. Other more recent incidents against human rights defenders and civil society organisations, include [physical attacks](#) by two youngsters on a volunteer for LGBTI rights organisation Da Se Zna! twice on the same day in October 2022. One week later the Pride Info Centre in Belgrade [was burglarized](#) twice. In February 2023, a group of young men [vandalised](#) the office of the Youth Initiative for Human Rights in Belgrade, while their activists received death threats on social media. This attack happened following this organisation's initiative to name a local park after Dušan Jovanović, a young Roma victim of a hate crime.
71. The Commissioner's attention has also been drawn to a growing number of organisations created with the purpose of obstructing civic space, which receive significant public funds.⁴⁴ Media have reported about controversies around transferring public funds to some of these organisations without transparent procedures.⁴⁵ In some cases human rights defenders who raised concerns about the lack of transparency in the call for allocation of public funds or about the non-eligibility of the organisation who won the call, faced serious threats, insults and cyber-attacks which were reportedly not sufficiently addressed by the authorities.⁴⁶

2.4 STRATEGIC LAWSUITS AGAINST PUBLIC PARTICIPATION

72. The Commissioner notes with serious concern that strategic lawsuits against public participation (SLAPPs) have been increasingly used by public officials and businesses against journalists and human rights defenders in Serbia with the aim of suppressing critical reporting and public oversight, often resulting in unreasonably high compensation claims awarded to the plaintiff. The Independent Journalists Association has reported that at least 40 lawsuits which can be

⁴⁴ For example, see [Analysis](#) on the criminalisation of civil society in Serbia on Civic Space Watch at European Civic Forum, 30 April 2021.

⁴⁵ See, for example, BIRN, "[Sporni konkursi Ministarstva za brigu o porodici](#)," (in Serbian), November 2021.

⁴⁶ Front Line Defenders, [Threats to members of Citizens' Association of Women For Peace](#), July 2022.

characterized as SLAPPs were submitted in 2021 and 2022, by public officials, businessmen, and companies against investigative journalists and media outlets.

73. In May 2023, the European Federation of Journalists strongly criticised the fact that KRIK was facing 12 SLAPPs submitted by public officials or businessmen. KRIK is recognised internationally for their excellent investigative work and reporting on organised crime, corruption and other abuses of power in Serbia. The Commissioner was concerned to learn that in May 2023 the Belgrade High Court ruled in favour of the police officer who sued KRIK because he was mentioned in an article that KRIK published about all the pending SLAPPs against them, and that he was awarded damages in amount of 374,200 dinars (about 3200 euros).⁴⁷
74. Furthermore, two SLAPPs were filed in March 2023 by the Belgrade mayor against the editor and journalists of the Balkan Investigative Reporting Network (BIRN) in relation to BIRN reporting about the mayor's real estate in Serbia and abroad. Activists or citizens who publicly criticise government policies or official conducts have also been targeted by SLAPPs. For example, 37 private civil and criminal lawsuits have been submitted by the director of a hospital in Novi Pazar, against activists, citizens, fellow doctors, and even one patient who spoke out against his handling of the COVID-19 epidemic and demanded his dismissal.
75. In this regard, the Commissioner has noted a report by Article 19 about SLAPPs in Serbia, which highlighted patterns from multiple cases brought against journalists and activists in the past 10 years and assessed to what extent Serbian laws and judicial practices on the 'protection of reputation' comply with international standards on freedom of expression. It recommends a thorough review of the provisions on defamation in Serbian Media Law and in the Law on Contracts and Torts to align them with international freedom of expression standards. The report also calls, *inter alia*, for eliminating a vague legal terminology that could be abused to start SLAPP suits; imposing a fixed ceiling on the amount of money that may be awarded for cases that claim 'harm to reputation'; and following the rule that public individuals, such as politicians, must show wider tolerance to criticism as they are accountable to the public.⁴⁸

2.5 FREEDOM OF PEACEFUL ASSEMBLY

76. The Constitution of Serbia guarantees the right to freedom of assembly and stipulates that this right can only be restricted by law if necessary to protect public health, morals, rights of others or the state security. The Law on Public Assembly, from 2016, sets out the rules and procedures for exercising of this right and the grounds for restriction.⁴⁹
77. The Commissioner is concerned about an increasingly restrictive approach taken by the authorities with regard to freedom of assembly, including heavy policing of protests and instances of excessive use of force by the police. In July 2020, the Commissioner [criticised](#) the violent dispersal of demonstrators in Belgrade who were protesting against the government's policies during the COVID pandemic in which dozens of people were reportedly injured. She called on the authorities to carry out effective investigations to establish responsibility and punish the officers responsible, in line with the relevant case-law of the Strasbourg Court. To the Commissioner's knowledge there has been no judicial follow up to these allegations.
78. During the visit, concerns were raised with the Commissioner about the pressure exerted on environmental human right defenders by the authorities, and by business which perceive their environmental activism as a threat to their interests. Consequently, protests organised by

⁴⁷ Details about this case are available on this link: <https://www.krik.rs/en/krik-found-guilty-in-a-slapp-case-for-naming-the-persons-who-sued-the-outlet/>.

⁴⁸ Article 19, [Report](#) on "State of SLAPPs in Serbia", December 2021.

environmental human rights defenders are often met with a strong police response. One example were protests organised by activists and citizens in Šodroš in Novi Sad against the planned construction of a bridge, due to the risk of deforestation, which started in October 2022. The police dispersed protesters on several occasions using riot gear, and finally in March 2023 removed the remaining protesters and arrested six of them.

79. Concerns were also raised with the Commissioner about the use by the authorities of private security agencies for policing protests who do not wear insignia or personal identification, which renders investigation of their unlawful actions difficult, if not impossible. The Commissioner learned about serious instances of violence committed by private security agents against protesters during the abovementioned environmental demonstration in Novi Sad in July 2022, as well as during protests against the mining of Starica mountain in Majdanpek in August 2022.⁵⁰
80. Furthermore, during the mass environmental protests in 2021 across Serbia, the Minister of Interior publicly threatened protesters and organisers, labelling them as “foreign agents” and opened a hotline for citizens to report individuals who blocked roads and traffic. Over 600 citizens received misdemeanour charges in relation to these protests and several environmental activists were arrested and injured in Novi Sad.
81. The Commissioner and her predecessors have paid special attention to the respect for the right of peaceful assembly of the LGBTI community. In September 2014, amid extensive security protection, the Belgrade Pride took place for the first time since 2010, and has taken place every year since then, except in 2020 due to the COVID pandemic, but always with a strong police presence. However, developments around the planned Europride march in September 2022, including the authorities’ ultimate ban of the march for security reasons, raised serious concern as to unequal treatment of the LGBTI community with regard to the enjoyment of freedoms of peaceful assembly. In her [statement](#) concerning the ban, the Commissioner found it highly concerning that the Europride march was facing such a level of obstruction from the authorities, while other events and massive gatherings were constantly taking place freely and safely in the streets of Belgrade. While participants of Europride were eventually allowed to walk on a restricted route with a heavy police presence despite the official ban, LGBTI organisations reported physical attacks on participants and other incidents motivated by LGBT-phobia in the aftermath of the walk.⁵¹
82. The requirement of notification of a public gathering and high fines imposed on the presumed organisers of assemblies which were not notified to the authorities also reportedly impede their right to freedom of peaceful assembly. For example, misdemeanour proceedings were reportedly initiated against three journalists in Sombor in December 2021 for failing to notify the authorities environmental protests, although they only published information about the protests on a local media portal and were not the organisers.⁵²
83. Concerns were also raised with the Commissioner about the use by the authorities of other pieces of legislation to restrict freedom of assembly and discourage protests. Civil society organisations have reported in this context that the Law on Noise Pollution in the Environment from 2021, gives wide discretion to local authorities to restrict public assemblies based on noise control regulations and contains a longer deadline for notification of an assembly (20 days) than the deadline provided

⁵⁰See the [submission](#) by Amnesty International to the European Commission ahead of the preparation of its 2023 Enlargement Package, April 2023.

⁵¹ See the press release published by NGO Da Se Zna following Europride: [Sopstenje povodom incidents tokom Evropride setnje](#), (in Serbian), September 2022.

⁵² More details available here: [Prekršajne prijave protiv novinara i aktiviste](#) - Vesti iz Sombora at SOinfo.org - Sombor 24/7, April 2022.

for in the Law on Public Assemblies (five days).⁵³ Furthermore, misdemeanour proceedings resulting in fines have also been used against protestors for violations of the Law on Road Traffic Safety. [Reportedly](#), almost two thousand citizens received fines for blocking roads in fifty municipalities and cities in Serbia during the environmental protests in November and December 2021 and hundreds of them were subject to misdemeanour proceedings as the organisers of these protests.

84. The Commissioner is seriously concerned by reports of other serious violations of human rights in this context. For example, Amnesty International reported that in September 2022 police arrested four protestors demonstrating against mining developments near Majdanpek and that while in custody they sustained serious injuries, were reportedly denied access to a lawyer and that a lawyer and their families told media that they had to sign forced confessions to end the beatings.⁵⁴

2.6 BIOMETRIC SURVEILLANCE OF PUBLIC SPACES

85. The Commissioner has followed closely discussions about the pending Bill on Internal Affairs, which provides for the use of biometric surveillance of public spaces and allows for the capture, processing and automated analysis of peoples' biometric data, including for the purposes of remote identification. She finds it encouraging that the authorities have taken on board some comments made by expert organisations with a view to improving the bill's compatibility with relevant human rights standards, after the previous draft was withdrawn in September 2022. The Commissioner is, however, concerned that the provisions on biometric mass surveillance and processing of biometric data have been retained in the bill despite the criticism from national and international experts.
86. National and international experts have in particular noted that: the necessity of deployment of advanced surveillance systems has not been proven; the indiscriminate nature of mass surveillance in public spaces fails the test of proportionality; mass processing of personal data already occurs before a specific individual is identified and as such raises serious issues with regard to the right to respect for privacy; the handling of new technologies by the authorities has already been marked by a lack of accountability for abuses and public mistrust. The authorities were called upon to remove the provisions on biometric surveillance and biometric data processing from the Bill, stressing that the use of this technology would present an indiscriminate intrusion on the right to privacy and could have unforeseeable consequences for other rights and freedoms.⁵⁵
87. The Commissioner discussed this issue with the Commissioner for Information of Public Importance and Personal Data Protection, Mr Milan Marinović. He was also concerned about the negative impact of this technology on the right to privacy, including personal data protection. He stressed that the Ministry of Interior cannot start the processing of biometric personal data until the legislation on records and data processing in the field of internal affairs is amended and aligned with the Law on Personal Data Protection.

2.7 CONCLUSIONS AND RECOMMENDATIONS

88. The Commissioner calls on the authorities to ensure the safety of journalists and promptly investigate crimes against them, leading to prosecution and appropriate punishment for the perpetrators. The authorities should promote the vital role of independent journalism and media

⁵³ See, [Press Release](#) by Lawyers' Committee for Human Rights (YUCOM) on the law on protection against noise in the environment, 8 October 2021.

⁵⁴ See the [submission](#) of Amnesty International to the European Commission ahead of the preparation of its 2023 Enlargement Package, April 2023.

⁵⁵ Share Foundation, <https://www.sharefoundation.info/sr/biometrija-ponovo-u-nacrtu-zakona-o-unutrasnjim-poslovima/>, December 2022. (in Serbian): also see [comment](#) on the Draft Law on Internal Affairs of Republic of Serbia by Amnesty International, January 2023.

in Serbian society and refrain from discourse that encourages attacks, vilification, or smear campaigns against journalists. Enhanced capacity and awareness-raising among the police and judicial authorities and continuous dialogue between law enforcement, judiciary and media professionals are key in this respect. The Guidelines contained in the Council of Europe Committee of Ministers' [Recommendation \(2016\)4](#) on the protection of journalism and safety of journalists and other media actors offer directions on how to fulfil their relevant obligations, combining legal, administrative and practical measures.

89. The Commissioner urges the Serbian authorities to ensure justice in the cases of murdered journalists Radislava Dada Vujasinović, Slavko Ćuruvija, and Milan Pantić, by bringing the perpetrators and those who were behind these killings to account. Serbia should show zero tolerance towards serious human rights violations in line with the 2011 Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations and the above mentioned Committee of Ministers' [Recommendation \(2016\)4](#).
90. The Commissioner calls on the authorities to foster a safe and enabling environment for the work of civil society organisations and human rights defenders in line with the Council of Europe's Committee of Ministers [Recommendation CM/Rec\(2018\)11](#) on the need to strengthen the protection and promotion of civil society space in Europe. The Commissioner also calls on Serbian public officials to refrain from further spreading inflammatory rhetoric against human rights defenders and civil society organisations, which has amplified an already hostile environment and undermined their safety and ability to carry out their vital work.
91. The Commissioner is seriously concerned about the widespread use of SLAPPs against journalists, human rights defenders and activists, which is intimidating and stifles their legitimate criticism. She calls on the authorities to counter SLAPPs by allowing the early dismissal of such suits; introducing measures to punish abuse, particularly by reversing the costs of proceedings; and minimising the consequences of SLAPPs by giving practical support to those who are sued. This should go hand in hand with awareness raising measures among judges and prosecutors, and proper implementation of the case-law of the European Court of Human Rights on defamation.⁵⁶
92. Noting an increasingly unfavourable context for the exercise of the right to freedom of peaceful assembly in Serbia, the Commissioner calls on the authorities to remove undue restrictions of this right and bring the legislative framework and practice fully in line with international human rights standards, in particular the European Court's case law and the OSCE and Venice Commission's [Joint Guidelines on Freedom of Association](#). The Commissioner underlines that the authorities must not only refrain from applying unreasonable restrictions upon the right to peaceful assembly but also safeguard that right, including by taking appropriate measures to ensure safety and well-being of participants of public assemblies and to guarantee the smooth conduct of peaceful demonstrations.
93. The Commissioner recalls that according to case-law of the European Court various measures taken by authorities, including punitive measures issued after a public gathering, may amount to interference with the right to freedom of assembly and may cause a chilling effect on the exercise of the right to freedom of assembly. She calls on the authorities to refrain from using misdemeanour proceedings and fines to discourage public assemblies.
94. The Commissioner further calls on the authorities to ensure that allegations of excessive use of force and other violations of human rights committed by law enforcement officers against protesters are promptly, effectively and efficiently investigated and that judicial follow-up is ensured. Stressing the specific responsibilities of the police to facilitate safe and peaceful

⁵⁶ See the Commissioner's Human Rights Comment [Time to take action against SLAPPs](#), October 2020.

assemblies, the Commissioner urges the authorities to integrate human rights standards in all aspects of the planning, preparation and policing of assemblies with clear guidelines, protocols and training.

95. The Commissioner is of the opinion that the collection and processing of sensitive data through mass surveillance could have far-reaching consequences on individual rights and freedoms including on the right to privacy, freedom of assembly and protection against discrimination. It could also have a chilling effect on other human rights and fundamental freedoms, including freedom of expression and public participation. She therefore calls on the authorities to refrain from introducing biometric surveillance of public spaces and biometric data processing and amend the Bill on internal affairs accordingly. Any modern surveillance technology that the authorities may still decide to put in place must fully comply with human rights legislative framework, including Article 8 of the European Convention on Human Rights and the [Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data](#).

3. WOMEN'S RIGHTS AND GENDER EQUALITY

3.1 GENDER EQUALITY

96. Women's rights are an inalienable, integral and indivisible part of universal human rights. According to the Council of Europe Gender Equality Strategy 2018-2023, gender equality entails equal rights for women and men, girls and boys, as well as the same visibility, empowerment, responsibility and participation, in all spheres of public and private life. It also implies equal access to and distribution of resources between women and men.⁵⁷ Equality between men and women is a basic principle of human rights, a necessity for genuine democracy, as well as a prerequisite for social justice and economic development. According to the World Bank, women formed 52.1% of the Serbian population in 2022.

3.1.1 INSTITUTIONAL AND LEGISLATIVE FRAMEWORK

97. Serbia is a party to a number of international human rights instruments related to the protection of women's rights and the elimination of discrimination against women. The relevant United Nations treaties to which Serbia is a state party include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women.
98. At the European level, in addition to being a party to the European Convention of Human Rights, Serbia also ratified Protocol 12 to the Convention, which provides for a general prohibition of discrimination in 2004. Serbia is also a party to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Serbia acceded to the revised European Social Charter (ESC) in 2009, accepting its Article 20, which recognizes the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex. Since Serbia is a candidate member for accession to the European Union, the compliance of its legislation and policies in this field with the EU *acquis* is subject to assessment by relevant EU bodies.
99. At the national level, Article 21 of the Constitution of Serbia foresees that all citizens are equal before the law and no one may be discriminated against, including on the grounds of sex. The Law on Gender Equality, adopted in 2021, is the principal legal act regulating gender equality. It prohibits

⁵⁷ Council of Europe's [Gender Equality Strategy 2018-2023](#), adopted in March 2018, p.5.

discrimination based on sex and mandates national and local authorities to actively promote gender equality.

100. In 2021, Serbia adopted the National Strategy for Gender Equality for the period of 2021–2030, accompanied by an action plan adopted in August 2022, with the stated aim of achieving full gender equality in Serbia. Since 2015, Serbia has applied gender responsive budgeting – a tool aimed at assessing the impact of policies and budgets from a gender perspective and for ensuring they are not developed and implemented in the way which would perpetuate gender inequalities, but would instead foster gender equality.⁵⁸ The authorities informed the Commissioner that this tool has proved particularly important for improving the situation of women from disadvantaged groups, such as Roma women, women with disabilities and women from rural regions.
101. Serbia has several institutions and bodies tasked with combating discrimination against women and promoting gender equality. The Commissioner for the Protection of Equality (hereinafter: the Equality Commissioner) is an independent body tasked to combat discrimination. Commissioner Mijatović noted the key role played by the Equality Commissioner in the field of gender equality, and the appreciation that many interlocutors that she met during the visit expressed for her work. The Serbian Ombudsman also covers issues relating to women’s rights and gender equality.
102. In 2014 the Serbian government established the Coordination Body for Gender Equality, led by the Deputy Prime Minister, as an intergovernmental body tasked with coordinating government’s work on gender equality. The Council of Europe’s Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent expert body responsible for monitoring the implementation of the Istanbul Convention, has strongly encouraged the Serbian authorities to fully institutionalise the Coordination Body and to allocate it the necessary human and financial resources.⁵⁹ The Commissioner has noted concerns expressed by national women’s rights organisations prior and during her visit that the Coordination Body for Gender Equality still lacks permanent structure and a stable budget.⁶⁰

3.1.2 GENDER EQUALITY IN PRACTICE

103. While acknowledging the authorities’ efforts to adopt legislation and policies on gender equality, the Commissioner observes that progress in this field is overall slow. The 2021 [Gender Equality Index](#)⁶¹ noted the biggest improvement in the domain of “power”, and a negative trend with regard to “knowledge”, while steady or slow progress or stagnation were noted in the other monitored fields (work, money, time and health). The positive trend in the area of “power” appears to be largely due to the implementation of a 2020 amendment to the Law on the Election of Members of Parliament, which obliged political parties to include at least 40% of women on their electoral lists. 87 out of 250 (35%) seats in the National Assembly are currently held by women. 10 out of the 29 ministers in the Serbian government are women, including the prime minister and first deputy prime minister.
104. Notwithstanding this positive trend concerning increased political participation of women, the Commissioner is concerned that deeply rooted patriarchal stereotypes concerning the respective

⁵⁸ UN Women, [Gender Responsive Budgeting in Republic of Serbia 2019](#), March 2019.

⁵⁹ GREVIO, baseline evaluation [report on Serbia](#), 2020, p. 18, para. 43.

⁶⁰ [Contributions](#) submitted by Autonomous Women’s Centre to the Committee of the Parties of the Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) regarding implementation of 2020 recommendations by Serbia, March 2023.

⁶¹ The government of Serbia developed this Index based on the methodology of the Gender Equality Index by the European Institute for Gender Equality. The Gender Equality Index makes assessments over time in the 6 domains it covers: Work, Money, Knowledge, Time, Power and Health. It measures both the level of achievement and the gender gap in six key domains of gender equality policies, on a scale from 1 to 100.

roles of women and men in the society continue to hinder the advancement of women's rights and gender equality. The authorities informed the Commissioner that improving gender equality in employment is among their priorities. The authorities' goals include reducing the wage gap between women and men on the labour market; increasing the participation of women in high-paying jobs; providing support for businesses owned by women (currently only 31% businesses are owned by women) and supporting the innovative programs aimed at enhancing the position of women in the labour market. Several programmes and initiatives have been implemented to this end in corporation with international actors, such as the project on "Support to Priority Actions to Gender Equality" implemented since 2018 in co-operation with UN Women, with the financial support of the European Union.

105. A 2020 report of the Serbian Office of Statistics noted the employment rate for women of 41.9%, compared to 56.6% for men. The greatest gender gap in employment was for the age category of 55-64, in which the employment rates for women and men were 40% and 60% respectively. The report also noted that in the age group 15 to 64, 25% of men and 14% women were self-employed. Women who are employed occupy lower-level positions, including in the public sector, or are employed on a temporary basis - even when they have higher level of education, which is often the case. Out of the total number of university students who graduated in 2021, 38.8% were men and 61.2% were women.⁶²
106. The difficulties of balancing professional and private life also hinder women's ability to pursue a career and accede to top management positions. Women are often asked about their marital status or whether they intend to marry or bear children during a job or promotion.⁶³ In her 2022 [Annual report](#), the Equality Commissioner noted that the largest number of individual complaints of discrimination on the ground of sex, marital and family status submitted in 2021 concerned the position of women in the labour market in relation to pregnancy, maternity leave or child-care leave.⁶⁴ However, reports point to a high level of underreporting of gender-based discrimination in employment, mostly due to fear of job loss, difficulties documenting cases of discrimination and lack of trust in institutions. According to relevant data, about 83% of women, who had experienced discrimination in labour, did not report it.⁶⁵
107. The Commissioner is concerned about reports indicating that Serbian women bear the burden of unpaid care work in the family, which also limits their opportunities to pursue a career. A recent survey on work-life balance carried out by the Equality Commissioner has noted that parental leave is still predominantly used by women (82%) and that one third of the surveyed women left their job to take care of children.⁶⁶ The Commissioner finds it positive that the Law on Gender Equality recognises unpaid work as an economic value that a person contributes to the family and society, which makes them eligible for health insurance. She considers, however, that further measures are needed to ensure a better work-life balance for women. She notes in particular the still relevant recommendations made by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to Serbia in this regard in 2019, including on the need for the authorities to introduce special measures to encourage the use of parental leave by men; to increase the availability of pre-school institutions and other childcare options as well as flexible work arrangements to enable women and men to reconcile work and family responsibilities.⁶⁷

⁶² Serbian Office of Statistics, "[Women and Men in the Republic of Serbia](#)", March 2021.

⁶³ Kvinna till Kvinna Foundation, "[Gender-based Discrimination and Labour in Serbia](#)", 2022, p.30.

⁶⁴ Equality Commissioner, [Annual report of 2022](#), p. 19.

⁶⁵ Kvinna till Kvinna Foundation [Report](#) on "Gender-based Discrimination and Labour in Serbia", 2022, p.25.

⁶⁶ Equality Commissioner, [Annual Report of 2021](#), p. 168.

⁶⁷ CEDAW, [Concluding observations](#) on the fourth periodic report of Serbia, 2019, para. 36.

108. The Commissioner is further concerned about the longstanding gender inequality with regard to enjoyment of property rights, even though the right to property is one of the fundamental rights guaranteed by the Serbian Constitution. As noted by CEDAW, women are often excluded from or decide to relinquish their inheritance right to male members of the family, crucially due to social pressure, particularly in rural areas.⁶⁸ The Commissioner is concerned that this practice continues to date and stresses the need for the authorities to address it.
109. The Commissioner further calls for an end to misogynist and discriminatory statements targeting women, especially female politicians and journalists, made frequently by politicians and religious representatives and perpetuated by tabloids.⁶⁹ The Equality Commissioner frequently reacts to such discourse and recently reminded all participants in public and political life of their additional obligation to refrain from statements that insult, humiliate or harass women, bearing in mind that women in Serbia face discrimination and violence every day.⁷⁰

3.2 VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

3.2.1 LEGAL AND POLICY FRAMEWORK

110. The entry into force of the Istanbul Convention in August 2014 was an important step for the protection of women's rights in Serbia. The Istanbul Convention is a ground-breaking legal instrument providing comprehensive tools to combat violence against women. In January 2020, its monitoring body, GREVIO, published its baseline evaluation report on Serbia, following a visit to Serbia in 2019. This was followed by the [recommendations](#) and [conclusions](#) of the Committee of Parties to the Istanbul Convention on the implementation of the Istanbul Convention by Serbia, adopted in January 2020 and June 2023 respectively.
111. At the policy level, Serbia adopted in 2017 the National Strategy for Combating Gender Based Violence against Women and Domestic Violence (2021-2025), six years after the expiry of the previous strategy. The authorities informed the Commissioner that funds for the implementation of the Strategy were not earmarked, which hinders the implementation of the Strategy and of policies for combating violence against women. They also noted that an action plan was drawn up at the end of 2021 but was not adopted due to the lack of adequate financial assessment. According to the authorities, the relevant ministry initiated in April 2023, the appointment of a new working group for the preparation of an action plan.
112. While there is no specific law on gender-based violence, Serbia adopted the Law on the Prevention of Domestic Violence in 2017, which introduced emergency measures for protection of victims. In its report on Serbia, GREVIO noted that despite some challenges in its implementation, that law has significantly improved interventions in individual cases and has provided law-enforcement agencies, prosecution and social services with tools to protect victims.⁷¹
113. Domestic violence is a criminal offence which prohibits psychological and physical violence against family members, while sexual violence is covered by other articles of the Criminal Code. Both the NGOs and GREVIO have called for bringing the provision on domestic violence further in line with international standards by expanding its scope to include in the list of "family members" of ex-

⁶⁸ Ibid, para.47.

⁶⁹ See, for example, [North Macedonia, Serbia Clerics Denounce Gender Equality at Easter | Balkan Insight](#), published on 18 April 2023.

⁷⁰ [Notice to the Public](#) by the Equality Commissioner, 9 December 2022.

⁷¹ GREVIO, baseline evaluation [report on Serbia](#), 2020, para.271.

spouses who do not live in a common household and do not have a common child, ex-common-law partners and their parents.⁷²

114. The Criminal Code was amended in 2016 to add stalking, forced marriage, genital mutilation and sexual harassment, as foreseen by the Istanbul Convention. However, rape is not defined as an act of sexual intercourse that the victim did not consent to, as required by the Istanbul Convention, but as an act committed with the use of coercion, force or threat. Indeed, none of the criminal offences concerning sexual violence include this element of consent, which is why GREVIO urged a reform of these provisions of the Criminal Code. This recommendation was reiterated by the Committee of Parties to Istanbul Convention in its conclusions on the implementation by Serbia of the Istanbul Convention from June 2023.⁷³
115. Following the visit, the authorities informed the Commissioner about various activities and programmes carried out by different ministries on the prevention of and fight against violence against women and domestic violence, including awareness-raising in the law-enforcement, health care and military, which the Commissioner welcomes. One of the examples mentioned by the authorities was the introduction in the curricula for the school year 2021/2022 by the Ministry of Education, Science and Technological Development of 35 programs aimed at improving the capacity of teachers and other professionals to act in the field of protection against gender-based violence and discrimination.

3.2.2 THE SCOPE OF VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

116. According to an [OSCE-led survey on Violence against Women](#), from July 2019, 22% of women experienced physical or sexual violence from intimate partners or other individuals in 2018 in Serbia. The survey found that psychological violence was much more common, with 44% of women above the age of 15 exposed to this form of violence from their intimate partner. Furthermore, two in five women (42%) aged 18-74 reported having experienced sexual harassment since the age of 15.
117. According to information provided by the authorities, out of 15.539 criminal offences committed against women in 2022, 3.596 were cases of domestic violence, while 28 women were killed in 2021 and 24 in 2022 by their partner and/or in the family setting. NGOs have noted that the official data does not reflect the real scope of this problem, because many gender-based crimes against women are not investigated as such.⁷⁴ The Commissioner notes with interest in this regard information provided by the authorities about the creation of a central database of all reported and processed cases of domestic violence, which both by GREVIO and CEDAW recommended.
118. Women from disadvantaged groups, such as women with disabilities in institutions, Roma or migrant women are reportedly at a higher risk of violence. According to GREVIO, Roma women and women with disabilities have difficulties accessing health care, in particular reproductive and sexual health care, including after experiencing sexual violence.⁷⁵ The Commissioner is gravely concerned about reports showing that women with disabilities in residential care facilities are at high risk of

⁷² Ibid., para. 176; see also the [NGO report](#) submitted to the Committee of Parties on the implementation of the Istanbul Convention by Serbia, March 2023, p.7.

⁷³ GREVIO, baseline evaluation [report on Serbia](#), 2020, para. 187; [Conclusions](#) of the Committee of Parties on the implementation of recommendations in respect of Serbia, 2 June 2023.

⁷⁴ See the [submission](#) of NGO FemPlatz's to the UN Special Rapporteur on violence against women, its causes and consequences, April 2021.

⁷⁵ GREVIO, baseline evaluation [report on Serbia](#), 2020, paras. 120 and 121.

being subjected to forced abortions and sterilisation, administration of contraception without informed consent, sexual harassment and abuse.⁷⁶

119. The Commissioner is concerned that, despite being one of the most widespread forms of violence against women in Serbia, sexual violence and sexual harassment remain underreported. While there appear to be no comprehensive research looking into the reasons for underreporting, women's rights organisations told the Commissioner that the stigma attached to these crimes, the risk of public condemnation and of revictimization, as well as the lack of trust in institutions are the main contributing factors. The revelation, in 2021, of allegations of cases of rape, sexual abuse and sexual harassment of girls and young women by prominent public figures in Serbia, have prompted public debate about these crimes and led to the creation of the [Facebook page #Nisamtrazila](#) (I did not ask for it) where women could report sexual violence in a safe space and share their own experiences. However, those who shared their experiences in the group were targeted by sexist hate speech, mockery and online harassment. The Commissioner stresses that such attacks may lead to self-censorship and push women again into silence whilst they may also undermine the network of support and solidarity created among women even in digital sphere.⁷⁷ The Commissioner was also concerned that several female journalists, who reported about these cases were then targeted by SLAPPs, online threats, verbal attacks, and smear campaigns.
120. Women's rights organisation shared with the Commissioner their serious concern about widespread digital sexual abuse of women and girls in Serbia. For illustration, in March 2023, media reported that the instant messaging service Telegram had closed a Serbian group with over 50 000 members that shared women's intimate photos and videos without their consent, but that several other similar groups remained active. In this connection, the Commissioner notes with interest that a group of NGOs submitted to the Ministry of Justice in May 2022 a set of draft amendments to the Criminal Code including a proposal to introduce a criminal offence of misuse of recordings of sexual content,⁷⁸ and would appreciate receiving information from the authorities on any follow up to this initiative.
121. According to the results of [research](#) presented at the conference in Belgrade organised by the Equality Commissioner, in which the Commissioner participated, domestic violence is also underreported in Serbia. The research shows that fear of the perpetrator, shame, fear of condemnation from family and friends, an unfavourable economic situation and distrust in institutions are the main reasons why women do not report domestic violence. It further shows that over 70% of women who lost their lives in partner and domestic violence had previously never reported it to relevant institutions.
122. The Commissioner wishes to highlight the important role that media play in raising public awareness about gender-based violence. She regrets that reporting, especially by tabloids, about violence against women and domestic violence is often sensationalist without due respect for the anonymity or dignity of the victim. She is also concerned that some media continue to promote patriarchal norms and downplay the perpetrator's responsibility by putting the blame on victims.⁷⁹

3.2.3 ACCESS TO JUSTICE

123. In its 2021 concluding observations on Serbia, the UN Committee against Torture (CAT) urged Serbia to ensure that all cases of domestic and gender-based violence are promptly and thoroughly

⁷⁶ Mental Disability Rights Serbia (MDRI-S) and Disability Rights International (DRI), "[Serbia's Forgotten Children](#)" 2021, p. 10.

⁷⁷ See Commissioner's Human Rights Comment [No space for violence against women and girls in the digital world](#), 15 March 2023.

⁷⁸ See "[Proposals for amendment and supplements to the Criminal Code](#)" prepared by Autonomous Women's Rights Centre, ASTRA- Anti-Trafficking Action and Transparency Serbia, May 2022.

⁷⁹ This concern was raised in GREVIO baseline evaluation [report on Serbia](#), 2020, para. 95.

investigated, that the alleged perpetrators are prosecuted and, if convicted, are punished appropriately, and that the victims receive redress, including adequate compensation and rehabilitation.⁸⁰ GREVIO and CEDAW have both raised concerns about the disparity between the number of criminal charges and the number of convictions for domestic violence. In its report on Serbia, GREVIO noted a significant increase in the number of persons charged for domestic violence since 2012, but an even more marked increase in the number of charges ultimately dropped by prosecution services, and called for further investigations of the reasons for this disparity. It also welcomed the high rate of convictions where cases do go to court (75.7% in 2012 and 86.5% in 2016). It further stressed that more efforts must be made to increase the number of convictions and ensure justice for victims of domestic violence, rape and unauthorised/forced abortion.⁸¹

124. The Commissioner was concerned to learn that the disparity between the number of criminal charges and the number of convictions for domestic violence persists. According to national statistics for 2021, out of 5.663 criminal charges filed for domestic violence, 2.621 resulted in an indictment and 2.230 in a conviction.⁸² The Commissioner was informed that the main reason for this disparity, remains a strong reliance of police and prosecution services on the victim's statement. When victims withdraw their statements the prosecution and/or criminal proceedings frequently come to an end due to the lack of supporting evidence.⁸³
125. The Commissioner's attention was also drawn to the need for timely and effective issuance and implementation of protective measures provided for by the Law on the Prevention of Domestic Violence, as well as an effective risk assessment and better inter-institutional co-operation for ensuring the safety of victims and preventing further violence in intimate partner relationships. Furthermore, research established that domestic courts do not often consider the history of abuse in a relationship where the perpetrator has no previous conviction.⁸⁴ A study on "[Domestic violence and firearms misuse](#)" from 2021 found that in the half of domestic violence cases in which a firearm was used, the courts failed to consider the existence of previous violence in the relationship. Another concern is that children's protection needs in the context of domestic violence is also often overlooked by the authorities. According to [research](#) conducted by NGOs in 2021, only 6% of emergency and extended emergency measures included children. In its 2023 conclusions, the Committee of Parties to the Istanbul Convention on the implementation of the Istanbul Convention by Serbia encouraged the authorities to ensure safety of children who witness domestic violence.

3.2.4 SUPPORT SERVICES

126. Centres for social welfare in Serbia are mandated to provide support to women and children victims of violence and domestic violence. There are 136 such centres in Serbia.⁸⁵ Most of them lack adequate human and financial capacities to be able handle a heavy workload, to the extent that some do not have any social workers or psychologists. It has been reported that there is need for

⁸⁰ [Concluding observations](#) on the third periodic report of Serbia by the UN Committee against Torture, CAT/C/SRB/CO/3, December 2021; [Compilation of information](#) prepared by the Office of the United Nations High Commissioner for Human Rights the 4th Universal Periodic Review of Serbia, A_HRC_WG.6_43_SRB_2-EN, May 2023.

⁸¹ GREVIO, baseline evaluation [report on Serbia](#), 2020, para. 217; CEDAW's [Concluding observations](#) on the fourth periodic report of Serbia, 2019, para. 23.

⁸² Annual reports on judicial statistics, provided by Statistical Office of Serbia, for the period of 2007-2021. Criminal charges, indictments and convictions for domestic violence in Serbia (2007-2021); Statistical Office of Serbia: <https://data.stat.gov.rs/Home/Result/140202?languageCode=sr-Latn>, 2023.

⁸³ See also GREVIO baseline evaluation [report on Serbia](#), 2020, para. 212.

⁸⁴ See [submission](#) of the NGO FemPlatz to the UN Special Rapporteur on violence against women, its causes and consequences, April 2021.

⁸⁵ The full list is available on this link:

https://lls.ombudsman.org.rs/index.php?option=com_content&view=article&id=58&Itemid=49

at least 600 additional social welfare workers, psychologists, pedagogists, and lawyers in the social welfare system.⁸⁶

127. GREVIO noted in 2019 that Serbia had 15 shelters (“safe houses”) for women victims of violence and domestic violence mainly run by municipalities, of which only nine were specifically designated and equipped to receive women and children victims of domestic violence.⁸⁷ GREVIO strongly encouraged the Serbian authorities to map and expand, where necessary, the capacity of domestic violence shelters and to ensure practical access for all women, in particular women with disabilities, Roma women and women migrants/asylum seekers. According to the authorities, there are currently 14 such shelters, the number and accessibility of which international and national women’s rights organisations consider inadequate.⁸⁸ The Commissioner welcomes that one of the objectives of the National Strategy for Combating Gender Based Violence against Women and Domestic Violence is increasing the number shelters and facilitating access for all women, especially women with disabilities, Roma women and migrant women, because these women face particular difficulties in accessing support services, due to discrimination and prejudice, as well as lack of awareness.⁸⁹
128. In addition to the municipality-run shelters, there are 29 women’s centres run by NGOs, 24 of which provide specialist support to women victims of violence. However, they are mostly funded by international donors. Among other things, they provide counselling, shelter and legal aid.⁹⁰ However, concerns have been expressed that police protocols do not mandate cooperation with specialist support services, resulting in the under-use of existing NGO expertise. In their discussion with the Commissioner, NGO representatives stressed the need for the authorities to step up their cooperation with NGOs and make better use of the support services that they provide, including by ensuring routine referral of victims to the services that they run. NGOs also told the Commissioner that they need stable funding to ensure the sustainability of their services. In this regard, the Commissioner recalls the recommendation of the Committee of the Parties to the Istanbul Convention to the authorities to provide stable and sustainable funding levels for women’s NGOs that support victims of violence against women.⁹¹
129. Serbia has a national helpline for victims of gender-based violence which is free of charge and operates 24/7 established in 2018. It is run by Zvečanska, a social welfare centre for the protection of infants, children and young people. In addition to the national helpline, there are also specialised NGO-run regional and local helplines with long experience. While the national helpline focuses only on referrals, the helplines run by NGOs provide counselling which is crucially important for the victims. The Commissioner was informed that these NGO-run services are also mostly funded by international donors.

⁸⁶ See "[Hiljadu predmeta na jednog zaposlenog](#)": U Srbiji postoje centri za socijalni rad bez socijalnog radnika i psihologa ([euronews.rs](#)), published on 31 March 2023 (in Serbian).

⁸⁷ GREVIO, baseline evaluation [report on Serbia](#), 2020, para. 127.

⁸⁸ See, for example, UN Women analysis: “Specialized service of Safe houses in Serbia: needs, capacities and funds for stable, long-term and continuous functioning”, 2022.

⁸⁹ GREVIO, baseline evaluation [report on Serbia](#), 2020, para. 129; see also the [NGO report](#) to the Committee of Parties on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence in Serbia, March 2023, p.4.

⁹⁰ Women against Violence (WAVE), [Country report 2021](#), “Women’s Specialist Support Services in Europe and the impact of COVID-19 on their provision”, p.155.

⁹¹ See [Conclusions](#) adopted by the Committee of the Parties to the Istanbul Convention on the implementation of recommendation in respect of Serbia, June 2023.

3.3 CONCLUSIONS AND RECOMMENDATIONS

130. The Commissioner welcomes the steps taken by the authorities aimed at improving gender equality in Serbia, including the adoption in 2021 of the Gender Equality Act, of the National Strategy for Gender Equality for the period of 2021–2030 and an action plan, as well as the implementation of gender responsive budgeting since 2015. She calls on the authorities to step up the implementation of this legislation and these policies. To this end, the authorities should strengthen the Coordination Body for Gender Equality, by providing it with adequate human and financial resources.
131. The Commissioner urges the authorities to redouble their work on combating discriminatory gender stereotypes, which influence women’s choices, prospects and opportunities in all areas of their lives and contributes to the perpetuation of gender-based violence against women.
132. Notwithstanding the progress made in the field of political participation of women, the Commissioner calls on the authorities to step up their efforts on advancing gender equality in other areas, in particular by improving access to employment for women. To that end, the authorities should ensure the effective implementation of the existing laws and policies with a view to removing barriers to women’s access to employment and should implement special measures to facilitate women’s re-entry into the labour market in line with relevant recommendations by CEDAW. The authorities should continue to pay particular attention to the needs of women with disabilities, Roma women and women from rural areas.
133. As regards violence against women and domestic violence, the Commissioner calls on the authorities to amend the definition of rape and sexual violence in the Criminal Code to align it with the requirements of Article 36 of the Istanbul Convention, by including the element of consent.
134. The Commissioner is seriously concerned about a high prevalence of all forms of violence against women in Serbia. She urges the authorities to step up the implementation of the existing legislation with a view to better preventing all forms of violence against women and protecting victims, and to ensure better coordination and cooperation among various stakeholders. In doing so, the authorities should build on the recommendations made by GREVIO and the Committee of the Parties to the Istanbul Convention.
135. The Commissioner also calls on the authorities to take resolute action in addressing digital violence against women and girls, drawing on the General Recommendation No.1 on the digital dimension of violence against women by GREVIO.
136. The Commissioner calls for further efforts to ensure that the perpetrators of gender-based violence are prosecuted and adequately punished, including by addressing the shortcomings underpinning the disparity between the number of charges and the number of convictions for such crimes. To that effect, the authorities are encouraged to continue strengthening the capacities of legal professionals in this field.
137. Stressing the importance of effective protection and support services and their role in increasing victims’ trust and reporting of violence, the Commissioner underlines the need for an increased capacity of support services for all victims of gender-based violence. The authorities are in particular encouraged to redouble their efforts aimed at improving access to support and protection services for women with disabilities, Roma women and migrant women, and to fight against discrimination and prejudice facing these women in this context.
138. Commending NGO crucial important work in this field, the Commissioner calls on the authorities to step up their cooperation with these organisations and make better use of their support services, including by routine referral of victims to the services that they run. Finally, the Commissioner calls

on the authorities to recognise the work carried out by NGOs on the protection of women's rights and gender equality and provide them with stable funding and unequivocal support.