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Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

The honouring of obligations and commitments by Serbia

Information note by the co-rapporteur on his fact-finding to Serbia (2-4 October 2023)

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1. Introduction

1. The last report of the Monitoring Committee on the honouring of obligations and commitments by Serbia dates from 2012 and the last fact-finding visit of the co-rapporteurs took place in 2017.

2. In January 2019, a preliminary draft of a further report on the honouring of obligations and commitments by Serbia was considered by the Committee and sent to the Serbian authorities for their comments. The process of the preparation of a new draft report took a long time, which was due not only to the frequent changes of co-rapporteurs but also to the fact that early general elections had been called twice in-between (in 2014 and 2016). In May 2019, the Committee considered the authorities' comments. However, further to the decision of the previous co-rapporteurs, the submission of the draft report to the Committee was postponed. The preparation of the report was then hampered by the pandemic, further changes of rapporteurs, parliamentary elections held in Serbia in June 2020 (boycotted by the opposition) and early parliamentary and presidential elections held in April 2022.

3. On 2-4 October 2023, in the absence of the other co-rapporteur Ms Eva Decroix (Czech Republic, EC/DA), I carried out a fact-finding visit to Belgrade and Novi Sad (Vojvodina). During the visit in Belgrade, I met with the Speaker of the National Assembly (parliament), the leaders of parliamentary groups, the members of the Committee on Constitutional and Legislative Issues and the Serbian delegation to the Assembly, the First Deputy Prime Minister (and Minister of Foreign Affairs at the same time), the Ministers of Justice and of Information and Telecommunications, State Secretaries in the Ministries of Interior and for Human and Minority Rights, the Prosecutor General, the President of the Supreme Court, the President of the Constitutional Court, the Director of the Agency for the Prevention of Corruption, the Ombudsman and the Commissioner for the Protection of Equality, as well as representatives of the diplomatic community, NGOs, and the media. In Novi Sad, I met with the President of the Provincial Government of the Autonomous Province of Vojvodina and the Provincial Ombudsman. The programme of the visit is attached to this note in Appendix 1.

4. I would like to thank the Serbian Parliament for the organisation of my visit and their hospitality, and the *ad interim* Head of the Council of Europe Office and her staff for the support given in the organisation of my visit.

¹ Document declassified by the Monitoring Committee on 18 December 2023.

² On 18 October 2023, the co-rapporteur, Ms Eva Decroix (Czech Republic, EC/DA), resigned from membership in the Monitoring Committee.

5. During the visit, I tried to take stock of the developments which had happened in Serbia since [Resolution 1858 \(2012\)](#) of 25 January 2012. This was the last Assembly's resolution on the honouring of obligations and commitments by Serbia. In its paragraph 14, the Assembly invited Serbia to make substantial progress in the following five key areas: 1) full implementation of the reform of the judiciary in order to guarantee its independence and efficiency; 2) adoption and implementation of effective anti-corruption policies; 3) adoption of amendments to the Criminal Code in line with the Group of States against Corruption (GRECO) recommendations; 4) improvement of the situation of the media and 5) full implementation of the rights of minorities, especially Roma. Since 2012, several positive and negative developments have taken place, which have been noted, in particular, in the Assembly's [Resolution 2483 \(2023\)](#) of 26 January 2023 on the progress of the Assembly's monitoring procedure. In this resolution, the Assembly praised the progress achieved as regards elections and electoral legislation, the depoliticisation of the judiciary and the fight against corruption but remained concerned about media freedom and the right to freedom of expression as well as the right to freedom of assembly.³ I discussed all these issues with the authorities during my visit and made some preliminary conclusions in my statement issued afterwards, which is attached hereto in Appendix 2.

2. Democracy and political context

6. The Serbian political landscape is dominated by the Serbian Progressive Party (SNS) and its leader, the incumbent President Aleksandar Vučić. In 2017, then Prime Minister Vučić, nominated by SNS, won the presidential election. There is a strong polarisation between the ruling parties and the opposition.

7. The President of the Republic is directly elected for a five-year term from a single nationwide constituency. A candidate needs a majority of the votes cast to be elected; if this is not achieved, a second round is organised between the two leading candidates within 15 days. The 250 members of the parliament are elected for a four-year term through a proportional system with closed candidate lists from a single nationwide constituency. Mandates are distributed among candidate lists that receive at least 3% of the votes cast. Lists representing national minorities are exempt from the threshold requirement.⁴

8. Since 2000 all but one parliamentary election in Serbia have been early elections. While legally possible, the "culture" of early elections impacts the efficient autonomous functioning of the parliament according to the constitutional term of office, no matter which political forces are in power.

9. The June 2020 parliamentary elections were boycotted by most of the opposition (including the Democratic Party, the People's Party, the Party for Freedom and Justice, the Serbian Movement Dveri, and the Social Democratic Party), citing a lack of conditions for holding democratic elections and limited media freedom.

10. On 15 February 2022, the President of the Republic of Serbia dissolved the parliament and set early parliamentary elections for 3 April 2022. On 2 March 2022, the Speaker of the parliament called the regularly scheduled presidential election also for 3 April 2022.

11. Prior to the elections, a broad range of political actors from the government and opposition engaged in the Inter-Party Dialogue, facilitated by the European Parliament. A number of the measures identified by the Inter-Party Dialogue were implemented.⁵ In particular, in February 2022, a set of new election laws was adopted (including the framework Law on election of Members of Parliament, Law on election of President, Law on local elections, Law on financing of political activities, and the amended Law on prevention of corruption), which addressed some prior OSCE/ODIHR recommendations.⁶ Nevertheless, a number of long-standing recommendations remain unaddressed,⁷ some of them requiring legislative measures.⁸

³ See its paragraph 6.9.

⁴ PACE, Observation of the early parliamentary and presidential elections in Serbia (3 April 2022), [Doc. 15534](#) of 23 May 2022, rapporteur: Mr Aleksander Pocij (Poland, EPP/CD), paragraph 11.

⁵ Ibid, paragraph 9.

⁶ European Commission, Commission Staff Working Document. Serbia 2022 Report, [SWD\(2022\) 338 final](#), 12 October 2022, p. 11. A number of changes enhanced the representation of the opposition in election commissions for these elections and enhanced the transparency of their work; extended the timeframes and legal standing for dispute resolution; enhanced the transparency and disclosure of political party and campaign finance; provided for post-election audits of the voter lists and scrutiny of election material; and changed some regulations on the media coverage of the campaign and the media oversight mechanism.

⁷ Including those pertaining to the independence and effectiveness of the Regulatory Authority for Electronic Media (REM), measures aimed at tackling the misuse of administrative resources and pressure on voters and public scrutiny and the audit of voter lists.

⁸ PACE, *supra* note 2, paragraph 13.

12. In December 2022, at the request of the Monitoring Committee, the European Commission for Democracy through Law (Venice Commission) and the OSCE/ODIHR issued a “joint opinion on the constitutional and legal framework governing the functioning of democratic Institutions in Serbia - electoral law and electoral administration”.⁹ The opinion is critical and contains several recommendations, in particular with regard to the use of public media to promote the government, the lack of independence of the Central Electoral Commission (made up of political representatives close to the government), the financing of political parties and election campaigns, the failure to verify voters' lists, misuse of administrative resources and the limited access to litigation procedures.

13. The 3 April 2022 presidential and early parliamentary elections took place against the backdrop of intense polarisation between the ruling coalition and opposition parties. While a number of opposition parties expressed dissatisfaction with the Inter-Party dialogue processes, all of them decided to participate in these elections.

14. The Election Observation Mission (composed of observers from OSCE/ODIHR, the Parliamentary Assembly of the OSCE and the PACE) had found that the elections were held in a generally calm and peaceful atmosphere. Although the observers found that fundamental freedoms were generally respected, they concluded that a number of shortcomings resulted in an uneven playing field, favouring the incumbents. The combined impact of unbalanced access to media, undue pressure on public sector employees to support the incumbents, significant campaign finance disparities and misuse of administrative resources, led to unequal conditions for candidates. Media did cover all electoral candidates, but most public and private broadcasters with national coverage favoured the incumbent President and the ruling coalition, limiting the opportunity for voters to make fully informed choices.¹⁰

15. The incumbent President Vučić (the joint presidential candidate of the SNS coalition, the SPS, and the Alliance of Vojvodina Hungarians) won the presidential election, with 59.5% of votes. The SNS won 42,91% of votes (120 seats). The opposition presidential candidate Zdravko Ponos, received around 18%, while his alliance United for Victory of Serbia obtained around 13,69% (38 seats). The presidential candidate of the green-left coalition Moramo (“We must”), Prof. Biljana Stojkovic, gained 3.25% and her coalition 4,63% (12 seats). The SPS, a long time SNS coalition partner, came third with 11,34% (32 seats). The Nada (“Hope”) coalition around the Democratic Party of Serbia (DSS) won more than 5% of the vote and 15 seats. Dveri and Zavetnici (“Oath-Keepers”) obtained around 3,8% of the vote each (10 seats for each).¹¹

16. Thus, all relevant political actors took part in the elections on 3 April 2022, which resulted in a more pluralistic Parliament, which was finally constituted on 1 August 2022. Due to significant delays in finalising the election results, there was no parliamentary activity, other than the inauguration of the President, for a period of over five months.

17. The political landscape remains polarised. Offensive language is used against political opponents in Parliament; the Code of Conduct, adopted in 2020 and amended in September 2021, still needs to be used more effectively in preventing and sanctioning the use of offensive and inappropriate language in Parliament. The Ethics Commission was established in October 2021 but the rules of procedure still need to be modernised, in line with European standards and practices.¹²

18. Following the mass shootings that occurred in Belgrade and its vicinity in May 2023, multiple protests have taken place in the country.¹³ In order to show solidarity with the victims and profound dissatisfaction with the government's handling of the situation, people gathered and marched down the streets under the name “Serbian against Violence”. The Serbian President was indeed accused of nourishing a culture of violence within the country. Following these events, there was a mounting pressure on the ruling party to organise new parliamentary elections.

19. During my visit, I was informed by representatives of various political groups in the parliament about the possibility of holding new parliamentary and local elections. On 13 October 2023, President Aleksandar Vučić announced that early parliamentary elections, along with local elections in Belgrade and in Vojvodina province, would be held on 17 December 2023.

⁹ [CDL-AD\(2022\)046](#), 20 December 2022.

¹⁰ PACE, *supra* note 2, Appendix No. 5.

¹¹ *Ibid*, paragraph 51.

¹² European Commission, *supra* note 4, p. 12.

¹³ 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.

20. As regards local self-government, its administrative capacity remains weak and significant disparities between municipalities persist. Responsibilities continue to be borne at local level without proper analysis of the capacity and human/financial resources required. In June 2021, the government adopted for the first time the programme for reform of the local government system 2021-2025, which aims to address shortcomings in the functioning of local government. Nevertheless, the Law on Vojvodina's financing resources has still not been adopted, despite being provided for under the Constitution.¹⁴

3. Rule of law issues

3.1. Constitutional amendments and the reform of the judiciary

21. Serbia took an important step on the independence and accountability of the judiciary with the approval by Parliament of relevant amendments to the Constitution on 9 February 2022 (following a referendum held on 16 January 2022).

22. The new laws on the judiciary - on the organisation of courts, on judges, the Office of the Prosecutor General, the High Judicial Council (HJC) and the High Prosecutorial Council – had been aligned with the constitutional amendments and entered into force on 10 May 2023. These laws, which had been rather positively assessed by the Venice Commission in October and December 2022¹⁵, seek to make the judiciary and the prosecution service more independent and efficient and reduce the impact of the executive and Parliament on the appointment of judges and prosecutors. The Venice Commission also found that the process of public consultations was sufficiently inclusive and transparent.

23. With regard to the organisation of the justice system and judges, the Venice Commission was satisfied with the proposed reforms. Judges are now appointed by the HJC, while before they used to be appointed by the Parliament. The Venice Commission had reservations, however, about the provisions concerning the autonomy of courts and the supervision of lower courts by higher courts, the provisions on conflicts of interest and incompatibilities with judicial office and the provisions on disciplinary and civil liability of judges.¹⁶ Moreover, it noted that the “(...) the Serbian judicial system is still characterised by a hierarchal spirit and multiple forms of evaluations and controls. Coupled with the problem of modest judicial salaries it may affect the attractiveness of the judicial profession for young judges. A change in the legal culture within the judiciary may be required to supplement positive changes brought by the ongoing legislative reform”.¹⁷

24. As for the law on the High Judicial Council, the HJC is now composed of 11 members: six judges elected by their peers, four prominent lawyers elected by Parliament and the President of the Supreme Court as an ‘ex officio’ member (which is in line with Council of Europe's recommendations). In its follow-up opinion of December 2022,¹⁸ the Venice Commission was still concerned about the risk of politicisation of the election of the four lay members elected by the Parliament but welcomed the proposal to introduce a qualified majority in the Committee on the Judiciary of the National Assembly (which chooses the candidates).¹⁹

25. As regards the reform of the prosecution service, prosecutors are now elected by the High Prosecutorial Council (HPC), which is composed of five members elected by prosecutors themselves, four “prominent lawyers” elected by the National Assembly and two *ex officio* members: the Minister of Justice and the Prosecutor General. When assessing the draft Laws on the High Prosecutorial Council and the Public Prosecutor's Office, the Venice Commission expressed concerns, albeit less serious ones, about the balance in the composition of the High Prosecutorial Council (and, in particular the presence of two *ex officio* members, - the Prosecutor General and the Minister of Justice) and the criteria concerning the competence of prosecutors filling temporary vacancies.²⁰

¹⁴ European Commission, *supra* note 4, p. 13.

¹⁵ Concerning the judiciary in opinion [CDL-AD\(2022\)030](#), 24 October 2022, and the follow-up opinion [CDL-AD\(2022\)043](#), 19 December 2022, and, concerning the prosecution service, in opinion [CDL-AD\(2022\)042](#), 19 December 2022.

¹⁶ [CDL-AD\(2022\)030](#), paragraph 97, 46 and 58.

¹⁷ *Ibid*, paragraph 96.

¹⁸ [CDL-AD\(2022\)043](#), paragraphs 56-64 and 75.

¹⁹ As explained by the Serbian delegation representative during the Monitoring Committee meeting on 26 April 2023, the procedure for the appointment of High Judicial Council lay members by Parliament is the following: if a 2/3 majority was not reached in the Committee on the Judiciary in the first round, a 3/5 majority was required in the second round. If there was no majority in the second round, a special committee made up of the Speaker of Parliament, the President of the Supreme Court, the President of the Constitutional Court, the Prosecutor General and the Ombudsman elected the candidates, an arrangement that should help to ensure reputable jurists with no connection with the legislature were elected.

²⁰ [CDL-AD\(2022\)042](#), paragraphs 142-145.

26. Although many of the Venice Commission's specific recommendations were addressed, Serbia should adopt further legislation needed to apply the constitutional changes in practice within the foreseen deadlines,²¹ to effectively strengthen the independence of the judiciary and the autonomy of the prosecution, and to tackle undue political influence. According to the European Commission, pressure on the judiciary and the prosecution still remains high.²² Some of my interlocutors in Belgrade also raised this issue, stressing in particular the need to enhance transparency of the process of election of judges and prosecutors respectively by the HJC and the HPC. During my meeting with the Minister of Justice, I was informed that bylaws aimed at finalising the reform of the judiciary and the prosecution service (in particular, the 'Judicial Rulebook' and the 'Prosecution Rulebook'), were going to be adopted within the fixed deadlines, i.e. before 10 May 2024. Moreover, the Prosecutor General indicated to me that some problems with filling temporary vacancies for prosecutors resulted from the changes in legislation and, as regards the transparency of the election of prosecutors by the HPC, the process was open to the public.

3.2. Prosecuting and investigating war crimes

27. Serbia needs to show a genuine commitment for investigating and adjudicating war crimes cases, as its authorities continue to challenge publicly the judgments of the International Criminal Tribunal for the former Yugoslavia (ICTY), including at the highest levels.²³

28. According to recent findings of the Council of Europe Commissioner for Human Rights, Dunja Mijatović,²⁴ the lack of extradition of convicted war criminals and war crimes suspects to other countries in the region remains another obstacle in the fight against impunity. The authorities' toleration of murals honouring war criminals is another unfortunate illustration of this. Civil society organisations have mapped more than 300 such murals across Serbia and recently called on the authorities to remove them.

29. According to the relevant data of the International Committee of the Red Cross (ICRC), 9 876 people were still missing as a result of the conflicts in the region by July 2022.²⁵ Of these, 6 302 cases are related to the conflict in Bosnia and Herzegovina, 1 953 to the conflict in Croatia and 1 621 to the conflict in Kosovo.²⁶ In 2021, 88 cases were resolved, of which 44 concerned the conflict in Bosnia and Herzegovina, 23 concerned the conflict in Croatia and 21 the conflict in Kosovo. According to recent findings of the Council of Europe Commissioner for Human Rights, there is a stagnation in the resolution of pending cases concerning missing persons and more should be done in this respect; the Commissioner called for opening police and military archives.

3.3. Fight against corruption and organised crime

30. Serbia has some level of preparation in the fight against corruption. In the last few years progress has been made to implement the recommendations of the GRECO.

31. As regards GRECO's Fourth Evaluation Round concerning members of parliament, judges and prosecutors, in its [Second interim compliance](#) report assessing Serbia's level of compliance published on 25 March 2022, GRECO concluded that eight recommendations have been implemented satisfactorily and five remain only partly implemented (out of thirteen). No recommendations are considered not implemented, and GRECO concluded that Serbia's performance in this field is no longer 'globally unsatisfactory'. GRECO welcomed in particular the new Law on Prevention of Corruption (recently amended), the adoption of a Code of Conduct for MPs and the reform of the High Judicial Council and the High Prosecutorial Council (see above).

32. As regards GRECO's Fifth Evaluation Round, which tackles preventing corruption and promoting integrity in central government (persons with top executive functions - PTEFs) and law enforcement agencies, in its [Evaluation report](#) of 25 March 2022 (published on 5 July 2022), GRECO issued 24 recommendations and invited the Serbian authorities to submit a report on the measures taken to implement the

²¹ According to the constitutional law, this legislation should be adopted within one year for judicial laws and within two years for the alignment of all other relevant legislation. Two expert working groups (one for prosecutors, one for courts) were established in April 2022 and tasked with the drafting of the implementing legislation.

²² European Commission, *supra* note 4, pp. 21-22.

²³ *Ibid*, pp. 26-28.

²⁴ See her [statement](#) of 17 March 2023. See also her recent report published on 6 September 2023 following her visit to Serbia on 13-17 March 2023, [CommHR\(2023\)25](#), pp. 7-15.

²⁵ Quoted by the European Commission, *supra* note 4, p. 27.

²⁶ * Throughout this text, all reference to Kosovo, whether to the territory, institutions or population shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

recommendations by 30 September 2023. It called on the Serbian authorities to take further measures to prevent corruption in respect of PTEFs (in particular, by including in the Law on the Prevention of Corruption the definition of 'public official' Prime Minister's and Deputy Prime Minister's chiefs of cabinet and advisers working for ministers), as well as members of the police (in particular by adopting a public strategy on corruption prevention in the police).

33. The Anti-Corruption Council, in its advisory role to the government, has remained active in exposing and analysing cases of systemic corruption. Nevertheless, the authorities still have not established a constructive relationship with this institution (for example, they do not systematically consult it on draft legislation) and need to increase its resources to effectively implement the recommendations of GRECO's Fifth Evaluation Round.²⁷ Other important anti-corruption institutions also remain understaffed (such as the Prosecutor's Office for Organised Crime, which has jurisdiction over high-level corruption cases, and the Higher Court in Belgrade, which deals with corruption).²⁸

34. According to the European Commission's report, Serbia should further step up the prevention and repression of corruption. It should not only implement GRECO's recommendations from the Fourth and Fifth Evaluation Rounds, but also further improve its track record on investigations, prosecutions and final court decisions in high-level corruption cases, including the seizure and confiscation of criminal assets. It should also prepare a new anti-corruption strategy and action plan, and establish an effective coordination mechanism to operationalise prevention and repression policy goals and thoroughly address corruption.²⁹

35. During my visit to Belgrade, I was informed about the draft amendments to the Law on the Prevention of Corruption being discussed in the parliament and I was alerted that they would not fully comply with the GRECO's recommendations from Fifth Round, as the definition of 'public official' would probably not cover the President's chief of cabinet and advisers. Although progress has been made in prosecuting and adjudicating cases of low- and middle- level corruption, further improvement was needed concerning cases of high-level corruption.

36. As regards fight against organised crime, according to the European Commission, limited progress has been made in the past few years. The number of new investigations and final convictions increased in 2021 compared to 2020, however the number of indictments and first instance convictions decreased. The number of cases involving seizure and final confiscation of assets is still limited. However, the level of understanding and the investigation approach have improved (i.e. prosecutors are aware of the importance of consistently applying a 'follow the money to find the crime' method). There is well-established cooperation with Eurojust, Interpol and with Europol, notably in weapons trafficking, drugs trafficking, and the fight against organised crime groups.³⁰

37. During my visit to Belgrade, I discussed on several occasions the so-called "Jovanjica case", concerning an illegal cannabis production farm allegedly protected by State security officials and discovered in 2019. The police officers responsible for discovering it have faced mounting pressures recently, including being removed from their positions, deaths threats and now criminal indictments against them.³¹ I was informed that their case was now being examined by a court.

38. Trafficking of weapons is still an issue in Serbia. According to the European Commission's report, the Criminal Code should be amended in order to effectively criminalise it (as it is not possible to distinguish the number of convictions relating to trafficking in weapons from those related to illegal possession and other offences).³² During my visit to Belgrade, I raised the latter issue in the Ministry of Interior and was informed that 140,000 weapons had been given back to the authorities following a campaign launched after the May shootings and that the government should prepare amendment to the Criminal Code in order to define new criminal sanctions for illegal possession of weapons.

²⁷ European Commission, *supra* note 4, p. 32.

²⁸ *Ibid.*

²⁹ European Commission, *supra* note 4, p. 28.

³⁰ European Commission, *supra* note 4, pp. 48 and 50.

³¹ [Serbian Police in 'Illegal Cannabis Farm' Case Face Mounting Pressures | Balkan Insight](#), 7 September 2023.

³² European Commission, *supra* note 4, pp. 50.

4. Human rights issues

4.1. The Ombudsman (the “Protector of Citizens”)

39. The Law on the Ombudsman of November 2021 introduced new competences for the Ombudsman as the national independent mechanism for monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities, as well as the national rapporteur for trafficking in human beings. The Ombudsman has also the role as National Preventive Mechanism against Torture (NPM) and visits relevant sites in cases of allegations of torture and ill-treatment. In December 2021, following the recommendation of the Accreditation Subcommittee of the Global Alliance of National Human Rights Institutions (GANHRI), the Ombudsman was re-accredited with ‘A’ status.³³

40. During my visit to Belgrade, I met with the Ombudsman and was informed that his 5-year term of office had expired in July 2022 and that he had been re-elected for 8 years (not renewable), following recent legislative changes extending the Ombudsman’s term of office. Between January and September 2023, the Ombudsman received around 11,000 complaints, concerning mainly economic rights and good governance. In average, 75 % of his recommendations are followed by the authorities. In 2022, he carried out nearly 80 visits in the framework of his NPM activities. In Novi Sad, I also met with the Provincial Ombudsman for Vojvodina, responsible for controlling the provincial authorities’ decisions in implementing provincial legislation.³⁴ She stressed that her office’s work focused on gender equality, protection of national minorities³⁵ and children’s rights, and that almost all recommendations had been followed by the provincial authorities. Currently, she is examining 80 cases.

4.2. European Convention on Human Rights and execution of judgments of the European Court of Human Rights

41. Serbia ratified the European Convention on Human Rights (“the Convention”) in 2004 (it entered into force on 3 March 2004). Since then till the end of 2022, the European Court of Human Rights (ECtHR) delivered 244 judgments against Serbia, out of which 217 finding at least one violation of the Convention. In 2022, the ECtHR delivered 12 judgments concerning Serbia and found that it had violated the European Convention on Human Rights in 10 cases (mainly due to non-enforcement of domestic judicial decisions and violations of the right to protection of property).

42. As of 31 October 2023, Serbia ranked 9th in the ranking of countries having the highest number of applications pending before the ECtHR, with 1,650 applications pending (2,2 % of the total number of applications, which was at 74 050).³⁶

43. As regards execution of ECtHR judgments, as of 31 December 2022, Serbia ranked 10th between the Council of Europe member States with the highest number of non-executed ECtHR judgments and decisions (with 97 cases pending).³⁷ Currently, there are 62 cases pending before the Committee of Ministers (14 ‘leading’ cases and 48 repetitive ones).³⁸ Three main groups of cases are under the ‘enhanced procedure’ of the Committee of Ministers:

- the *Stanimirović*³⁹ group of cases concerning the ineffective investigations into the allegations of ill-treatment by police officers (procedural violations of Article 3), ill-treatment by police officers during questioning in 2014 (substantive violation of Article 3 in *Zličić*⁴⁰), and the violation of the applicant’s right to a fair trial on account of the fact that his confession made following to his ill-treatment by the police was used as evidence during criminal proceedings conducted against him between 2004 and 2006 (violation of Article 6§1 in *Stanimirović*);

³³ European Commission, *supra* note 4, p. 36.

³⁴ The Provincial Ombudsman is appointed for a term of office of six years (renewable) by the Provincial Assembly.

³⁵ There are 18 national minorities’ councils in Voivodina.

³⁶ See ‘Pending applications’ at [Statistics - ECHR - ECHR - ECHR / CEDH \(coe.int\)](#)

³⁷ [16th Annual Report of the Committee of Ministers on supervision of the execution of judgments and decisions of the European Court of Human Rights](#), p. 98.

³⁸ As of 22 September 2023, see [Serbia - Department for the Execution of Judgments of the European Court of Human Rights \(coe.int\)](#)

³⁹ Application No. 26088/06, judgment of 18 October 2011.

⁴⁰ Application No. 73313/17, judgment of 26 January 2021.

- the *Jevremović*⁴¹ group of cases concerning violations of the applicants' right to a fair trial on account of excessive length of different types of judicial proceedings – civil, family-related, commercial, and labour pending between 1984 and 2019 (violations of Article 6§1); some of these cases also concern the lack of an effective remedy under domestic law at the relevant time for the applicants' complaints about the length of the proceedings in question (violations of Article 13);
- the *Kačapor*⁴² group of cases, which concerns a systemic problem of non-enforcement or delayed enforcement of domestic decisions against socially/State-owned companies (violations of Article 6 § 1 and Article 1 of Protocol No. 1).

44. During my visit to Belgrade, I raised the issue of execution of the ECtHR judgments with numerous interlocutors. As regards *Stanimirović* group of cases, I discussed the issue of ill-treatment by police during my meeting in the Ministry of Interior and was informed about awareness-raising measures taken by this ministry and about a special committee examining allegations of such ill-treatment within this institution. Issues concerning the implementation of cases from the *Jevremović* and *Kačapor* groups of cases were discussed with the Minister of Justice, the President of the Supreme Court and the President of the Constitutional Court. As regards the *Jevremović* and *Kačapor* groups of cases, I was informed that the Law on Protection of the Right to a Trial within Reasonable Time would be amended in order to grant some new powers to the Constitutional Court to examine complaints about lengthy bankruptcy and enforcement proceedings. Concerning the excessive length of judicial proceedings, a working group had been established in the Supreme Court to deal with the backlog of old cases. During my meeting with the Committee on Constitutional and Legislative Issues in the National Assembly, I also stressed the need to establish a parliamentary committee to monitor the implementation of ECtHR judgments, in line with the Assembly's recommendations (see, in particular, [Resolution 2494 \(2023\)](#) on "Implementation of judgments of the European Court of Human Rights").⁴³

4.3. Allegations of torture and ill-treatment

45. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out an ad hoc visit to Serbia from 21 to 30 March 2023. The purpose of the visit was to examine the treatment of persons deprived of their liberty by the police, as the CPT considered that the action taken to prevent ill-treatment by the police in light of its previous recommendations was not sufficient.⁴⁴ In particular, in its report published in March 2022, the CPT, noted that "(...) the findings of [its] 2021 periodic visit demonstrate clearly that ill-treatment by the police remains a serious problem (...)"⁴⁵ The CPT found that "in too many instances, prosecutorial investigations [...] failed to comply with the criteria of effectiveness as set out in the Methodology on the Investigation of Cases of Ill-Treatment adopted by the Serbian authorities in 2018" and expressed "concerns over the leniency of sentences imposed by courts on police officers convicted of ill-treatment".⁴⁶ The issue of inhuman and degrading treatment while in police custody and failure to conduct an effective investigation is also examined by the Committee of Ministers in the framework of the the execution of the European Court of Human Rights' judgment *Zličić v Serbia* and other similar cases (see above). As already indicated, I raised these issues during my meeting in the Ministry of Interior.

46. In its report of March 2022, the CPT also expressed concerns about the May 2019 amendments to the Criminal Code which introduced life imprisonment without the possibility of conditional release for a number of crimes.⁴⁷ This provision is contrary to the European Convention on Human Rights, as interpreted by the European Court of Human Rights.

47. Concerning the prison system, in its 2022 report, the CPT noted improvements in the conditions of detention facilities, health-care provision in prisons, and measures taken to reduce prison overcrowding. In 2021, the prison population stood at 10 844 for a total capacity of 11 451 places, i.e. an occupancy rate of 94.7 %, although instances of local overcrowding remain.⁴⁸

⁴¹ Application No. 3150/05, judgment of 17 July 2007.

⁴² Application No. 2269/06, judgment of 15 January 2008.

⁴³ Adopted on 26 April 2023, see its paragraph 8 as well as [Doc. 15742](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Constantinos Efstathiou (Cyprus, SOC).

⁴⁴ [CPT](#), 4 April 2023.

⁴⁵ [CPT/Inf \(2022\) 03](#), 10 March 2022, paragraph 20.

⁴⁶ *Ibid*, p. 5.

⁴⁷ *Ibid*, pp. 37-38.

⁴⁸ *Ibid*, p. 37.

4. 4. Rights of persons belonging to national minorities

48. Serbia is a multicultural country, with a diversity of national minorities.⁴⁹ The legal framework for respect for and protection of national minorities and cultural rights is broadly in place and generally upheld, in line with the Council of Europe Framework Convention on National Minorities (FCNM). Nevertheless, Serbia needs to address the recommendations contained in the [Fourth opinion](#) of the Council of Europe's Advisory Committee for the FCNM and Committee of Ministers' recommendations to Serbia of June 2019.⁵⁰ According to the Committee of Ministers' [Resolution CM/ResCMN\(2021\)11](#) adopted on 15 April 2021 on the basis of this opinion, the authorities need, in particular, to continue and intensify efforts to resolutely address structural discrimination faced by Roma, set up a sustainable data collection framework on issues pertaining to the access to rights of persons belonging to national minorities (including within the public administration) and promote a multicultural and intercultural perspective in education.

49. Regarding Roma inclusion, in February 2022 Serbia adopted a new strategy, with the aim of aligning with the EU Roma strategic framework for 2020-2030. The related action plan was adopted in September 2022. Robust monitoring and data collection will need to be put in place. In February 2022, the Ministry of the Interior, the Ombudsman and the UN High Commissioner for Refugees (UNHCR) agreed on a procedure to enable the registration of individuals lacking an official address by means of registering at centres for social work. This has led to more Roma people being registered. Moreover, segregation in education needs to be addressed. Roma students are still overrepresented in special schools and classes and transition from education to the labour market is especially challenging for young Roma people. The Roma are also still under-represented in the public administration. Forced evictions are still taking place, which is not in line with the Law on housing and international standards. Although child marriage is not common in the general population in Serbia, early and child marriage remains an issue of concern among Roma girls living in settlements.⁵¹ The Commissioner for the Protection of Equality, whom I met in Belgrade, strongly opposes the latter phenomenon.

4.5. Situation of LGBTI persons

50. In September 2022, Europride was hosted for a first time in the Western Balkans, in Belgrade. The Europride route was banned, and the holding of the march was uncertain until the very last moment. The authorities claimed safety concerns related to threats by extreme right groups as the basis for their decision. An anti-Europride and, anti-Western demonstration was also banned. Finally a march, via a shorter route took place on 17 September 2022, without major incidents. A high number of law enforcement officers protected it, nevertheless, some instances of violence against the participants were reported. The period prior to the march had been marked by legal and political uncertainty and the communication of the authorities had been contradictory.⁵²

4.6. Women's rights

51. Progress has been reported as regards the strengthening of the legal framework for the advancement of gender equality and women's participation in political life. However, the Council of Europe Commissioner for Human Rights is concerned about "the misogynistic and discriminatory statements" made by some politicians and public figures, and promoted by certain media (tabloids).⁵³ The Commissioner for the Protection of Equality frequently reacts to such statements and agrees that there is prevalent patriarchal attitude in the country.

52. In her recent report, the Council of Europe Commissioner for Human Rights also stressed that the authorities need to pay particular attention to the needs of women in rural areas, Roma and women with disabilities.⁵⁴ Regrettably, violence against women and domestic violence, remain widespread, including in the digital space, despite the fact that 10 years ago Serbia ratified the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention), and

⁴⁹ In 2011, they were represented by 23 National Councils of National Minorities: Albanian, Ashkali, Bulgarian, Bunjevci, Bosniak, Croat, Czech, Vlach, Egyptian, German, Greek, Hungarian, Macedonian, Montenegrin, Polish, Roma, Romanian, Russian, Rusyn, Slovak, Slovenian, Ukrainian as well as the Executive Committee of the Union of Jewish Municipalities of Serbia. During my visit, I was informed by representatives of the Ministry for Human and Minority Rights that there were 24 national councils in Serbia.

⁵⁰ ACFC/OP/IV(2019)001, adopted on 26 June 2019.

⁵¹ European Commission, *supra* note 4, pp. 47-48.

⁵² *Ibid*, p. 44. See also the [statement](#) by the Commissioner for Human Rights of 13 September 2022.

⁵³ [CommHR\(2023\)25](#), *supra* note 22, paragraphs 104 and 109.

⁵⁴ *Ibid*, p. 6.

despite a good legislative and policy framework.⁵⁵

5. Freedom of expression

53. Freedom of expression and media remains an issue of concern, mainly due to the State monopolisation of the majority of media outlets as well as the harassment of journalists expressing critical views or investigating cases of corruption and organised crime. In 2023, Serbia ranked 91th on the [Press Freedom Index of Reports Without Borders](#) (it ranked 79th in 2022).

54. In July 2022, the Regulatory Body for Electronic Media (REM) awarded all four national frequencies, for a period of eight years, to the same television channels as in the previous period, during which all of them had received warnings from REM due to violation of their legal obligations. A call for a fifth licence was published in August 2022.⁵⁶ In its final report of 19 August 2022 on the April 2022 elections, OSCE/ODIHR found that 'the national public broadcasters had covered the campaign activities of all contestants equitably but provided extensive uncritical news coverage to public officials who were also candidates. Private broadcast media with national coverage presented the election campaign without meaningful editorial input and focused their news coverage on state officials.' ODIHR also found that 'despite its mandate to oversee the broadcast media, REM remained overall passive in the campaign period.'⁵⁷ During my mission to Belgrade, I heard complaints about imbalance between government and opposition members in the reporting of national television channels outside election campaigns, lack of diversity and media pluralism and disinformation campaigns aimed at promoting Russian narratives on certain topical issues, such as the war of aggression against Ukraine or accession to the European Union. While there are nearly 3,000 pro-government media outlets, only 50 smaller media outlets can be considered as independent. The latter's journalists submit that they are under constant pressure, that the government officials refuse to cooperate with them and even humiliate them at government's press conferences.

55. Although in several cases of attacks and threats, the police and the prosecution reacted swiftly,⁵⁸ past cases of killings of journalists, including the killings of journalists Slavko Ćuruvija, Radislava Dada Vujasinović and Milan Pantić that occurred between 1994 and 2001, must still be elucidated and the perpetrators, and those who ordered these crimes, must be brought to justice.⁵⁹ The Council of Europe Platform to promote the protection of journalism and the safety of journalists issued 9 alerts in 2023; three alerts concern cases for impunity for murder.⁶⁰ In her recent report, the Council of Europe Commissioner for Human Rights expressed concerns about cases of threats and violence against journalists, smear campaigns, and the growing problem of strategic lawsuits against public participation (SLAPPs) targeting journalists, human rights defenders and civil society organisations.⁶¹ Between 2020 and 2022, law enforcement authorities registered 32 physical attacks and 41 verbal attacks against media professionals; one of these incidents resulted in grave and 11 in minor bodily injuries. Between January and March 2023, they registered five attacks against journalists and seven cases of threats sent via mobile phone and/or via social networks.⁶² Many media professionals consider that the current environment for their work is 'toxic' and independent journalists are often labelled as 'criminals', 'traitors', 'enemies of the state' by public officials, tabloids or fake profiles on social media. For example, journalists of the independent daily newspaper Danas received serious threats on multiple occasions.⁶³ Public officials and businesses use frequently SLAPPs against investigative journalists and media outlets. At least 40 such lawsuits were reported by the Independent Journalists Association between 2021 and 2022.⁶⁴ For example, KRIK, an internationally recognized network of investigative journalists, is currently targeted by 12 SLAPPs, lodged against 10 journalists. Their representatives claim that these lawsuits are intended to stifle their investigations into corruption cases and that they are themselves prevented from submitting evidence and questioning witnesses in courts.⁶⁵ The Commissioner for Human Rights also noted that the frequent use of SLAPPs might be due to a vague legal terminology that could be abused to start SLAPP suits.⁶⁶ During my visit to Belgrade, I was reported that around 80 SLAPPs had been initiated by public officials or businessmen, (mainly those close to the government). While bigger media outlets (such as the media company United Media)

⁵⁵ Ibid, paragraphs 133-37.

⁵⁶ European Commission, *supra* note 4, p. 40.

⁵⁷ Quoted by the European Commission, *ibid*.

⁵⁸ European Commission, *supra* note 4, p. 6.

⁵⁹ [CommHR\(2023\)25](#), *supra* note 22, p. 5.

⁶⁰ As of 20 October 2023, see at: [Platform to promote the protection of journalism and safety of journalists \(coe.int\)](#)

⁶¹ [CommHR\(2023\)25](#), *supra* note 22, p. 5,

⁶² *Ibid*, paragraph 51.

⁶³ *Ibid*, paragraphs 52 and 54.

⁶⁴ *Ibid*, paragraph 72.

⁶⁵ According to the information, I was provided during my visit to Belgrade.

⁶⁶ [CommHR\(2023\)25](#), *supra* note 22, paragraph 75.

won in the majority of cases, smaller media outlets have fewer means to defend themselves in courts.

6. Freedom of assembly and association

56. In February 2022, Serbia adopted a Strategy for Creating a Stimulating Environment for the Development of Civil Society in the Republic of Serbia for 2022-2030, along with an action plan foreseeing to establish a council for civil society cooperation. This step was recently welcomed by the Council of Europe Commissioner for Human Rights.⁶⁷ During my visit to Belgrade, I was informed by my interlocutors from the Ministry for Human and Minorities' Rights that a second action plan for 2024-2026 was being prepared.

57. Nevertheless, an enabling environment for developing and financing NGOs still needs to be created on the ground, as verbal attacks and smear campaigns against such organisations continue, including by high-level officials (see above "freedom of expression"). Organisations and individuals that criticised the authorities are put under pressure, in particular in cases relating to the rule of law – such as protests against the glorification of war criminals - or environmental protection. The difficulties faced by the organisers of the EuroPride parade in September 2022 (see above) also illustrate well this problem. In her recent report, the Council of Europe Commissioner for Human Rights expressed concerns about the hostile working environment for civil society organisations and human rights defenders, which results from multiple factors.⁶⁸

⁶⁷ Ibid, paragraph 64.

⁶⁸ Ibid, paragraph 65.

Fact-finding visit to Serbia (2 - 4 October 2023)

Final programme

Co-rapporteurs: Mr Axel Schäfer (Germany, SOC)
 Ms Eva Decroix (Czech Republic, EC/DA) [ABSENT]
 Secretariat: Ms Agnieszka Szklanna, Secretary of the Monitoring Committee

2 October 2023

08:30-12:30	Meeting with the civil society*
08:30-09:30	Political and Parliamentary life
09:30-10:30	Judiciary and HR
10:30-11:30	Corruption
11:30-12:30	Media
13:00 -14:00	Meeting with the Minister of Justice of the Republic of Serbia Ms Maja Popović
14:15-14:45	Meeting with the Speaker of the NARS Dr Vladimir Orlić
15:00-16:00	Working lunch with the Head and Members of the Serbian delegation to PACE <i>NARS Delegation: Biljana Pantić Pilja, Elvira Kovács, Dubravka Filipovski, Dunja Simonović Bratić and Tanja Pašić</i>
16:00-17:30	Meeting with the Heads of Parliamentary groups of the NA : <ol style="list-style-type: none"> 1. "ALEKSANDAR VUČIĆ TOGETHER WE CAN DO ANYTHING" - Parliamentary Group - Marina Ragus 2. IVICA DAČIĆ SPS Parliamentary Group - Snežane Paunović and/or Dunja Simonović Bratić 3. DIRECTION EUROPE-SSP, PSG, OVERTURN, SLOGA Parliamentary Group - Marinika Tepić 4. HOPE- NEW DSS- POKS - Parliamentary Group - no representative 5. Demokratska stranka Parliamentary Group - Miodrag Gavrilovic 6. United Serbia Parliamentary Group - Života Starčević 7. People's Party Parliamentary Group - Stefan Jovanović 8. People's Movement of Serbia - Ecological Uprising - New Face of Serbia Parliamentary Group - no representative 9. Serbian Party Oathkeepers Parliamentary Group - no representative 10. Social Democratic Party of Serbia Parliamentary Group - Branimir Jovanović 11. FOR RECONCILIATION SPP-USS-DSHV Parliamentary Group - Usame Zukorlic 12. PUPS Parliamentary Group - no representative 13. SERBIAN MOVEMENT DVERI-PATRIOTIC BLOC Parliamentary Group – no representative 14. Green - Left Front, Don't Let Belgrade D(r)own Parliamentary Group - Radomir Lazović

15. *WE HAVE TO - TOGETHER Parliamentary Group - no representative*

16. *Alliance of Vojvodina Hungarians Parliamentary Group - Elvira Kovács*

17:45-18:30 Meeting with the Members of the Committee on Constitutional and Legislative Issues
 20:00-21:30 Dinner hosted by the National Assembly
NARS Delegation: Elvira Kovács, Dubravka Filipovski, Dunja Simonović Bratić, Tanja Pašić

3 October 2023

09:00-09:45 Meeting with the First Deputy Prime Minister and the Minister of Foreign Affairs
 Mr Ivica Dačić
 10:00-10:45 Meeting with the Minister of Information and Telecommunications
 Mr Mihailo Jovanović
 11:00-11:45 Meeting with the Republic Public Prosecutor
 Ms Zagorka Dolovac
 12:00-12:45 Meeting with the President of the Supreme Court of Cassation
 Ms Jasmina Vasović
 13:00-14:00 Lunch in the National Assembly restaurant
 14:15-15:00 Meeting with the Director of the Agency for Prevention of Corruption
 Mr Dejan Damjanović
 15:00-15:45 Meeting with the President of the Constitutional Court
 Ms Snežana Marković
 16:00-16:45 Meeting with the Ombudsman
 Mr Zoran Pašalić
 17:00-17:45 Meeting with the representatives of Ministry for Human and Minority Rights in the Government of the Republic of Serbia
In the Delegation: State Secretary Prof. dr Rejhan R. Kurtović
 19:00 Dinner with diplomats in organisation of the Ambassador of the Federal Republic of Germany

4 October 2023

9:00-9:45 Meeting with the Commissioner for the Protection of Equality
 Ms Brankica Janković
 10:00 Meeting with the State Secretary, Mr Zejko Brkić,
 Departure for Novi Sad
 12:15-13:00 Meeting with the President of the Provincial Government of Vojvodina
 Mr Igor Mirović
 13:00-13:45 Meeting with the Provincial Ombudsman Ms Dragana Ćorić

*Meetings organised by the Secretariat of the Monitoring Committee.

Statement by PACE monitor, ending visit to Serbia

Ending a visit to Belgrade and Novi Sad (2-4 October 2023), Axel Schäfer (Germany, SOC), co-rapporteur of the Parliamentary Assembly of the Council of Europe (PACE) for the monitoring of obligations and commitments by Serbia, made the following statement:

“I am very grateful to the Serbian authorities for their openness and the constructive dialogue that we had as well as for the possibility of exchanging with opposition parties in the National Assembly.

During the visit, I was informed by all political forces in Serbia about the possibility of holding new parliamentary and some local elections in the course of December 2023. Since 2000, all but one parliamentary election have been early elections. The frequent organisation of elections at short intervals destabilises the functioning of democracy and State institutions.

I commend the recent reform of the justice system and the authorities' commitment to fully implementing it in line with the recommendations of the European Commission for Democracy through Law (Venice Commission), the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the Group of States against Corruption (GRECO). I encourage the authorities to adopt the pieces of legislation as soon as possible and according to the adopted time-schedule.

Finally, the state of freedom of expression and media freedom remains a matter of concern. due to the State monopolisation of the majority of media outlets as well as the harassment of journalists expressing critical views or investigating cases of corruption and organised crime.”

The conclusions of the visit will be presented in an information note to the Monitoring Committee at one of its forthcoming meetings.